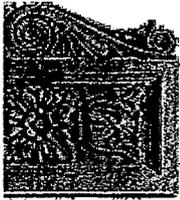


I believe the meeting should take place after you receive the Voter ID paper from us in the first week of March, and ideally after the Commission staff has had enough time for a preliminary review of it.

The earlier we could set a date for this meeting, the more key members of the team would be able to participate.

Tom O'Neill



Bert A. Benavides/EAC/GOV
05/22/2006 03:24 PM

To Juliet E. Thompson-Hodgkins/EAC/GOV@EAC, Brian
Hancock/EAC/GOV@EAC, Karen
Lynn-Dyson/EAC/GOV@EAC, Jeannie
cc Edgardo Cortes/EAC/GOV@EAC, Laiza N.
Otero/EAC/GOV@EAC, Amie J. Sherrill/EAC/GOV@EAC,
Adam Ambrogi/EAC/GOV@EAC, Sheila A.
bcc

Subject Draft Agenda for Comm. Staff Briefings 5-30-06 and 6-01

History

This message has been forwarded

Please review the following agendas and let me know if you have additional items to submit for consideration. Please note Tom would like to confine Tuesday's briefing on 5-30 to the House testimony, unless something equally timely surfaces. Thanks.

Tuesday, 5-30-06

- All Commissioners are expected to be present.
- Executive Director Wilkey participating via teleconference.

1. Testimony, House Admn Hearing (Julie) Mats to be distributed

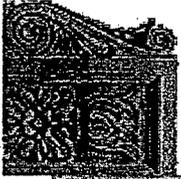
Thursday, 6-01-06

- All Commissioners are expected to be present.

1. TGDC (Brian H) No materials
2. Eagleton Voter ID Study (KLD) Mats distributed 5-17
3. Eagleton Social Security SOW (KLD) Mats distributed 5-16
4. Weekly Project Report (Tom) Mats to be distributed

Bert A. Benavides
Special Assistant to Executive Director Thomas Wilkey
U. S. Elections Commission
1225 New York Avenue, Suite 1100
Washington, DC 20005
202.566.3114 direct line
202.566.1389 fax

025627



Brian Hancock/EAC/GOV
08/03/2006 02:27 PM

To Elieen L. Collver/EAC/GOV@EAC
cc
bcc
Subject ID requirements

History

This message has been replied to

Elle,
Attached is a letter from DOJ to Massachusetts re Voter ID. I'd also suggest that you have a quick chat with Gavin since he is in the middle of these issues from our end.

Brian



MA_itr.pdf

Brian Hancock
Director of Voting System Testing & Certification
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100
www.eac.gov

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025628



U.S. Department of Justice

Civil Rights Division

*Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530*

JDR:RJW:SBP:baw
DJ 166-36-0

February 11, 2004

The Honorable William F. Galvin
Secretary of the Commonwealth
of Massachusetts
State House
Boston, Massachusetts 01233

Dear Secretary Galvin:

Your letter of February 2, 2004, to Hans von Spakovsky, has been forwarded to the Voting Section for response. In that correspondence, you raised concerns regarding the implementation in Massachusetts of the voter identification requirements of Section 303(b) of the Help America Vote Act of 2002, 42 U.S.C. § 15483(b) ("HAVA"). You also seek clarification of certain comments by the Department of Justice's Voting Section as to the propriety of possible identification procedures in the City of Lawrence.

Section 303(b) applies to persons registering for the first time to vote in federal elections, who apply to register by mail after January 1, 2003 and who do not come within a Section 303(b)(3) exemption. If such persons do not include with their registration applications a copy of one of several forms of identification set forth in the statute, they must either show the requisite identification at the polls when voting in person, or include a copy of such identification with their ballot if voting by mail.

Under Section 303(b)(1), these requirements must be administered to all voters in a uniform and nondiscriminatory manner, and do not vary with the demographic makeup of a State or its sub-jurisdictions. Section 304 also specifies that these are "minimum requirements" and thus nothing prevents a State from establishing stricter requirements. The Justice Department has

025629

worked with States to implement all of HAVA's requirements for federal elections, including those of Section 303(b), and has the authority under Section 401 of HAVA to bring federal civil actions for declaratory and injunctive relief against jurisdictions that fail to carry out the requirements of the statute.

With specific regard to the City of Lawrence, your letter mentions a private, pre-HAVA lawsuit filed in November 2001 (on the eve of municipal elections) that sought to enjoin the city's plans to require all in-person voters to show personal identification at the polls. See Morris v. City of Lawrence, No. 01-11889 (D. Mass.). The city had adopted this new identification requirement just before the election, and the court enjoined its implementation. Critically, however, the Justice Department did not participate in any way in that litigation, nor was it consulted by the court. Although the Justice Department had negotiated a consent decree with the city in a separate pre-HAVA lawsuit involving claims of insufficient assistance offered by the city to Spanish-speaking voters, see United States v. City of Lawrence, No. 98-12256 (D. Mass.), at no time did the Department ever suggest that the city's voter identification procedure would violate any provision of the Voting Rights Act.

You also reference in your correspondence an October 24, 2001, letter sent to the city by a Voting Section attorney in which he expresses his concerns regarding the possible impact of the city's then-new identification procedures on the city's compliance with the consent decree in United States v. City of Lawrence. But the Department did not object to the city's voter identification procedures per se, and its letter should not be read in any way to have done so. The problem, as outlined in our letter, was the inadequate time the city had to implement these new requirements and train pollworkers in the new procedures.

As noted above, the Department of Justice has been given the responsibility by Congress to enforce HAVA, including the voter identification procedures. The Department has made it clear that these requirements do not violate the Voting Rights Act of 1965 on several occasions:

1) in a February 26, 2002, letter to U.S. Senator Christopher S. Bond, www.usdoj.gov/crt/voting/hava/bond_ltr.pdf;

2) in a question and answer posted on the Voting Section's website, www.usdoj.gov/crt/voting/misc/faq.htm#faq27; and

3) by preclearing under Section 5 of the Voting Rights Act voter identification laws submitted by various states, including the State of Alabama, which implemented the HAVA identification requirements and expanded them to apply to all voters, not just first-time registrants.

We understand that the implementation of HAVA is a complex undertaking for the States. Since its passage, we have been working with state election officials as closely as possible to deal with these issues and to help States address whatever practical concerns arise. We look forward to working with you and your office to make HAVA implementation a success for all of Massachusetts' voters.

Thank you again for writing.

Sincerely,

Joseph D. Rich
Chief
Voting Section



"Reynolds, Chris"
<creynold@ss.ca.gov>
08/03/2006 06:07 PM

To ecollver@eac.gov
cc
bcc

Subject RE: Voter ID/Provisional voting

I followed up on your request of this morning, but, unfortunately, we have no person to refer. Perhaps we can talk some more about this, but at present we are drawing a blank. Sorry.

-----Original Message-----

From: ecollver@eac.gov [mailto:ecollver@eac.gov]
Sent: Thursday, August 03, 2006 12:10 PM
To: Reynolds, Chris
Subject: Voter ID/Provisional voting

Hi Chris,

Nice speaking with you this morning. I have a couple of things that you may look at regarding the federal requirements for ID and the casting of provisional ballots. I have attached a letter from DoJ which offers guidance on identification procedures. And here is a link to our website which gives an advisory on provisional voting. Let me know if you are able to find a couple of names that I can have on file of people who may be good ones to speak on these issues.

Thanks!

Best regards,
Elle

<http://www.eac.gov/docs/EAC%20Advisory%2005-006%20Provisional%20Voting.pdf>

(See attached file: MA DoJ letter.pdf)

Elle L.K Collver
U.S. Election Assistance Commission
1225 New York Avenue, Suite 1100
Washington, D.C. 20005
office: (202) 566-2256
blackberry: (202) 294-9251
www.eac.gov

025632

Jeannie Layson/EAC/GOV
01/25/2007 05:25 PM

To Bert A. Benavides/EAC/GOV@EAC
cc bbenavides@eac.gov, bhancock@eac.gov, Bryan
Whitener/EAC/GOV@EAC, Donetta L.
Davidson/EAC/GOV@EAC, Elieen L.
bcc

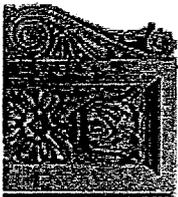
Subject Re: Revised draft agenda for Public meeting 2-08-07 

History

 This message has been forwarded.

This agenda includes the name of the Eagleton doc, "Best Practices to Improve Voter Identification Requirements." Based on the feedback from this morning, I think it should simply be labled as "Briefing on Eagleton's Research on Voter Identification."

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov
Bert A. Benavides/EAC/GOV



Bert A. Benavides/EAC/GOV
01/25/2007 12:01 PM

To Donetta L. Davidson/EAC/GOV, PDegregorio@eac.gov,
Gracia Hillman/EAC/GOV, Thomas R.
Wilkey/EAC/GOV@EAC, Juliet E.
Thompson-Hodgkins/EAC/GOV, Jeannie Layson/EAC/GOV,
bhancock@eac.gov, Karen Lynn-Dyson/EAC/GOV@EAC,
Gavin S. Gilmour/EAC/GOV, Curtis Crider/EAC/GOV@EAC,
Roger Larouche/CONTRACTOR/EAC/GOV@EAC
cc Elieen L. Kuala/EAC/GOV@EAC, Matthew
Masterson/EAC/GOV@EAC, Sheila A. Banks/EAC/GOV,
Bryan Whitener/EAC/GOV@EAC, bbenavides@eac.gov
Subject Revised draft agenda for Public meeting 2-08-07

Attached is the revised draft agenda for our 2-08-07 Public Meeting. Please review and let me know of your approval so we may proceed to post on the website. Thanks.



Public Meeting, 2-08-07, Wash., Draft Agenda.doc

025633



U.S. Election Assistance Commission Public Meeting Agenda

1225 New York Avenue, NW
Suite 150
Washington, DC
Thursday, February 08, 2007
10:00 AM – 1:00 PM EST

Call to Order (Chair Davidson)

Pledge of Allegiance (Chair Davidson)

Roll Call

Adoption of Agenda (Chair Davidson)

Welcoming Remarks (Chair Davidson)

OLD BUSINESS:

- Correction and Approval of Minutes from the December 07, 2006 Meeting (Chair Davidson)
- Report of the Executive Director (Thomas Wilkey)

NEW BUSINESS:

- Update on EAC Interim Laboratory Accreditation Program
 - Brian Hancock, Director, Voting Systems Certification, U. S. Election Assistance Commission
- Update on EAC/NVLAP Accreditation Programs
 - Mary H. Saunders, Chief, Standards Services Division, National Institute of Standards and Technology (NIST)



Break

- **Briefing on Eagleton's Research on Voter Identification – “Best Practices to Improve Voter Identification Requirements,”**
 - **Karen Lynn-Dyson, Research Director, U. S. Election Assistance Commission**
 - **John Weingart, Associate Director, Eagleton Institute of Politics, Rutgers University**

- **EAC Audit Process and State Observations**
 - **Curtis Crider, Inspector General, U. S. Election Assistance Commission**
 - **Roger LaRouche, Assistant Inspector General, U. S. Election Assistance Commission**
 - **Dan Glotzer, HAVA Grant Manager, Texas Secretary of State**
 - **Marci Andino, Executive Director, State Election Commission, South Carolina**

Commissioners' Closing Remarks

Adjournment

Thomas R. Wilkey/EAC/GOV
01/25/2007 05:35 PM

To Jeannie Layson/EAC/GOV@EAC, Bert A.
Benavides/EAC/GOV@EAC
cc Brian Hancock/EAC/GOV@EAC, Bryan
Whitener/EAC/GOV@EAC, Donetta L.
Davidson/EAC/GOV@EAC, Elieen L.
bcc

Subject Re: Revised draft agenda for Public meeting 2-08-07

History

This message has been forwarded

Perfect

Sent from my BlackBerry Wireless Handheld

Jeannie Layson

----- Original Message -----

From: Jeannie Layson

Sent: 01/25/2007 05:25 PM

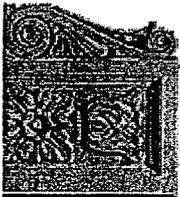
To: Bert Benavides

Cc: Bert Benavides; Brian Hancock; Bryan Whitener; Donetta Davidson;
Elieen Kuala; Gavin Gilmour; Gracia Hillman; Juliet Hodgkins; Karen
Lynn-Dyson; Matthew Masterson; Paul DeGregorio; Sheila Banks; Thomas Wilkey;
Bryan Whitener

Subject: Re: Revised draft agenda for Public meeting 2-08-07

This agenda includes the name of the Eagleton doc, "Best Practices to Improve Voter Identification Requirements." Based on the feedback from this morning, I think it should simply be labeled as "Briefing on Eagleton's Research on Voter Identification."

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov
Bert A. Benavides/EAC/GOV



Bert A. Benavides/EAC/GOV

01/25/2007 12:01 PM

To Donetta L. Davidson/EAC/GOV, PDegregorio@eac.gov,
Gracia Hillman/EAC/GOV, Thomas R.
Wilkey/EAC/GOV@EAC, Juliet E.
Thompson-Hodgkins/EAC/GOV, Jeannie Layson/EAC/GOV,
bhancock@eac.gov, Karen Lynn-Dyson/EAC/GOV@EAC,
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Roger Larouche/CONTRACTOR/EAC/GOV@EAC
cc Elieen L. Kuala/EAC/GOV@EAC, Matthew
Masterson/EAC/GOV@EAC, Sheila A. Banks/EAC/GOV,
Bryan Whitener/EAC/GOV@EAC, bbenavides@eac.gov
Subject Revised draft agenda for Public meeting 2-08-07

Attached is the revised draft agenda for our 2-08-07 Public Meeting. Please review and let me know of your approval so we may proceed to post on the website. Thanks.

025636

[attachment "Public Meeting, 2-08-07, Wash., Draft Agenda.doc" deleted by Thomas R. Wilkey/EAC/GOV]

Karen Lynn-Dyson/EAC/GOV
02/05/2007 04:09 PM

To Sheila A. Banks/EAC/GOV@EAC, Matthew
Masterson/EAC/GOV@EAC
cc Elieen L. Kuala/EAC/GOV@EAC

bcc

Subject Voter ID materials

History

This message has been forwarded

Sheila/Matt-

Attached are materials which your Commissioners may find useful for Thursday's meeting.

I am also preparing a series of additional questions for Commissioner Davidson, which she may be sharing with her colleagues.

K



New EAC Voter ID Report.doc VoterIDReport062806INAL.pdf EAC Voter ID draft-long version.doc

Karen Lynn-Dyson
Research Director
U.S. Election Assistance Commission
1225 New York Avenue, NW Suite 1100
Washington, DC 20005
tel:202-566-3123

025638

EAC Statement on Future Study of Voter Identification Requirements

Background

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. HAVA Section 303 (b) mandates that first time voters who register by mail are required to show proof of identity before being allowed to cast a ballot. The law prescribes certain requirements concerning this section, but also leaves considerable discretion to the States for its implementation. The EAC sought to examine how these voter identification requirements were implemented in the 2004 general elections and to prepare guidance for the states on this topic.

In May 2005 EAC entered into a contract with the Eagleton Institute of Politics at Rutgers, the State University of New Jersey and the Moritz College of Law at the Ohio State University 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 to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and recommend various policies that could be applied to these approaches.

The contractor also performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Using two sets of data-- aggregate turnout data at the county level for each state, and reports of individual voters collected in the November 2004 Current Population Survey conducted by the U.S. Census Bureau-- the contractor arrived at a series of findings, conclusions and subsequent recommendations for further research into the topic which are detailed in the attached report.

EAC Recommendations for further study and next steps

EAC finds this initial review of States' voter identification requirements, state laws and litigation surrounding the implementation of voter identification requirements an important beginning step in its consideration of voter identification requirements. From this study and compilation of data EAC considers it advisable to engage in a longer-term, systematic review of voter identification requirements and is recommending that at a minimum the agency engage on an ongoing basis in:

- A state-by-state review, reporting and tracking of voter identification requirements.
- A review and study of how voter identification requirements are implemented and how these practices may vary from state law and statute.

From this ongoing review and tracking EAC can determine the feasibility and advisability of further research and study into how voter identification requirements have had an impact over time on factors such as voter turnout and voter registration.

EAC believes that the findings from this initial study of voter identification requirements are helping inform additional studies it is conducting on a variety of related topics. The EAC study on first time voters who have registered to vote by mail and several forthcoming studies related to voter registration processes will provide necessary additional data to help inform discussions and debate related to ballot access and ballot security. The EAC also anticipates that follow-on study it does related to election crimes and various aspects of voting accessibility will also help inform and guide these ballot security and ballot access discussions.

Finally, EAC is likely to consider implementing one or more of the following research studies that will serve to augment the work begun by the Eagleton Institute of Politics:

- A study of how certain voter identification provisions that have been in place for two or more Federal elections have had an impact on voter turnout and voter registration figures;
- A research study which examines, in greater detail, the relationship between race and voter turnout, and race and methods for registering voters;
- Studies on the inter-relationship between various voter registration processes, voter turnout and number of election crimes reported or litigated;
- Publication of a series of case studies which detail a particular state's or jurisdiction's experiences with various voter identification and voter registration regimes;
- A policy paper or memorandum exploring the alternatives to current voter identification processes and regimes.

EAC Report on Voter Identification

Executive Summary

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. HAVA Section 303 (b) mandates that first time voters who register by mail are required to show proof of identity before being allowed to cast a ballot. The law prescribes certain requirements concerning this section, but also leaves considerable discretion to the States for its implementation. The EAC sought to examine how these voter identification requirements were implemented in the 2004 general elections and to prepare guidance for the states on this topic.

In May 2005 EAC entered into a contract with the Eagleton Institute of Politics at Rutgers, the State University of New Jersey and the Moritz College of Law at the Ohio State University 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 to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and recommend various policies that could be applied to these approaches.

The contractor also performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Using two sets of data, aggregate turnout data at the county level for each state, and reports of individual voters collected in the November 2004 Current Population Survey conducted by the U.S. Census Bureau, the contractor found the overall relationship between the stringency of ID requirements and turnout to be fairly small, but statistically significant.

Based on The Eagleton Institute year-long inquiry into voter identification requirements EAC will implement one or more of the following recommendations:

- Further research into the connection between voter ID requirements and the number of ballots cast and counted;
- A state-by-state review of the impact that voter ID requirements are having on voter's participation;
- A state-by-state review of the relationship between ballot access and ballot security and the number of voters whose ballot is counted;
- A state-by-state review of time periods between voters casting of provisional ballots and the time allowed to return with an ID as well as a review of acceptable forms of identification other than photo ID.

Introduction

This study was conducted at a time in which considerable attention is being paid to the issue of voter identification. Proponents of stricter identification requirements base their case on improving the security of the ballot by reducing opportunities for multiple voting or voting by those who are not eligible. The goal is to ensure that only those legally entitled to vote do so, and do so only once at each election. Opponents of stricter ID requirements seek to ensure board access to a regular ballot. There is a fear that some voters -- racial and ethnic minorities, young and elderly voters-- lack convenient access to required ID documents, or that these voters may be fearful of submitting their ID documents for official scrutiny.

This report considers policy issues associated with the voter ID debate. It examines the relationships between voter ID requirements and voter turnout along with the various policy implications of the issue.

Methodology of the Study

In May 2005, under contract with the EAC, the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at the Ohio State University undertook a review and legal analysis of state statutes, regulations and litigation concerning voter identification and provisional voting as well as a statistical analysis of the relationship of various requirements for voter identification to turnout in the 2004 election. The contract also included research and study related to provisional voting requirements. These research findings were submitted and reviewed by the EAC as a separate study.

The Eagleton Institute of Politics gathered information on the voter identification requirements in 50 states and the District of Columbia for 2004. Based on interpretations of state statutes and supplemental information provided through conversations with state election officials, state ID requirements were divided into five categories, with each category of identification more rigorous than the one preceding: stating name, signing name, signature match, presenting an ID, and the most rigorous, presenting a government photo ID. The Eagleton Institute also categorized and identified each state according to maximum and minimum identification requirements. Maximum requirements refer to the most that voters may be asked to do or show at the polling place. Minimum requirements refer to the most that voters can be required to do or show in order to cast a regular ballot. These definitions and the subsequent state-by-state analysis of voter identification requirements omitted those cases in which a particular voter's eligibility might be questioned using a state's voter ballot challenge process.

Two data sets were used to apply the criteria (variables) that were developed above: aggregate voter turnout data at the county level which was gathered from the EAC's 2004 Election Day Survey and; reports of individual voters collected through the November 2004 Current Population Survey administered by the U.S. Census Bureau. Use of EAC

survey data and Census Bureau CPS data provided a way to cross-check the validity of the analysis and conclusions that would be drawn regarding the effect of voter ID requirements on voter turnout.

Study Oversight and Methodological Review

A draft of the Eagleton Institute report and findings on voter identification requirements was critiqued by a peer review group convened by the Eagleton Institute. A second review of the study's research and statistical methodologies was conducted using a group of research and statistical experts independently convened by the EAC. Comments and insights of the peer review group members were taken into account in the drafting of a study report although there was not unanimous agreement among the individual reviewers regarding the study findings and recommendations.

The Eagleton Institute of Politics Peer Review Group

R Michael Alvarez, California Institute of Technology
John C. Harrison, University of Virginia School of Law
Martha E. Kropf, University of Missouri-Kansas City
Daniel H. Lowenstein, University of California at Los Angeles
Timothy G. O'Rourke, Salisbury University
Bradley Smith, Capital University Law School
Tim Storey, National Conference of State Legislatures
Peter G. Verniero, former Attorney General, State of New Jersey

The EAC Peer Review Group

Jonathan Nagler, New York University
Jan Leighley, University of Arizona
Adam Berninsky, Massachusetts Institute of Technology

Summary of the Research

Maximum and Minimum Voter Identification Requirements

In order to analyze what, if any, correlation may exist between a State's voter identification requirements and voter turnout, the Eagleton Institute first coded a state according to how demanding its voter ID requirement was. The voter ID requirement, ranked from lowest to highest was as follows: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification and, providing a form of photo identification. Several possible caveats to this ranking system were noted. For all states which had photo identification requirements in 2004, voters

without a photo ID were permitted to cast a regular ballot after signing an affidavit regarding his or her identity and eligibility. These voters were also allowed to provide other forms of ID. The researchers also noted that while each state may be assigned to a category, that categorization may not reflect the actual practice related to voter identification that may or may not have taken place at many polling places.

Research performed for this study by the Moritz College of Law found that states had five different types of **maximum** identification requirements in place on Election Day 2004. For the purposes of this study a requirement that called for a signed affidavit or the provision of other forms of ID was considered the most rigorous or the “maximum” requirement. At the polling place voters were asked to:

- State his or her name (10 states)
- Sign his or her name (13 states and the District of Columbia)
- Sign his or her name, which would be matched to a signature on file (seven states)
- Provide a form of identification that did not necessarily include a photo (15 states)
- Provide a photo identification (five states)

Using the same criteria, but applying them as **minimum** rather than maximum criteria for voting the research showed: **(check this section- it doesn't really make sense)**

- State his or her name (12 states)
- Sign his or her name (14 states and the District of Columbia)
- Matching the voter's signature to the signature on file (6 states)
- Provide a non-photo identification (14 states)
- Swear by an affidavit (4 states)

The results of the research are summarized in Table 1.

Election laws in several states offer exceptions to these ID requirements if potential voters lack the necessary form of identification. Laws in these states set a minimum requirement that a voter may be required to satisfy in order to vote using a regular ballot. In 2004 none of the states required photo identification as a minimum standard for voting with a regular ballot. That is, voters who lacked photo ID were allowed to vote in all states, if he or she was able to meet another ID requirement.

The Relationship of Voter Identification Requirements to Voter Turnout

A statistical analysis examining the variation in turnout rates based on the type of voter ID required by each state in the 2004 election was conducted using two sets of data: 1) aggregate turnout data at the county level for each state (compiled by the Eagleton Institute of Politics-**footnote about how they collected the data**) and 2) individual level survey data included in the November 2004 Current Population Survey (CPS), conducted by the U.S. Census Bureau.

The analysis looked at the voter identification requirements as a continuous variable and as a series of discrete variables. As a continuous variable the maximum voter identification requirements were ranked according to how demanding they were judged to be, with photo identification considered to be the most demanding requirement (**what about affidavit????**). Used as discrete variable, the statistical analysis considered stating the name as the least demanding ID requirement; the other ID requirements were then compared to that requirement.

Aggregate-level statistical analysis

The statistical analysis performed by the Eagleton Institute of Politics found that when averaging across counties in each state, statewide turnout is negatively correlated to maximum voter identification requirements ($r = -.30$, p less than .05). When a statistical analysis is performed on the other minimum voter ID requirements (with affidavit being the most demanding requirement), the correlation between voter identification and turnout is negative, but not statistically significant ($r = -.20$, $p = .16$). These findings would suggest that the relationship between turnout rates and minimum requirements may not be linear.

The aggregate data show that 60.9 percent of the estimated citizen voting age population voted in 2004. Taking into account the maximum requirements, an average of 64.6 percent of the voting age population turned out in states that required voters to state their names, compared to 58.1 percent in states that required photo identification. A similar trend was found when analyzing minimum ID requirements. Sixty-three percent of the voting age population turned out in states requiring voters to state their name, compared to 60.1 percent in states that required an affidavit from voters. This analysis showed there was not a clear, consistent linear relationship between turnout and minimum identification requirements.

(insert table 2- Variation in 2004 State Turnout Based on Voter Identification Requirements)

Multivariate models of analysis using aggregate-level data

The Eagleton Institute of Politics performed an additional analysis that would estimate the effects of voter identification requirements, that took into account the electoral context in 2004 and, the demographic characteristics of the population in each county. The model also considers such variables as whether or not the county was 1) in a presidential battleground state, 2) if the county was in a state with a competitive race for government and/or the U.S. Senate, 3) the percentage of voting-age population in each county that was Hispanic or African-American 4) the percentage of county residents age 65 and older, 5) the percent of county residents below the poverty line, and 6) the number of days between each state's registration deadline and the election.

The results of this statistical modeling and subsequent analysis indicated that the stricter voter ID requirements of matching a voter's signature to a signature on file or with presenting a non-photo identification are associated with lower voter turnout when compared to voter turnout in states that required voters to simply state his or her name. These conclusions were reached when variables 1-5 listed above were held constant.

Other results from the Eagleton Institute analysis of stricter voter identification requirements showed that:

- Increased voter turnout was associated with whether the county was in a battleground state or whether that state have a competitive race for governor and/or U.S.Senate.
- A slight negative effect on turnout was correlated with those state's with a longer time between the closing date for registration and the election.
- Voter turnout declined as the percentage of Hispanics in a county's population increased.
- Higher turnout (and a positive correlation) was associated with a higher percentage of senior citizens and household median income.
- The percentage of African-Americans in the county did not have a significant effect on turnout.

The Eagleton Institute analysis of minimum voter identification requirements showed that:

- A relationship between minimum voter ID requirements and turnout was not demonstrated.
- Battleground states and those with competitive state races had a significant and positive correlation to turnout.
- A higher percentage of senior citizens in the county and higher household median income were associated with higher turnout and showed a positive correlation to turnout.
- The percentage of Hispanics in the county was associated with reduced turnout.
- The increased number of days between the closing date for registration was associated with reduced turnout.

The analysis of these aggregate, county-level data showed a significant correlation, between maximum voter identification requirements (a signature match and non-photo

identification, but not a photo identification) and lower turnout in the 2004 election. This correlation was also significant when compared to the minimum voter ID requirement of the voter simply having to state his or her name.

Multivariate analysis using individual level turnout data

This analysis which used November 2004 Current Population Survey data conducted by the U.S. Census Bureau is based on reports from self-described registered voters. Not included in the analysis are persons who said they are not registered to vote, those who said they cast absentee ballots and those who said they were not U.S. citizens. The CPS' Voting and Registration Supplement consisted of interviews, either by telephone or in person, with 96,452 respondents. (**why is the N is Table 3-54,973?**)

In addition to the five maximum voter identification requirements (enumerated on page XX) the analysis performed included other socioeconomic, demographic and political factors that could have influenced turnout in the 2004 election. These independent variables were analyzed against the dependent variable of whether or not the respondent said he or she voted in the November 2004 election.

In this analysis three of the voter identification requirements were shown to have a statistically significant correlation with whether or not the survey respondents said they have voted in 2004. Lower voter turnout was associated with:

- those states with maximum voter requirements to sign one's name,
- those states with maximum voter requirements to provide a non-photo ID or photo ID, or
- those states with the minimum voter requirement to swear by an affidavit in order to cast a ballot without the state-required identification

Increased voter turnout showed:

- A significant correlation with the competitiveness of the Presidential race (**explain**).
- African-American voters were more likely than white or other voters to say they have voted.
- Income and marital status were positive predictors of voting (**high income or low income, single, married?**),
- Women were more likely to say they voted than men.
- Those ages 45 to 64 and 65 and older were more likely to say they voted than those ages 18 to 24.
- Those who earned a high school diploma, attended some college, graduated from college or attended graduate school were more likely to say they have voted than those who had not finished high school.

Analysis of the predicted probability of voter turnout using the individual data

Using this Census Bureau Current Population Survey data the Eagleton Institute of Politics performed an additional statistical analysis in which they calculated the effect of various independent variables on the probability that a respondent said he or she voted. This analysis, involving 54,973 voters cross-tabulated the maximum and minimum voter identification requirements in each state with the five levels of voting requirements: stating name, signing name, matching the signature, a non-photo ID, photo-ID signing an affidavit. The results of these **Predicted Probability of Voter Turnout for all Voter** tabulations are summarized in Table 3 below:

From this analysis, the Eagleton Institute of Politics found that three of the voter identification requirements (**which ones?**) exerted a statistically significant, negative effect on whether or not the CPS survey respondents said they had voted in 2004. That is, compared to states that require voters to only state their name, those states which require the voter to sign his or her name, to provide a non-photo ID, or to provide a photo ID as a maximum requirement, were shown to have a negative influence on turnout. Also, a negative influence on turnout was found when comparing those states that require voters to only state their name, as compared to those states which have as a minimum requirement for verifying voter ID, signing an affidavit.

This probability analysis also found that the competitiveness of the presidential race had a significant effect on turnout as well as some significant demographic and educational effects. For the entire voting population signature, non-photo identification and photo identification requirements were all associated with lower turnout rates compared to the requirements that voter simply state their names. The analysis further found that:

- The predicted probability that Hispanics would vote in states that required non-photo identification was about 10 percentage points lower than in states where Hispanic voters gave their names and that Hispanic voters were less likely to vote in states that required non-photo identification as opposed to only having to state one's name.
- Hispanic voters were 10 percent less likely to vote in non-photo identification states compared to states where voters only had to give their name. African American and Asian-American voters were about 6 percent less likely, while white voters were about 2 percent less likely.
- Asian-American voters were 8.5 percent less likely to vote in states that required non-photo identification compared to states that require voters to state their names under the maximum requirements, while they were 6.1

percent less likely to vote where non-photo identification was the minimum requirement.

- For those with less than a high school diploma, the probability of voting was 5.1 percent lower in states that required photo identification as the maximum requirement and 7 percent lower in those states that required an affidavit as the minimum requirement. These percentages were arrived at when comparing these states to ones that use as a minimum or maximum requirement, the voter to merely state his or her name.

Conclusions from the statistical analysis

The statistical analysis found that as voter identification requirements vary, so do voter turnout rates. These findings were borne out through analyses conducted on aggregate data and individual-level data. There were, however, some distinctions found depending upon whether or not the state's particular voter identification requirements were set as minimums or maximums.

- The overall relationship between voter identification requirements and turnout for all registered voters was found to be small but statistically significant.
- Using the aggregate data the signature match and the non-photo identification requirement correlated with lower turnout. The photo identification requirement did not have a statistically significant effect.
- In the individual-level data the signature, no-photo identification and photo identification requirement were all correlated with lower turnout when compared to the requirements that voter simply state their names.
- Across various demographic groups (African-Americans, Asian-Americans and Hispanics) a statistically significant relationship was found between the non-photo identification requirement and voter turnout

Caveats to the Analysis

The Eagleton Institute for Politics and the EAC make note that while this analysis is a good beginning, significant questions remain regarding the relationship between voter identification requirements and turnout. These analyses are unable, for example, to capture how or why identification requirements might lower turnout. That is, is it because voters are aware of the identification requirements and stay away from the polls because of them? Alternatively, do the requirements result in some voters being turned away when they cannot provide the identification, or must cast a provisional ballot?

Knowing more about the “on the ground” experience of voters regarding various identification requirements will guide state and local level policy makers in their efforts to educate voters about the requirements. These experiences could also help instruct election judges on how to handle questions and possible disputes over voter identification requirements.

Public Policy and Administrative Considerations

Voter Identification, often described as the critical step in protecting the integrity of the ballot, is a process which can ensure that the potential voter is eligible and, if eligible, is permitted to cast one ballot. A voting system that requires voters to produce an identification document or documents may prevent the ineligible from voting, but also may prevent the eligible from casting a ballot.

Evaluating the effect of different voter identification regimes can be most effective when based on clear legal, equitable and practical standards. The questions outlined below might point policymakers to standards that can be created around voter identification requirements.

1. Is the voter ID system designed on the basis of valid and reliable empirical studies the will address concerns regarding certain types of voting fraud?
2. Does the voter ID requirement comply with the letter and spirit of the Voting Rights Act?
3. How effective is the voter ID requirement on increasing the security of the ballot and can it be coordinated with the statewide voter registration database?
4. How feasible is the voter identification requirement? That is, are there administrative or budgetary considerations or concerns? How easy or difficult will it be for pollworkers who must administer the requirement?
5. How cost effective is the voter ID system? That is, what are the monetary and non-monetary costs to the voter and to the state for implementing the ID system?
6. If voter ID requirements are shown to reduce voter turnout (generally, or with some particular groups), what possible steps should be taken to ameliorate this problem?

Recommendations and Next Steps

As the Federal agency charged with informing election officials and the public about various issues related to the administration of elections EAC believes it should, in its capacity as a supporter of elections research, undertake additional study into the topic of voter identification requirements and the implementation of them in the following ways:

- Longitudinal studies of jurisdictions that have changed voter identification requirements.

- State-by-state and precinct-level analyses that will examine the correlations between various voter identification requirements and voter registration and turnout
- Alternative forms and methods for verifying a voter's identity.
- Continuing research into the connection between various voter identification requirements and the number of ballots cast and counted
- A continuing state-by-state update on changes to voter identification requirements.
- Continued collection of state-by-state data which will help examine the impact that voter identification requirements are having on the number of voters who are casting provisional ballots because of voter identification verification issues.

Appendix A: Summary of Voter Identification Requirements by State

Appendix B: Court Decisions and Literature on Voter Identification and Related Issue Court Decisions

Appendix C: Annotated Bibliography on Voter Identification Issues

DRAFT

**Report to the
U. S. Election Assistance Commission
On
Best Practices to Improve Voter Identification Requirements
Pursuant to the
HELP AMERICA VOTE ACT OF 2002
Public Law 107-252**

June 28, 2006

Submitted by

The Eagleton Institute of Politics, Rutgers, The State University of New Jersey

The Moritz College of Law, The Ohio State University

**Report to the
U. S. Election Assistance Commission**

Best Practices to Improve Voter Identification Requirements

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The Research Team

This research report on Voter Identification Requirements in the 2004 election is part of a broader analysis that also includes a study of Provisional Voting, which has already been submitted to the EAC. Conducting the work was a consortium of The Eagleton Institute of Politics of Rutgers, The State University of New Jersey, and The Moritz College of Law of The Ohio State University.

The Eagleton Institute explores state and national politics through research, education, and public service, linking the study of politics with its day-to-day practice. It focuses attention on how contemporary political systems work, how they change, and how they might work better. Eagleton regularly undertakes projects to enhance political understanding and involvement, often in collaboration with government agencies, the media, non-profit groups, and other academic institutions.

The Moritz College of Law has served the citizens of Ohio and the nation since its establishment in 1891. It has played a leading role in the legal profession through countless contributions made by graduates and faculty. Its contributions to election law have become well known through its Election Law @ Moritz website. *Election Law @ Moritz* illuminates public understanding of election law and its role in our nation's democracy.

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REPORT AND RECOMMENDATIONS TO THE EAC VOTER IDENTIFICATION ISSUES

Report Background

The Help America Vote Act of 2002 (HAVA) (Public Law 107-252) authorizes the United States Election Assistance Commission (EAC) (Sec. 241, 42 USC 15381) to conduct periodic studies of election administration issues. The purpose of these studies is to promote methods for voting and administering elections, including provisional voting, that are convenient, accessible and easy to use; that yield accurate, secure and expeditious voting systems; that afford each registered and eligible voter an equal opportunity to vote and to have that vote counted; and that are efficient.

This study provides information on voter identification practices in the 2004 election. It makes recommendations for best practices to evaluate future proposals for voter ID requirements, including the systematic collection and evaluation of information from the states. The research was conducted by the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at the Ohio State University under a contract with the EAC, dated May 24, 2005. The work included a review and legal analysis of state statutes, regulations and litigation concerning voter identification and provisional voting as well as a statistical analysis of the relationship of various requirements for voter identification to turnout in the 2004 election. This report is a companion to a report on Provisional Voting submitted to the EAC on November 28, 2005 under the same contract.

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Background and Methods

This report arrives at a time of considerable ferment over the issue of voter identification. The debate across the nation over requiring voters to produce a specific identification document before being permitted to cast a regular (as opposed to a provisional) ballot, has revealed supporters and opponents in polarized camps.

- Proponents of stricter identification requirements base their case on improving the security of the ballot by reducing opportunities for one kind of vote fraud --multiple voting or voting by those who are not eligible. The proponents argue that their goal is to ensure that only those legally entitled to vote do so, and do so only once at each election.

- Opponents seek to forestall more stringent identification requirements, such as government-issued photo ID, in order to ensure broad access to a regular ballot. They fear that some voters --such as, they argue, racial and ethnic minorities, the young, and elderly voters-- may lack convenient access to the required ID documents, or that such voters may be fearful of submitting their ID documents to official scrutiny and thus stay away from the polls.
- Both sides argue that their preferred policy will engender faith in the electoral process among citizens.

This report considers policy issues associated with the voter ID debate. It inquires whether empirical study can suggest a way to estimate the effects of different voter ID requirements on turnout. That analysis would constitute an important first step in assessing tradeoffs between ballot security and ballot access. The aim of this research is to contribute to the effort to raise the quality of the debate over this contentious topic. The tradeoffs between ballot security and ballot access are crucial. A voting system that requires voters to produce an identity document or documents may prevent the ineligible from voting. It may also prevent eligible voters from casting a ballot. If the ID requirement of a ballot protection system blocks ineligible voters from the polls at the cost of preventing eligible voters who lack the required forms of identification, the integrity of the ballot may not have been improved; the harm may be as great as the benefit.

As part of the project's effort to analyze the relationship between Voter ID requirements, turnout, and their policy implications, a statistical analysis examined the potential variation in turnout. This statistical study developed a model to illuminate the relationships between voter ID requirements and turnout. This model's findings and limitations suggest avenues for further research and analysis that may assist the EAC and the states as they explore policies to balance the goals of ballot integrity and ballot access.

The statistical analysis describes one possible way to estimate what might be the incremental effect on voters' access to the ballot of an increase in the rigor of voter identification requirements. We do not offer this statistical analysis as the last word, but rather as a preliminary word on the subject. Its findings must be regarded as tentative; the information (such as the specific reasons some potential voters are not allowed to cast a regular ballot) that that might permit greater certainty is simply not available. Indeed, as our recommendations indicate, the next step to improve understanding of the effects of stricter voter identification on

turnout and on vote fraud is to collect more information on both topics systematically and regularly.

Making a statistical estimate of the effect of voting regulations on turnout is difficult. The dynamics of turnout are complex, much studied, and only partially understood. Some agreement exists, however, that three factors that exert substantial influence on voter turnout are:¹ the socioeconomic status of the potential voter; legal requirements to vote; and the political context of the election. By focusing on how voters identify themselves at the polls, this report emphasizes legal requirements. The statistical analysis also considers some of the socioeconomic, racial, and age characteristics of the electorate, as well as the political context in 2004 (such as whether a state was a battleground in the presidential race).

Examining tradeoffs between ballot security and ballot access requires some measure of the effectiveness of voter ID requirements in reducing multiple voting or voting by ineligible voters. The existing evidence on the incidence of vote fraud, especially on the kind of vote fraud that could be reduced by requiring more rigorous voter identification, is not sufficient to evaluate those tradeoffs.² Assessing the effectiveness of voter ID as a way to protect the integrity of the ballot should logically include an estimate of the nature and frequency of vote fraud. This research does not include consideration of vote fraud, nor does it estimate the possible effectiveness of various voter ID regimes to counter attempts at vote fraud. Our analysis also cannot take into account how many potential voters who did not turn out under comparatively stricter voter ID requirements might have been ineligible or eligible to vote.

Despite these qualifications regarding the quality of the available data and the limitations of statistical analysis, however, the different statistical methods and two different sets of data on turnout in 2004 election used in the study point to the same general finding. Stricter voter identification requirements (for example, requiring voters to present non-photo ID compared to simply stating their names) were correlated with reduced turnout in the models employed, as described in detail in Appendix C.³ As explained below, these models find that a statistically

¹ See, for example, Tom William Rice and Patrick J. Kenney, "Voter Turnout in Presidential Primaries." 1985. *Political Behavior*, 7: 101-112. Identification requirements are not the only legal restrictions on voting. States also differ, for example, in their registration requirements (including how long before the election registration must take place and the identity documents required register).

² The EAC has contracted with other researchers to study vote fraud issues.

³ Appendix C: Tim Vercellotti, Eagleton Institute of Politics, *Analysis of Effects of Voter Identification Requirements on Turnout*. Using the aggregate data, photo ID did not have a significant effect on turnout, possibly because in the

significant relationship exists, even when controlling for other factors (such as whether the election was in a battleground state) that might affect turnout. (But note that in the model using the aggregate data, photo ID did not have a significant effect on turnout. The reason may have been that in this election, each state with a photo ID requirement provided an alternate way for those without a photo ID to cast a regular ballot.) Without knowing more about the effects of stricter voter ID on reducing multiple voting or voting by ineligible voters, however, the tradeoffs between ballot security and ballot access cannot be assessed.

Methodology

The report includes detailed information on the nature of the statutory requirements across the country in 2004 and on the statutes and court decisions that provide the legal context for the voter ID debate. We gathered information on the requirements in effect in the 50 states and the District of Columbia in that year. Based on our interpretation of state statutes, supplemented in some cases by conversations with state election officials, we divided the states' ID requirements into five categories. We believe each category is more rigorous than the one preceding, based on the demands they make on voters.⁴ The categories range from "Stating Name" which we judge to be somewhat less demanding than "Signing Name." "Signature Match" requires poll workers to examine the signature and compare it to a sample, which is slightly more demanding than the voter simply signing. "Present ID" requires voters to offer some documentary evidence of their identity, ranging from a utility bill to a passport. It is more demanding than the previous three categories because it requires that the voter remember to bring this documentation to the polls. (Even a simple ID, such as a utility bill, may not be available to some renters or, say, those in group housing.) We regard a government "Photo ID" as the most rigorous requirement. Such identity documents may not be uniformly and conveniently available to all voters.

For each state, we identified both the "maximum" and "minimum" identification requirements. The term "maximum" refers to the most that voters may be *asked* to do or show at the polling place (putting aside cases in which particular voter's eligibility may be questioned pursuant to a state challenge process). The term "minimum," on the other hand, refers to the most that voters can be *required* to do or show, in order to cast regular ballot (again leaving aside a state

2004 election every state requiring photo ID provided an alternative way to cast a regular ballot for those voters who lacked photo identification. The individual data from the Current Population Survey did show a significant effect, but only for the overall sample and for white voters, which may be an artifact of the large sample size.

⁴ Even the most relaxed provisions for identification at the polls—anything stricter than the honor system used in North Dakota—will impose some burden on particular voters. *Harvard Law Review* 119:1146

challenge process). We have included “maximum” requirements in our analysis, and not simply “minimum” requirements, because simply asking voters to produce particular identifying information may have a deterrent effect, even if voters are ultimately allowed to cast a regular ballot without that identification. For example, in a state where voters are asked to show photo ID at the polling place, but still allowed to vote by completing an affidavit confirming their eligibility, the “maximum” of being asked to show photo ID may deter some voters even though the “minimum” would allow them to vote without photo ID.

It is worth emphasizing that, at the time of the 2004 election, there was *no* state that had a “minimum” requirement of showing photo ID – in other words, there was no state that required voters to show photo ID in order to cast a regular ballot. For this reason, our report does not measure the impact of laws, like those recently enacted in Indiana and Georgia, which require voters to show photo ID in order to cast a regular ballot without an affidavit exception.

To examine the potential variation on turnout rates associated with each type of voter ID requirements in effect on Election Day 2004, the statistical analysis drew on two sets of data. These were, first, aggregate turnout data at the county level for each state and, second, the reports of individual voters collected in the November 2004 Current Population Survey by the U. S. Census Bureau. Using two different data sets makes it possible to check the validity of one analysis against the other. It also provides insights not possible using only one of the data sets. The aggregate analysis cannot provide valid estimates on the effects of different ID requirements on particular demographic groups (e.g., the old, the young, African-Americans, the poor, or high school graduates). The Current Population Survey data does permit that kind of analysis, although it has the disadvantage of relying on self-reports by respondents about their registration status and experience in the polling place.

To understand legal issues that have been raised in recent litigation over voter ID requirements, we collected and analyzed the few major cases that have been decided so far on this issue. The decisions so far provide some guidance on the constitutional and other constraints as to voter ID requirements.

Summary of Findings

As voter identification requirements vary, voter turnout varies as well. This finding emerged from both the statistical analysis’s aggregate data and the individual-level data, although not always

for both the maximum and minimum sets of requirements. The overall relationship between the stringency of ID requirements and turnout was fairly small, but still statistically significant.

In the model used with the aggregate data in the statistical analysis, for the maximum ID requirements, the match-signature requirement and the provide-a- non-photo-ID requirement, but not the photo ID requirement, were all correlated with lower turnout compared to requiring that voters state their names. When the registration closing deadline was added as an independent variable in the aggregate analysis, signature match and non-photo id remained significant and negative predictors in the model.

The reduction in turnout was not the same for all demographic groups in the citizen voting age population.

The non-photo identification requirement showed the most significant and consistent correlation with reduced turnout. This result may be surprising given the intense debates surrounding photo identification requirements. The effect of photo ID requirements cannot, however, be assessed from the data the statistical analysis examined, since none of the states had laws in 2004 that conditioned voting on presentation of photo ID. Each of the five states that had photo ID as a “maximum” requirement (i.e., the most that voters could be asked to show at the polls) accepted another type of identification or an affidavit as a “minimum” requirement in the 2004 election (i.e., they were allowed to cast a regular ballot with something less than photo ID).

Significant questions about the relationship of voter identification requirements to turnout remain unanswered. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If ID requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? Other factors that may also be correlated with stricter ID laws – such as less user-friendly voter registration systems – may actually be causing lower turnout. The CPS data do not include the information needed to answer this question. Knowing more about the “on the ground” experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such

knowledge also could help in designing training for election judges to handle questions about, and potential disputes over, voter identification requirements.

Our analysis of litigation suggests that the courts will look more strictly at requirements that voters produce a photo ID in order to cast a regular ballot, than at non-photo ID laws. The courts have used a balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting social security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents. To provide both the clarity and certainty in administration of elections needed to forestall destabilizing challenges to outcomes, a best practice for the states may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility.

The current lack of understanding of precisely how voter ID requirements affect turnout could be ameliorated by requiring the collection and reporting of additional data, including the reasons potential voters are required to cast a provisional ballot and the reasons for rejecting provisional ballots during the 2006 and subsequent elections. Also useful would be the results of surveys of voters on their experiences in meeting voter ID requirements and on what type of ballot they cast.⁵ And, of course, more information is needed on the incidence and varieties of vote fraud, but that inquiry is outside the scope of this report.

Recommendations for consideration and action by the EAC

The dynamics of Voter ID requirements –how more rigorous voter ID requirements may affect the decision by potential voters to go or stay away from the polls-- are not perfectly understood. This lack of understanding should be recognized in the policy process in the states. The debate over voter ID in the states would be improved by additional research sponsored by the EAC.

The EAC should consider the following actions to improve understanding of the relationship between voter ID requirements and the two important goals of ensuring ballot access and ensuring ballot integrity.

⁵ Arizona held its first election with its new, stricter ID requirements on March 14, 2006. In at least one county (Maricopa) election officials handed a survey to voters that asked if they knew about the voter identification law and if they did, how they found out about it. Edythe Jensen, "New Voter ID Law Goes Smoothly in Chandler," *Arizona Republic*, March 15, 2006. More surveys of this kind can illuminate the dynamics of voter ID and voting in ways that are not possible now because of insufficient data.

1. Encourage or sponsor further research to clarify the connection between Voter ID requirements and the number of potential voters actually able to cast a ballot that is actually counted.
2. Recommend as a best practice the publication of a "Voting Impact Statement" by states as they assess their voter ID requirements to protect the integrity of the ballot. The analysis will help ensure that efforts to increase ballot security have a neutral effect on electoral participation by eligible voters. A "Voter Impact Statement" would estimate the number and demographics of 1) eligible, potential voters that may be kept from the polls or permitted to cast a provisional ballot by a stricter ID requirement; and 2) and assess the number of ineligible voters who will be prevented from voting by the stricter ID requirements.
3. Encourage or require the states in the 2006 election and beyond, to collect and report reliable, credible information on the relationship between ballot access and ballot security. EAC should publish an analysis of this information to provide a sound factual basis for the states to consider as they estimate the incidence of the kinds of vote fraud that more stringent ID requirements may prevent. The analysis should describe the dynamics of the voter ID process in preserving the security of the ballot. EAC might also use the information reported by the states to encourage further assessment by the states of the effectiveness of programs to ensure that all eligible voters have required ID and are permitted to vote in future elections. Well-designed longitudinal studies in the states can show the results of changing voter ID requirements on electoral participation over time. The studies should include precinct-level data to provide the fine-grained analysis that can provide a solid foundation for policy.
 - I. Useful information could be supplied by state-sponsored surveys of voters conducted by local election officials. Such surveys would make clear why those who cast a provisional ballot were found ineligible to cast a regular ballot. The answers would illuminate the frequency with which ID issues divert voters into the provisional ballot line.
 - II. Surveys to ask voters what they know about the voter id requirements would also provide useful context for evaluating the effect of various voter ID requirements on electoral participation.
 - III. Spot checks by state election officials on how the identification process works at polling places could provide information on how closely actual practice tracks

statutory or regulatory requirements. Such reports should be available to the public.

4. Encourage states to examine the time period allowed for voters who cast a provisional ballot because they lacked required ID to return with their identification. In eleven states, voters who had to cast a provisional ballot because they lacked the ID required for a regular ballot were permitted to return later with their ID. Their provision of this ID is the critical step in evaluating the ballots. The length of the period in which the voter may return with ID is important. In setting the time period for return, which now varies among the states from the same day to about two weeks, states should consider three factors: the convenience of the voter, the total time allowed to evaluate ballots⁶, and the safe harbor provision in presidential elections.
5. Recommendations to the states from EAC should reflect current judicial trends. Requirements that voters provide some identifying documentation have been upheld where photo ID is *not* the only acceptable form. Whether laws requiring photo ID will be upheld is less certain.

SUMMARY OF RESEARCH

Background and Approach of the Study

Voter ID requirements are just one set of rules governing voting that may affect turnout. Social scientists have long studied how election rules affect participation in elections. The general view today is that the individual citizen makes the choice of whether to vote in a way similar to other decisions that a rational citizen makes, by comparing costs and benefits. The benefits of voting are fairly stable and hard to specify given the remote probability that any one vote will make a difference in an election. But whatever the benefit as perceived by an individual voter, as the costs of voting (for example, time, hassle, acquisition of information) increase, the likelihood that a citizen will vote decrease. Not all groups in the population calculate the cost of participation in the same way, so that election laws (such as registration or identification requirements) may affect different groups differently.

A short summary of some of the social science literature illustrates what may be a broad consensus that the rules of elections affect turnout, but note the important differences in the details of what groups may be most affected.

⁶ Our research on provisional voting reveals that states that provide more than a week to evaluate provisional ballots end up counting substantially more of those ballots than states that provide less than a week.

- Bowler, Brockington and Donovan in "Election Systems and Voter Turnout: Experiments in the United States". *The Journal of Politics*, 63:3 (August 2001) concluded that electoral systems help shape turnout by altering the benefits perceived by voters. For example, cumulative voting systems have 5% greater turnout than plurality systems
- The effect of registration systems has been the subject of many studies over the last 40 years. Kelley, Ayres, and Bowen in "Registration and Voting: Putting First Things First." *American Political Science Review*. 61:2 (June 1967) found that local variations in the rate of voting are most directly tied to variations in the rate of registering to vote, and that the rate of registering to vote in localities is most directly related to the laws and administration of the registration process. They concluded that the decline in voting over the past 80 years was due, in part, to the rise of registration laws.
- Brians and Grofman in "Election Day Registration's Effect on U.S. Voter Turnout." *Social Science Quarterly*. 82:1 (March 2001), found that relaxing registration laws produces higher turnout. In particular, they observed that relaxing registration laws is more likely to promote voter turnout among those with medium levels of income and education, rather than those at the lowest levels. Highton in "Easy Registration and Voter Turnout," *Journal of Politics*. 59:2 (May 1997), concluded similarly that registration laws affect voter turnout, but also observed that easier registration promotes turnout among those in lower socio-economic status.
- Mitchell and Wlezien. "The Impact of Legal Constraints on Voter Registration, Turnout, and the Composition of the American Electorate," *Political Behavior*. 17:2 (June 1995) agreed that easier registration promotes higher turnout, but also concluded that higher turnout from easier registration would be unlikely to change the composition of the electorate. Nagler in "The Effect of Registration Laws and Education on U.S. Voter Turnout." *American Political Science Review*. 85:4 (December 1991) found that registration laws decrease voter turnout by depressing the eligible electorate, but that lower educated people are not disproportionately impacted by these laws. But Rosenstone and Raymond E. Wolfinger in "The Effect of Registration Laws on Voter Turnout." *American Political Science Review*. 72:1 (March 1978) found that while registration laws did affect both voter turnout and the composition of the electorate, the sharpest effect of these restrictions was felt in the South and among the least educated.

- Squire, Wolfinger, and Glass in "Residential Mobility and Voter Turnout." *American Political Science Review*. 81:1 (March 1987) found that people who move constitute a major demographic group affected by registration laws. They estimated that altering laws to facilitate voting by recently moved people could increase turnout by 9%. Highton in "Residential Mobility, Community Mobility, and Voter Turnout." *Political Behavior*. 22:2 (June 2000) also found that people who move have lower turnout than stable residents, and estimated that the decline was more a result of registration laws than a loss of social connections.
- Highton and Wolfinger in "Estimating the Effects of the National Voter Registration Act of 1993." *Political Behavior*. 20:2 (June 1998) concluded that the Motor Voter laws led to a significant increase in voting; that eliminating voter purges for not voting also increases voting; and that these effects are felt most heavily by the young (under 30) and the mobile (moved within past 2 years). Knack, in "Does 'Motor Voter' Work? Evidence from State-Level Data." *Journal of Politics*., 57:3 (August 1995), also found that motor voter does lead to increased registration and voting, but that other parts of NVRA of 1993, like mail-in registrations, agency-based registrations, and limitations on voter purges had not been as influential two years after the passage of the act.

While voter ID may not have been the subject of as much research as the registration process, establishing the eligibility of a person to vote has long been part of the electoral process. Voters may have to identify themselves twice in the electoral process: when registering to vote and then when casting a ballot. The pressures felt by the voter arising from the need to check ID, even so simple a check as a signature match, can be greater at the polls on Election Day than at the time of registration. Poll workers may feel under pressure when faced with long lines and limited time.

Voter ID requirements on Election Day

This analysis focuses on ID requirements on Election Day, but with an appreciation that the ID requirements at time of registration and on Election Day are inter-related.⁷ The emphasis in this report is on Voter ID requirements on Election Day and afterwards as election judges evaluate provisional ballots. This is the critical period for the electoral system, the time when ballot access and ballot security are in the most sensitive balance.

⁷ As the Carter-Baker Commission noted, photo ID requirements for in-person voting do little to address the problem of fraudulent registration by mail, especially in states that do not require third-party organizations that register voters to verify ID. Commission on Federal Election Reform, pp 46-47.

The report looks at voter ID issues that go beyond the rather narrow identification requirements in HAVA. Much of the current debate in state legislatures over voter ID ranges beyond HAVA to require more rigorous documentation of identity for all would-be voters, not just those who had not registered in person and are casting a ballot for the first time. Current controversies in the states over voter ID seems to have been sparked in part by the HAVA requirements, but goes beyond those requirements, and sets the context for the analysis here.⁸

We recognize that the previously technical, rather dull subject of voter ID requirements has become fiercely partisan and divisive in many states. The polarization of the debate has raised the stakes over this issue, making dispassionate analysis both more valuable and more rare.⁹ Voter ID is often described as the critical step in protecting the integrity of the ballot, the process to ensure that the potential voter is eligible and, if eligible, is permitted to cast one ballot and one ballot only. Truly protecting the integrity of the ballot, however, requires a perspective that takes in the entire voting process. It demands more than preventing the ineligible from voting, and should also ensure that all those who are eligible and want to vote can cast a ballot that counts. The protection effort must embrace all forms of voting, including absentee ballots, and consider each step in the process from registration through vote counting.

A voting system that requires voters to produce an identity document or documents may prevent the ineligible from voting. It may also prevent the eligible from casting a ballot. If the ID requirements block ineligible voters from the polls at the cost of preventing eligible voters who cannot obtain or have left at home the required forms of identification, the integrity of the ballot may not have been improved; the harm may be as great as the benefit. Ultimately, a normative evaluation of whether a state should adopt a stricter voter ID requirement (and, if so, what particular form that new requirement should take) will weigh value judgments as well as available factual evidence. Nonetheless, this report has proceeded on the premise that

⁸ Harvard Law Review 119:1127: "Legislators hoping to stiffen their state antifraud laws have taken their cue from identification provisions buried in HAVA."

⁹ "Of the various electoral procedure laws passed in the fifty states since the 2000 and 2004 presidential elections and those still being debated in state legislatures and local media, few arouse more potent partisan feelings than voter identification laws." *Harvard Law Review* 119:1144. John Fund's 2004 book, *Stealing Elections: How Voter Fraud Threaten Our Democracy*, cites (pages 16 – 17) a Rasmussen Research poll that asked respondents if they were more concerned with voting by ineligible participants or with disenfranchisement of eligible voters. Sixty-two percent of Kerry supporters, but only 18 percent of Bush supporters, worried more about *disenfranchisement*; 58 percent of Bush supporters, but only 19 percent of Kerry supporters were more concerned with *voter fraud*.

increased understanding of the factual evidence relating to the imposition of voter ID requirements, based on available data and statistical analysis of that data, can help inform the policy process.

Assessing the effectiveness of voter ID as a way to protect the integrity of the ballot should logically include an estimate of the nature and frequency of vote fraud. The EAC has commissioned a separate analysis of the incidence of vote fraud. Consequently, this research does not include consideration of vote fraud nor the possible effectiveness of various voter ID regimes to counter attempts at vote fraud. As a result, our study of the possible effects of voter ID requirements on turnout cannot take into account how many potential voters who did not turn out under comparatively stricter voter ID requirements might have been ineligible or eligible to vote.

In some states, voters lacking required ID, or who have ID that does not reflect their current address, are able to vote only by casting a provisional ballot.¹⁰ Voter ID requirements that require voters to bring a document to the polls—rather than simply sign their names—may divert more voters to the provisional ballot. Requiring poll workers to request and check ID, can put stress on the already demanding environment of the polling place. Scrutiny of ID can create lines at the polling places. Further delays can result when voters cast a provisional ballot and fill out the ballot envelope. Voters who cast a provisional ballot because they lack their ID on Election Day, and who then fail to return with the needed document or documents, will have their ballot rejected.¹¹ And, of course, the cost of processing provisional ballots is greater than the cost of regular ballots.

Each of these potential consequences of more elaborate voter identification processes can increase the chance of litigation. Long lines will, at best, discourage voters and at worst make voting seem a hassle, an impression that could keep more citizens (even those with ID) from the polls.

¹⁰ For example, the Florida voter ID law adopted after the 2004 election and pre-cleared by the Department of Justice, permits voters who cannot meet the ID requirements to sign an affidavit on the envelope of a provisional ballot, which will be counted if the signature matches that on the voter's registration form.

¹¹ The EAC's Election Day Study found "improper ID," to be the third most common reason for a provisional ballot to be rejected. "Improper ID" was cited by 7 states responding to the survey, compared to 14 mentions for voting in the wrong precinct. *Election Day Study*, Chapter 6, p. 5.

Evaluating the effect of different Voter ID regimes can be most effective when based on clear standards --legal, equitable, practical. The standards outlined here might be described as questions policy-makers should ask about Voter ID requirements. We suggest seven questions that address important dimensions of the problem.

1. Is the Voter ID system designed on the basis of valid and reliable empirical studies of the incidence of the sorts of vote fraud it is designed to prevent?¹²
2. How effective is the ID requirement in increasing the security of the ballot? How well can it be coordinated with a statewide voter database?¹³
3. How practical is the requirement? (Can it be administered smoothly by the staff and budget likely to be made available? How much additional training of polling place workers might be required?) Is it simple enough or can it be defined with sufficient clarity that poll workers throughout the state can administer it uniformly and with a minimum of local interpretation made on the fly under the pressure of Election Day?¹⁴
4. How cost-effective is the system? Does it demonstrably increase the security of the ballot affordably, measured in both monetary and other costs? To improve understanding of the non-monetary component of the costs, conducting a voter impact study might be appropriate. The voter impact study would examine, before the adoption of the regulation, the cost of compliance by the voter (such as the cost in time and money of acquiring a photo ID card), any offsetting benefits to voters, and the possible disparate effects of the regulation on various groups of voters.¹⁵ A thorough, objective impact statement that demonstrated the nexus between the identification regime and the integrity of the ballot could provide protection against inevitable legal challenges.

¹² "Often where the battle over voter identification is most heated, real evidence of voter fraud proves scarce: in Georgia, for example, the Secretary of State averred that she had never encountered a single instance of voter impersonation at the polls. State laws might sometimes impose tighter restrictions on in-person voting than on absentee ballots, which yield the greatest incidence of, and provide the easiest avenue for, voter fraud. . ." Harvard Law Review 127:1144 (2006)

¹³ See the final section of this report for a brief overview of possible effects of a statewide voter database on voter identification issues.

¹⁴ In New York, in 2004, disparities in training and voting information were made apparent in a study finding elections officials had wildly varying interpretations of what the state's voter identification requirement actually was. Tova Wang, "Warning Bell in Ohio," December 5, 2005. Website, the Foundation for National Progress.

¹⁵ "Absent clear empirical evidence demonstrating widespread individual voter fraud, legislatures need to fashion narrowly tailored voter identification provisions with an eye toward the inevitable and well-grounded constitutional challenges that will arise in the courts. Only as states grow more adept at administering elections will courts likely demonstrate greater willingness to uphold strict identification requirements." Harvard Law Review 127:1144 (2006)

5. If a side effect of the Voter ID regulation is likely to reduce turnout, generally or among particular groups, is it possible to take other steps to ameliorate the adverse consequences?¹⁶
6. Does it comply with the letter and spirit of Voting Rights Act?
7. The seventh question is the most difficult to answer. How neutral is the effect of the Voter ID requirement on the composition of the qualified and eligible electorate? Might it, intentionally or unintentionally, reduce the turnout of particular groups of voters or supporters of one party or another without an offsetting decrease in vote fraud?

Voter ID and Turnout

Based on research for this study by the Moritz College of Law, states had one of five types of maximum requirements in place on Election Day 2004. These are shown in Table 1, *Voter ID Requirements*. The five categories: at the polling place, voters were asked to either: state their names (10 states); sign their names (13 states and the District of Columbia); sign their names, to be matched to a signature on file (seven states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (five states).¹⁷ Using this information made it possible to code the states according to these requirements, and examine the assumption that voter identification requirements would pose an increasingly demanding requirement in this order: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification, and providing a form of photo identification, however, in all "photo ID" states in 2004, voters without photo ID could cast a regular ballot after signing an affidavit concerning their identity and eligibility or provide other forms of ID). The report refers to this set of ID requirements as "maximum," the most rigorous ID the voter can be asked to present at the polling place in order to cast a regular ballot.¹⁸

Election laws in several states offer exceptions to these requirements if potential voters lack the necessary form of identification. Laws in those states set a minimum standard – that is the

¹⁶ For example, the Carter-Baker Commission coupled its recommendation for a national voter ID card to a call for an affirmative effort by the states to reach out and register the unregistered, that is, to use the new Voter ID regime as a means to enroll more voters. Similarly, Richard Hasen has suggested combining a national voter ID with universal registration. See his "Beyond the Margin of Litigation: Reforming U.S. Election Administration to Avoid Electoral Meltdown," 62 *Washington and Lee Law Review* 937 (2005).

¹⁷ Oregon conducts elections entirely by mail. Voters sign their mail-in ballots, and election officials match the signatures to signatures on file. For the purposes of this analysis, Oregon is classified as a state that requires a signature match.

¹⁸ As noted above, our analysis does not consider additional requirements that particular voters may be subjected to as part of an official challenge process, in the event that their eligibility is called into question.

minimum requirement that a voter may be required to satisfy in order to vote using a regular ballot. States can be categorized based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. That is, voters who lacked photo ID would still be allowed to vote in all states, if able to meet another requirement. Four states required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota). The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states). The analysis also examined this array of minimum identification requirements to assess how they correlated with turnout: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit. As noted above, *no* state had a "minimum" requirement of showing photo ID. This analysis therefore cannot estimate the effect of laws, such as those recently enacted in Indiana and Georgia that require voters to show photo ID in order to cast a regular ballot without an affidavit or other exception.

We recognize the difficulties in summarizing each state's voter ID requirements. The problem is illustrated by the number of footnotes to Table 1 below. The variety of statutory and regulatory details among the states is complex.

Moving beyond the statutes and regulations, we also recognize that the assignment of each state to one category may fail to reflect actual practice at many polling places. As in any system run by fallible humans, the voter ID process is subject to variation in practice.¹⁹ Voters may have been confronted with demands for identification different from the directives in state statutes or regulation. It seems reasonable to conclude, however, that while actual practices may vary, the variance is around each state's legal requirement for ID. The analysis of the effect of state requirements on turnout must be viewed with some caution. We believe that the categories used in this report provide an acceptable level of discrimination among voter identification regimes.

¹⁹ One state election official told us that, "We have 110 election jurisdictions in Illinois, and I have reason to believe [the voter ID requirements] are administered little bit differently in each one. We wish it weren't that way, but it probably is."

TABLE 1 – Voter ID Requirements²⁰

State	Maximum Forms of ID Required 2004	Current ID Requirement for First-Time Voters	Current ID Requirements for All Other Voters	Verification Method for Provisional Ballots
Alabama	Provide ID	Provide ID	Provide ID	Address & Registration
Alaska	Provide ID	Provide ID	Provide ID	Signature
Arizona	Provide ID	Gov-issued Photo ID	Gov-issued Photo ID ¹	Address & Registration
Arkansas	Provide ID	Provide ID	Provide ID	Address & Registration
California	Sign Name	Sign Name	Sign Name	Signature
Colorado	Provide ID	Provide ID	Provide ID	Address & Registration
Connecticut	Provide ID	Provide ID	Provide ID	Affidavit
D.C.	Sign Name	Provide ID*	Sign Name	Address & Registration
Delaware	Provide ID	Provide ID	Provide ID	Affidavit
Florida	Photo ID ²	Photo ID	Photo ID	Signature
Georgia	Provide ID	Gov. Issued Photo ID	Gov. Issued Photo ID	Affidavit
Hawaii	Photo ID ^{AA}	Photo ID	Photo ID ^{AA}	Affidavit
Idaho	Sign Name	Provide ID*	Sign Name	EDR
Illinois	Give Name	Provide ID*	Match Sig.	Affidavit
Indiana	Sign Name	Gov. Issued Photo ID	Gov. Issued Photo ID	Bring ID Later
Iowa	Sign Name	Provide ID*	Sign Name	Bring ID Later
Kansas	Sign Name	Sign Name	Sign Name	Bring ID Later
Kentucky	Provide ID	Provide ID	Provide ID	Affidavit
Louisiana	Photo ID	Photo ID	Photo ID ^A	DOB and Address
Maine	Give Name	Provide ID*	Give Name	EDR
Maryland	Sign Name	Provide ID*	Sign Name	Bring ID Later
Mass.	Give Name	Provide ID*	Give Name	Affidavit
Michigan	Sign Name	Provide ID*	Sign Name	Bring ID Later
Minnesota	Sign Name	Provide ID*	Sign Name	EDR
Mississippi	Sign Name	Provide ID*	Sign Name	Affidavit
Missouri	Provide ID	Provide ID*	Provide ID	Address & Registration
Montana	Provide ID	Provide ID*	Provide ID	Bring ID Later
Nebraska	Sign Name	Provide ID*	Sign Name	Affidavit
Nevada	Match Sig.	Provide ID*	Match Sig.	Affidavit
New Jersey	Match Sig.	Provide ID*	Match Sig.	Bring ID Later
New Mexico	Sign Name	Provide ID	Provide ID	Bring ID Later
New York	Match Sig.	Provide ID*	Match Sig.	Affidavit
NH	Give Name	Provide ID	Give Name	EDR
North Carolina	Give Name	Provide ID*	Give Name	Varies
North Dakota	Provide ID	Provide ID	Provide ID	No Registration
Ohio	Match Sig.	Provide ID	Provide ID	Address & Registration
Oklahoma	Sign Name	Provide ID*	Sign Name	Address & Registration
Oregon	Match Sig.	Provide ID*	Match Sig.	Signature
Penn.	Match Sig.	Provide ID ⁴	Match Sig.	Address & Registration
Rhode Island	Give Name	Provide ID*	Give Name	Address & Registration

²⁰ See Appendix 1 for a more detailed summary, including citations and statutory language, of the identification requirements in each state.

South Carolina	Photo ID ⁵	Photo ID	Photo ID ^{^^}	Address & Registration
South Dakota	Photo ID ⁶	Photo ID	Photo ID ^{^^}	Affidavit
Tennessee	Provide ID	Provide ID ⁷	Provide ID	Affidavit
Texas	Provide ID	Provide ID ⁸	Provide ID	Bring ID Later
Utah	Give Name	Provide ID	Give Name	Bring ID Later
Vermont	Give Name	Provide ID	Give Name	Affidavit
Virginia	Provide ID	Provide ID	Provide ID	Affidavit
Washington	Sign Name	Provide ID	Provide ID	Address & Registration
West Virginia	Match Sig.	Provide ID	Match Sig.	Address & Registration
Wisconsin	Give Name	Provide ID	Give Name	Bring ID Later
Wyoming	Give Name	Provide ID	Give Name	Affidavit

* States applies only HAVA's ID requirement, applicable to first-time voters who registered by mail and did not provide applicable ID at the time of registration.

¹ Arizona voters who lack a photo ID may present 2 forms of ID with no photograph.

² Florida required a photo ID in 2004, but voters without that credential could sign an affidavit concerning their identity and eligibility and cast a regular ballot. Florida subsequently changed its law to require that voters present photo ID to cast a regular ballot, though voters without photo ID may still cast a provisional ballot by signing an affidavit, which ballot should ordinarily be counted.

³ Louisiana required a photo ID in 2004. Voters without that credential could sign an affidavit concerning their identity and eligibility and cast a regular ballot.

⁴ Pennsylvania requires ID of all first-time voters, whether they registered by mail or in-person.

⁵ Voters lacking a photo ID could vote by providing another form of ID in 2004.

⁶ Voters lacking a photo ID could vote by providing another form of ID in 2004.

⁷ Tennessee voters must provide signature and address. In counties without computerized lists, the signature is compared to the registration card. In counties with computerized lists, the signature is compared to a signature on ID presented with the registration.

⁸ Texas voters must present a current registration certificate. Those without a certificate can vote provisionally after completing an affidavit.

Relationship of Voter ID requirements to Turnout

The statistical analysis examined the potential variation in turnout rates based on the type of voter identification required in each state on Election Day 2004 using two sets of data: aggregate turnout data at the county level for each state, as compiled by the Eagleton Institute of Politics, and individual-level survey data included in the November 2004 Current Population Survey conducted by the U.S. Census Bureau.

The statistical analysis examined turnout among U.S. citizens of voting age in both the aggregate and the individual-level data. Determining citizenship status in the individual-level data simply involved restricting the analyses to individuals who identified themselves as citizens in the November 2004 Current Population Survey. (Those who said they were not citizens did not have the opportunity to answer the supplemental voting questions contained in the Current Population Survey.)

Findings of the statistical analysis

The analysis looked at the voter identification requirements in two ways, as a continuous variable and as a series of discrete variables. As a continuous variable the maximum voter identification requirements are ranked according to how demanding they were judged to be, with photo ID as the most demanding requirement. As discrete variables, the statistical analysis assume that stating name is the least demanding ID requirement and compare each other requirement to it.

The analysis treating the requirements as a continuous variable offers some statistical support for the premise that as the level of required proof increases, turnout declines. Averaging across counties in each state, statewide turnout is negatively correlated with maximum voter identification requirements ($r = -.30, p < .05$). In considering the array of minimum requirements, with affidavit as the most demanding requirement, however, the correlation between voter identification and turnout is negative, but it is not statistically significant ($r = -.20, p = .16$). This suggests that the relationship between turnout rates and minimum requirements may not be linear. Breaking down the turnout rates by type of requirement reveals in greater detail the relationship between voter identification requirements and voter turnout.

Table 2 – Variation in 2004 State Turnout Based on Voter Identification Requirements

Maximum Requirement		Minimum Requirement	
Voter Identification Required in the States	Mean Voter Turnout for States in that Category	Voter Identification Required in the States	Mean Voter Turnout for States in that Category
State Name	64.2 %	State Name	63.0 %
Sign Name	61.1 %	Sign Name	60.4 %
Match Signature	60.9 %	Match Signature	61.7 %
Provide Non-Photo ID	59.3 %	Provide Non-Photo ID	59.0 %
Provide Photo ID	58.1 %	Swear Affidavit	60.1 %
<i>Average Turnout (All States)</i>	60.9 %		

This table displays the mean turnout using the aggregate county level data for each state in 2004.

The aggregate data show that 60.9 percent of the estimated citizen voting age population voted in 2004. Differences in voter turnout at the state level in 2004 varied based on voter identification requirements. Taking into account the maximum requirements, an average of 64.6 percent of the voting age population turned out in states that required voters to state their names, compared to 58.1 percent in states that required photo identification. A similar trend

emerged when considering minimum requirements. Sixty-three percent of the voting age population turned out in states requiring voters to state their names, compared to 60.1 percent in states that required an affidavit from voters. Given the lack of a clear, consistent linear relationship between turnout and minimum identification requirements, however, we opted to treat the voter identification requirements as a series of dichotomous variables.²¹(Dichotomous variables reflect either the presence or absence of a characteristic. In the dummy variable for non-photo ID, a state would be coded as 1 if it required non-photo ID, and 0 otherwise.)

Voter identification requirements are just one factor that might affect voter turnout. Multivariate models that take into account other predictors of turnout can paint a more complete picture of the relationship between voter identification requirements and turnout. This analysis estimated the effects of voter identification requirements in multivariate models that also took into account the electoral context in 2004 and demographic characteristics of the population in each county. While the model takes account of several important variables, statistical models do not capture all the messiness of the real world. It is a simplification of a complex reality, and its results should be treated with appropriate caution.

The model also took into account such variables as:

- Was the county in a presidential battleground state?
- Was the county was in a state with a competitive race for governor and/or the U.S. Senate?
- Percentage of the voting-age population in each county that was Hispanic or African-American²²
- Percentage of county residents age 65 and older
- Percentage of county residents below the poverty line

Another contextual factor to consider is voter registration requirements, such as the deadline for registration. As states set the deadline farther away from Election Day, the task of remembering

²¹ The voter identification requirements are coded as a series of dummy variables, coding each variable as one if the requirement existed in a given state, and zero otherwise. This yielded five dichotomous variables for maximum requirements (state name, sign name, match signature, non-photo identification, or photo identification), and five dichotomous variables for minimum requirements (state name, sign name, match signature, non-photo identification, or providing an affidavit). Omitted is the variable for stating one's name so that it could serve as the reference category in comparison with the other four identification requirements in each of the statistical analyses.

²² The U.S. Census projections for 2003 provided the data for the percentage of the voting-age population in each county that was Hispanic or African-American and for the percentage of county residents age 65 and older.

to register to vote becomes more challenging. Thus our model takes into account the number of days between each state's registration deadline and the election.

The dependent variable in each model using the aggregate data was voter turnout at the county level, with turnout calculated as the percentage of the citizen voting-age population that voted in the 2004 election.

The results of this modeling suggest that the stricter voter identification requirements of matching one's signature to a signature on file with election authorities or presenting a non-photo ID are associated with lower turnout compared to turnout in states that required voters to simply state their name, holding constant the electoral context and demographic variables.

Contextual factors, such as whether the county was in a battleground state or whether that state had a competitive race for governor and/or U.S. Senate, were associated with increased voter turnout. The time between the closing date for registration and the election was correlated with a slight negative effect on turnout. As the percentage of Hispanics in the county's population increased, turnout declined. The percentage of senior citizens in the county and household median income were associated with higher turnout. The percentage of African-Americans in the county did not have a significant effect in the model. The percentage of senior citizens in the county and household median income showed a positive correlation with turnout. In this aggregate model, the percentage of African-Americans in the county was not associated with a significant difference in turnout.

The relationship of the minimum voter identification requirements to turnout was not demonstrated. None of the dummy variables for voter identification requirements were statistically significant. (A "dummy variable" represents a particular attribute and has the value zero or one for each observation, e.g. 1 for male and 0 for female.) Being a battleground state and having a competitive statewide race were significant and positive, as was the percentage of senior citizens in the county and household median income. The percentage of Hispanics in the county's population continued to be associated with reduced turnout, as was the number of days between the closing date for registration and the election.²³

²³ This test incorporated a series of interactions between the maximum and minimum voter identification requirements and the percentage of African-Americans and Hispanics living in the counties. In each case the interactions did not improve the fit of the models to the data. See tables A-1 and A-2 in the appendix of Vercellotti's paper in the appendices.

Analysis of the aggregate data at the county level generates some support for the hypothesis that stricter identification requirements are correlated with lower turnout. For the maximum requirements, a signature match and non-photo identification –but not photo identification– were correlated at a significant level with lower turnout in 2004, compared to requiring that voters simply state their names.

Aggregate data, however, cannot fully capture the individual demographic factors that may figure into the decision to turn out to vote.²⁴ Voter identification requirements could have a relationship to the turnout of particular groups of voters, in ways that county-level aggregate data on turnout would not capture. To explore the effects of voter identification requirements on turnout more completely, it is important to examine individual-level data as well.

Individual-level Analysis

Individual-level turnout data exists in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. The Census Bureau conducts the CPS monthly to measure unemployment and other workforce data, but the bureau adds a battery of voter participation questions to the November survey in even-numbered years to coincide with either a presidential or midterm Congressional election.

One of the of the CPS is the sheer size of the sample. The survey's Voting and Registration Supplement consisted of interviews, either by telephone or in person, with 96,452 respondents.²⁵ The large sample size permits analyses of smaller groups, such as Black or Hispanic voters or voters with less than a high school education. The statistical analysis in relying on the CPS is based on reports from *self-described* registered voters. Omitted are those who said they were not registered to vote, as are those who said they cast absentee ballots because the identification requirements for absentee ballots may differ from those required when one votes in person. Eliminated from the sample are respondents who said they were not U.S. citizens, who in this survey were not asked the voter registration and turnout questions. In

²⁴ For example, previous research has found that education is a powerful determinant of turnout (Wolfinger and Rosenstone 1980, but see also Nagler 1991).²⁴ Married people also are more likely to vote than those who are not married (Alvarez and Ansolabehere 2002; Alvarez, Nagler and Wilson 2004; Fisher, Kenny, and Morton 1993).

²⁵ It is important to note that the Census Bureau allows respondents to answer on behalf of themselves and others in the household during the interview. While proxy reporting of voter turnout raises the possibility of inaccurate reports concerning whether another member of the household voted, follow-up interviews with those for whom a proxy report had been given in the November 1984 CPS showed 99 percent agreement between the proxy report and the information given by the follow-up respondent (U.S. Census Bureau 1990).

addition to the voter identification requirements, the models include other socioeconomic, demographic, and political environment factors that might have influenced turnout in 2004.²⁶ The dependent variable in these analyses is whether a respondent said he or she voted in the November 2004 election.²⁷

In the model, three of the voter identification requirements have a statistically significant correlation with whether survey respondents said they had voted in 2004. That is, compared to states that require voters only to state their names, the requirement to sign one's name, provide a non-photo ID, or photo ID in the maximum requirements or affidavit in the minimum is associated with lower turnout.

Of the other state factors, only the competitiveness of the presidential race showed a significant correlation with increased turnout. In terms of demographic influences, African-American voters were more likely than white voters or other voters to say they had cast a ballot, while Asian-Americans were less likely than white or other voters to say they had turned out. Hispanic voters were not statistically different from white or other voters in terms of reported turnout. Consistent with previous research, income, and marital status all were positive predictors of voting. Women also were more likely to say they voted than men. Among the age categories, those ages 45 to 64 and 65 and older were more likely than those ages 18 to 24 to say they voted. Respondents who had earned a high school diploma, attended some college, graduated from college or attended graduate school were all more likely to say they voted than those who had not finished high school.

While the probit models provide statistical evidence for the relationship of voter identification requirements and other variables to turnout, probit coefficients do not lend themselves to intuitive interpretation.²⁸ Table 3 below shows predicted probabilities (calculated from the probit

²⁶ The models are estimated using probit analysis, which calculates the effects of independent variables on the probability that an event occurred – in this case whether a respondent said he or she voted and using robust standard errors to control for correlated error terms for observations from within the same state.

²⁷ The U.S. Census Bureau reported, based on the November 2004 CPS, that 89 percent of those who identified themselves as registered voters said they voted in 2004 (U.S. Census Bureau 2005). Previous research has shown that, generally speaking, some survey respondents overstate their incidence of voting. Researchers speculate that over-reports may be due to the social desirability that accompanies saying one has done his or her civic duty, or a reluctance to appear outside the mainstream of American political culture (U.S. Census Bureau 1990). It is also possible that voting is an indication of civic engagement that predisposes voters to agree to complete surveys at a higher rate than non-voters (Flanigan and Zingale 2002). Hence the voter turnout rates reported in the CPS tend to be up to 10 percentage points higher than the actual turnout rate for the nation (Flanigan and Zingale 2002). Even with this caveat, however, the CPS serves as a widely accepted source of data on voting behavior.

²⁸ A probit model is a popular specification of a generalized linear regression model, using the probit link function.

coefficients) of voting for each level of voter identification requirements while holding all other independent variables in the models at their means.²⁹

	Maximum requirement	Minimum requirement
State name	91.7%	91.5%
Sign name	89.9%	90.2%
Match signature	Not significant	Not significant
Non-photo ID	89.0%	89.0%
Photo ID	88.8%	---
Affidavit	---	87.5%
Total difference from “state name” to “photo ID” or “affidavit”	2.9%	4.0%
N	54,973	
Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from stating one’s name to providing photo identification or an affidavit , with all other variables held constant.		
Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.		

Taking into account that signature matches were not a predictor of turnout, the differences in predicted probability decline from stating one’s name to providing a photo identification or affidavit. Voters in states that required photo identification were 2.7 percent less likely to vote than voters in states where individuals had to give their names.³⁰ In terms of the minimum requirement, voters in states that required an affidavit at minimum were 4 percent less likely to turn out than voters in states where they had to give their names.

The differences were more pronounced for those with fewer years of education. Constraining the model to show predicted probabilities only for those with less than a high school diploma, the probability of voting was 5.1 percent lower in states that required photo identification as the maximum requirement and 7 percent lower in states that required an affidavit as the minimum

²⁹ In the case of dichotomous independent variables, holding them at their mean amounted to holding them at the percentage of the sample that was coded 1 for the variable (Long 1997).

³⁰ The voter turnout percentages may seem disproportionately high compared to the turnout rates reported in the aggregate data analysis. It is important to consider that the turnout rates in the aggregate data were a proportion of all citizens of voting-age population, while the turnout rates for the individual-level data are the proportion of only registered voters who said they voted.

requirement compared to states where stating one's name was the maximum or minimum requirement.

Race and ethnicity have generated particular interest in the debate over voter ID requirements.³¹ The analysis using the aggregate data shed no light on the association between voter ID requirements and turnout for African-American and Hispanic voters. But in the models using the individual data, some significant relationships emerged for African-American, Hispanic and Asian citizens. For the entire population, the signature, non-photo identification and photo identification requirements all were associated with lower turnout compared to the requirement that voters simply state their names. These correlations translated into reduced probabilities of voting of about 3 to 4 percent for the entire sample, with larger differences for specific subgroups. For example, the predicted probability that Hispanics would vote in states that required non-photo identification was about 10 percentage points lower than in states where Hispanic voters gave their names. The difference was about 6 percent for African-Americans and Asian-Americans, and about 2 percent for white voters.

The model also showed that Hispanic voters were less likely to vote in states that required non-photo identification as opposed to stating one's name. Hispanic voters were 10 percent less likely to vote in non-photo identification states compared to states where voters only had to give their name.

More rigorous voter identification requirements were associated with lower turnout rates for Asian-American voters as well. Asian-American voters were 8.5 percent less likely to vote in states that required non-photo identification compared to states that require voters to state their names under the maximum requirements, and they were 6.1 percent less likely to vote where non-photo identification was the minimum requirement.

Conclusions of the Statistical Analysis

The statistical analysis found that, as voter identification requirements vary, voter turnout varies as well. This finding emerged from both the aggregate data and the individual-level data,

³¹ Incorporating discrete variables for Hispanics, African-Americans, and Asian-Americans into one model carries the implicit assumption that the remaining variables, including education and income, will influence each of these groups in a similar manner in terms of deciding whether to vote. These assumptions are not always born out by the data (see Leighley and Vedlitz, 1999.) To isolate the effects of voter identification and other variables on voter turnout within specific racial and ethnic groups, the sample is divided into sub-samples and the model re-run to calculate the data discussed and shown in Tables 5, 6, and 7 in Appendix C.

although not always for both the maximum and minimum sets of requirements. The overall relationship between ID requirements and turnout for all registered voters was fairly small, but still statistically significant.

In the aggregate data, the match-signature requirement and the provide-a-non-photo ID requirement were correlated with lower turnout compared to requiring that voters state their names. But the photo-ID requirement did not have an effect that was statistically significant, possibly because in 2004 each state requiring a photo-ID provided an alternative way to cast a regular ballot for voters who lacked that document.

In the model using the individual-level data the signature, non-photo ID, and photo ID requirements were all correlated with lower turnout compared to the requirement that voters simply state their names (in the entire sample and for white voters, but the statistical significance may be an artifact of the very large sample size). That the non-photo identification requirement was the most consistent in terms of statistical significance across the groups is intriguing given the intense debates surrounding photo identification requirements.

Significant questions about the relationship between voter identification requirements and turnout remain unanswered. The data examined in the statistical analysis could not capture the dynamics of how identification requirements might lower turnout, nor could they rule out that other attributes of a state's electoral system might explain the statistically significant correlations that the study found. If ID requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day, or forced to cast a provisional ballot that is not ultimately counted? The CPS data do not include measures that can answer this question. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for election judges to handle questions about, and potential disputes over, voter identification requirements.

Litigation Over Voter ID Requirements

A handful of cases have challenged identification requirements in court in recent years. In general, requirements that voters provide some identifying documentation have been upheld, where photo ID is *not* the only acceptable form. Whether laws requiring photo ID will be upheld is more doubtful. To date, only two cases have considered laws requiring voters to show photo ID (*Common Cause v. Billups* and *Indiana Democratic Party v. Rokita*). Cases challenging the mandatory disclosure of voters' Social Security numbers on privacy grounds have yielded mixed results.

Non-photo identification. For the most part, courts have looked favorably on requirements that voters present some form of identifying documents if the photo identification is not the only form accepted. In *Colorado Common Cause v. Davidson*, No. 04CV7709, 2004 WL 2360485, at *1 (Colo. Dist. Ct. Oct. 18, 2004), plaintiffs challenged a law requiring all in-person voters to show identification (not just first-time registrants). The court upheld this requirement against a constitutional challenge. Similarly, in *League of Women Voters v. Blackwell*, 340 F. Supp. 2d 823 (N.D. Ohio 2004), the court rejected a challenge to an Ohio directive requiring first-time voters who registered by mail to provide one of the HAVA-permitted forms of identification, in order to have their provisional ballots counted. Specifically, the directive provided that their provisional ballots would be counted if the voter (a) orally recited his driver's license number or the last four digits of his social security number or (b) returned to the polling place before it closed with some acceptable identification (including reciting those identification numbers). *Id.* This was found to be consistent with HAVA.

Photo ID. Since the 2004 election, two states have adopted laws requiring photo identification at the polls in order to have one's vote counted, without an affidavit exception: Georgia and Indiana.³² Both these requirements were enacted in 2005 and both have been challenged in court. The Georgia law required voters attempting to cast a ballot in person present a valid form of photographic identification. O.C.G.A. § 21-2-417. On October 18, 2005, the District Court granted the plaintiffs' motion for a preliminary injunction, enjoining the application of the new identification requirements on constitutional grounds. In granting the injunction, the court held that plaintiffs' claims under both the Fourteenth Amendment (equal protection) and Twenty-Fourth Amendment (poll tax) had a

³² Indiana's law does allow voters without ID to cast provisional ballots, and then to appear before the county board of elections to execute an affidavit saying that they are indigent and unable to obtain the requisite ID without payment of a fee. But in contrast to other states, voters cannot cast a ballot that will be counted by submitting an affidavit at the polls, affirming that they are the registered voter and are otherwise eligible to vote.

substantial likelihood of succeeding on the merits at trial (*Common Cause v. Billups*, Prelim. Inj. 96, 104). In January 2006, Georgia enacted a modified version of its photo ID law, which the court has not yet ruled on. In the other state that has enacted a photo ID requirement (Indiana), legal challenges have also been filed. (*Indiana Democratic Party v. Rokita* and *Crawford v. Marion County Election Board*). On April 14, 2006, the district court granted defendants' motion for summary judgment, concluding that plaintiffs had failed to produce evidence showing that the state's ID law would have an adverse impact on voters. Another case of significance, for purposes of photo ID requirements, is *American Civil Liberties Union of Minnesota v. Kiffmeyer*, No. 04-CV-4653, 2004 WL 2428690, at *1 (D. Minn. Oct. 28, 2004). In that case, the court enjoined a Minnesota law that allowed the use of tribal photo ID cards, only for an Indian who lived on the reservation. 2004 WL 2428690, at *1. The Court found no rational basis for distinguishing based on whether or not the cardholder lives on the reservation. *Id.* at *1, 3. These decisions indicate that courts are likely to carefully scrutinize the evidence regarding the impact of photo ID requirements.

Privacy. In *Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993), the court struck down on due process grounds a Virginia law requiring disclosure of voters' social security numbers for voter registration. The social security numbers recorded in voter registration lists had been disclosed to the public and political parties that had requested the lists. The court found that the requirement to give the social security number effectively conditioned rights on the consent to an invasion of privacy. It concluded that this public disclosure of the social security numbers was not necessary to achieve the government's interest in preventing fraud. On the other hand, in *McKay v. Thompson*, 226 F.3d 752 (6th Cir. 2000), the court rejected privacy challenges based on both the Constitution and federal statutes, to a Tennessee law requiring social security numbers for voter registration since 1972. 226 F.3d at 755. Second, the NVRA only permits requiring the minimum amount of information necessary to prevent duplicate voter registration and to determine eligibility. The distinction appears to be between the use of Social Security numbers for internal purposes only, which was deemed permissible, and the disclosure of those numbers to the public which was not.

These decisions suggest that the courts will carefully scrutinize the evidence, where states require that voters produce a photo ID in order to cast a regular ballot. The courts have used a

balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting social security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents. To provide both the clarity and certainty in administration of elections needed to forestall destabilizing challenges to outcomes, these early decisions suggest that best practice may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility.

Developments since 2004

Since the passage of HAVA, with its limited requirements for voter identification, and following the 2004 election, debate over voter ID has taken place in state legislatures across the country. That debate has not been characterized by solid information on the consequences of tightening requirements for voters to identify themselves before being permitted to cast a regular, rather than a provisional, ballot.

Better information might improve the quality of the debate. Answers to the following key questions are not available in a form that might satisfy those on both sides of the argument.

- What is the overall incidence of vote fraud?
- How does fraud take place in the various stage of the process: registration, voting at the polls, absentee voting, or ballot counting?
- What contribution can tighter requirements for voter ID make to reducing vote fraud?
- What would be the other consequences of increasingly demanding requirements for voters to identify themselves? This is the question addressed, within the limits of the available data, in the analysis in this report.

Answering these questions would provide the information needed for more informed judgement in the states as they consider the tradeoffs among the competing goals of ballot integrity, ballot access, and administrative efficiency. The Carter-Baker Commission recognized the tradeoffs when it tied recommendation for national ID to an affirmative effort by government to identify unregistered voters and make it easy for them to register.

State Voter Databases and Voter ID

With the implementation of the HAVA Computerized Statewide Voter Registration List, an application for voter registration for an election for Federal office may not be accepted or processed unless the application includes a driver's license number or last four digits of the

Social Security number on the voter registration form. This information can be used to verify the identity of the registrant through interfacing with lists maintained by the Motor Vehicle office and Social Security office. If registrants do not have either a driver's license or Social Security number, the State will assign a unique identifier number to that person.

Some states are wrestling now with these unresolved issues. In New Jersey, for example, pending legislation would require that voters must be able to confirm their registration through a secure access to the Statewide Voter Registration List. It also requires voters to present ID at the polls in order to cast a regular ballot if the numbers recorded on the registration have not been verified (or if no verifiable number appears on the registration). It recognizes the HAVA requirement that if the number provided by the voter has not been verified and if the voter does not present ID at the polls, that voter may cast a provisional ballot. The bill does not specify they have to provide ID within 48 hours in order for their vote to count, as is the case with first-time mail-in registrants.

As some states gain experience in this area, the EAC would perform a useful service by making timely recommendations of best practices for all states to consider.

Conclusions

The analysis of voter ID requirements is complex. It takes into account important values associated with an electoral process, such as ballot access and integrity. The continuing effort to understand how voter ID requirements may affect turnout and the integrity of the ballot could benefit from additional factual information, including statistical analyses. Our research includes a statistical study of this kind. It indicated that the level of voter turnout in a state is correlated with the stringency of the voter ID requirement imposed by that state. Additional empirical research of this nature, with additional data collected by or for the EAC, would further illuminate the relationship between stricter voter ID rules and turnout, perhaps explaining if awareness of a strict ID requirement tends to discourage would-be voters from going to the polls. Or, additional research may shed light on whether, if voters did go to the polls, stricter Voter ID requirements will divert more voters into the line for provisional ballots. The consequence of increased reliance on provisional ballots can be longer lines at the polls and confusion, without necessarily a clear demonstration that the security of the ballot is correspondingly increased.³³

³³ In this connection, the Brennan Center's response to the Carter-Baker Commission report observes that, "while it might be true that in a close election "a small amount of fraud could make the margin of

The debate over voter ID in the states would be improved by additional research sponsored by the EAC. That might include longitudinal studies of jurisdictions that have changed voter ID requirements, as well as precinct-level analyses that would allow more finely tuned assessment of the correlation between stricter identification requirements and turnouts. Further research could also identify methods to eliminate the need for voters to bring specific identity documents with them to the polls, while assuring that each voter who casts a ballot is eligible and votes only once.

difference," it is equally true that the rejection of a much larger number of eligible voters could make a much bigger difference in the outcome." *Response to the Report of the 2005 Commission on Federal Election Reform*, The Brennan Center for Justice at NYU School of Law and Spencer Overton, On Behalf Of The National Network on State Election Reform, September 19, 2005

Jeannie Layson/EAC/GOV
02/15/2007 03:30 PM

To ddavidson@eac.gov
cc Elieen L. Kuala/EAC/GOV@EAC
bcc
Subject Interview request

History

This message has been forwarded

Rich Wolfe of USA Today wants to interview you about the voter ID report... wants to know where we go from here, your reaction to the preliminary info provided by Eagleton, etc. He needs to talk to you before noon tomorrow, so maybe you could call him before you fly out? His cell is [REDACTED] Please let me know. Call me and I'll discuss talking pts with you. 202-566-3103.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

025686

Thomas R. Wilkey/EAC/GOV
03/01/2007 02:58 PM

To Elieen L. Kuala/EAC/GOV@EAC
cc bbenavides@eac.gov
bcc
Subject Re: meeting 

I am available

Thomas R. Wilkey
Executive Director
US Election Assistance Commission
1225 New York Ave, NW - Suite 1100
Washington, DC 20005
(202) 566-3109 phone
TWilkey@eac.gov
Elieen L. Kuala/EAC/GOV



Elieen L. Kuala/EAC/GOV
03/01/2007 02:29 PM

To twilkey@eac.gov
cc
Subject meeting

Tom,

The chair would like to know if you are available on Monday at 230 to speak with the Commissioners, Julie, and Karen regarding the voter ID issue. I will wait to hear from you before I send out the meeting request.

Thanks,
Elle

Elle L.K. Kuala
Special Assistant to the Chair
U.S. Election Assistance Commission
1225 New York Avenue, Suite 1100
Washington, DC 20005
office: (202) 566-2256
fax: (202) 566-1392


025687

Jeannie Layson/EAC/GOV
03/22/2007 05:03 PM

To d davidson@eac.gov, Rosemary E.
Rodriguez/EAC/GOV@EAC, Caroline C.
Hunter/EAC/GOV@EAC, ghillman@eac.gov
cc twilkey@eac.gov, klyndyson@eac.gov,
jthompson@eac.gov, Elieen L. Kuala/EAC/GOV@EAC,
sbanks@eac.gov, stephanie.wolson@gmail.com,
bcc

Subject Voter ID roll out strategy

Commissioners,

Attached is a memo outlining my suggested strategy for releasing the results of your tally vote. It includes an overall message and Q&A. Please let me know if you have any questions about this information, and I look forward to your input. Thank you.



VoterIDRollOutProposal 03-22-07.doc

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
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Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

025688



March 22, 2007

MEMORANDUM

To: Commissioners Davidson, Rodriguez, Hunter and Hillman
Fr: Jeannie Layson
Cc: Tom Wilkey, Julie Hodgkins, Karen Lynn-Dyson, Bryan Whitener
RE: Communications Strategy for Release of Voter ID Tally Vote Results

In anticipation of the release of the results of the tally vote and all of the information provided by the contractor, I suggest taking the following steps to effectively communicate your decision. Taking this approach will help us control how the information is distributed, how it is framed, and how to focus the discussion on the positive outcome of your decision.

The bottom line is that we want to try our best to make this a story about EAC's decision to conduct a thorough and in-depth look into the subject of voter ID, and we have decided to release the preliminary research. We do not want this to evolve into a storyline about squabbling between EAC and Eagleton.

I have provided a suggested overall message that reflects the action taken, as well as questions we should be prepared to answer.

Please let me know if you have any questions about my proposal, and I look forward to your input.

025689

PRELIMINARY ACTIVITIES

Prior to the completion of the tally vote and the subsequent release of the results and the contractor's materials, I suggest taking the following steps:

1. Discuss EAC's decision with the contractors in advance of distributing the press release and discussions with reporters so that they have an opportunity to respond and also so they will be well informed and prepared to discuss the facts with reporters or others who will most likely contact them.
2. Prior to release of EAC's decision, reach out to key Hill staffers who have been following this issue, including those members who have requested this data in the past. This should include staffers for the House Appropriations Committee Subcommittee on Financial Services and General Government since the Committee requested this information a few weeks ago. It should be made clear to committee staffers that the tally vote is the culmination of a directive made by the EAC chair in Feb. that the agency move forward to complete this project. These staffers should also be included on our list of key stakeholders.
3. Executive director should determine whether there are other key stakeholders that should be made aware of this decision from EAC personally, not from a press release. Possible candidates include members of Congress, NASS, individual secretaries of state, DOJ, and NASED.

PUBLIC ROLL-OUT

Once the above preliminary steps have been completed, EAC Communications will:

1. Post the press release and the related data on the website, with a link from the home page.
2. Prior to release of the tally vote decision and related data, call Richard Whitt of USA Today, Will Lester of AP, Chris Drew of the NYT, and Zach Goldfarb of the WaPo and let them know we are about to release the information. Offer interviews with the chair or other commissioners.
3. Send the press release (with a link to the research) to all recipients in the media database. This includes national dailies, as well as wire services such as the Associated Press.
4. Send the press release (with a link to the research) to all recipients in the stakeholder database. The database consists of election officials, advocates, and other interested parties, including representatives from organizations who have been critical of EAC, including VoteTrust USA and the People for the American Way.

OVERALL MESSAGE

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The findings of the preliminary research, which focused exclusively on the 2004 general elections, was insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors including, the many changes in state laws and regulations that have occurred since the 2004.

Q&A

We should be prepared to answer the following questions:

Q: Why not release the draft fraud report, too?

A: EAC issued a final Voting Fraud and Voter Intimidation Report in December 2006, which included recommendations adopted by the Commission to conduct a comprehensive assessment of all claims, charges and prosecutions of voting crimes.

In the case of the voter ID report, the Commission chose not to adopt a final report because it was determined that there was insufficient data to provide meaningful conclusions.

Q: You cited concerns with the contractor's methodology and analysis. Didn't your contract with Eagleton include specific language regarding these issues?

A: Yes, but in retrospect, perhaps we could have done a better job articulating how we wanted this research to be conducted.

Q: During the course of the project, did you see draft reports? If so, why didn't these concerns get addressed at that time?

A: We did receive progress reports, and when we identified areas of concern, we discussed it with the contractor. It was because of these concerns that EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: During the course of the contract, did you ever express these concerns with Eagleton?

A: Yes, and as a result of these conversations, EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: You spent more than \$500,000 for a report the Commission doesn't think should be adopted – so basically you're flushing a lot of money down the drain. Is this a wise use of taxpayer dollars?

A: There is value in what Eagleton provided. It will help provide a baseline for how to move forward. And even though their research raised many questions, contemplating the answers to those questions has informed us on how to move forward.

Q: If you were not satisfied with the final product, why did you pay for it?

A: We adhered to the terms of the contract.

Q: EAC received this data in June of last year. What has taken so long to bring it to a conclusion?

A: This is an important issue, one that deserves careful deliberation and a thorough approach. Yes, we like to get things done quickly, but it is more important to take the time to get things right.

TRANSITION PHRASES

To stay on message and avoid being dragged into discussions about anything other than the action taken, employ the following phrases and transition back to the overall message.

Overall Message

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The findings of the preliminary research, which focused exclusively on the 2004 general elections, were insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors, including the many changes in state laws and regulations that have occurred since 2004.

Bridge/Transition Phrases

- What's really important here...
- The bottom line is...
- The point is...
- We have a responsibility to...
- I'll let others speak to that, but let me tell you what's important to EAC...
- Everyone agrees that...

Jeannie Layson/EAC/GOV
03/27/2007 02:02 PM

To ddavidson@eac.gov, [REDACTED]
Caroline C. Hunter/EAC/GOV@EAC, ghillman@eac.gov
cc twilkey@eac.gov, klynndyson@eac.gov,
jthompson@eac.gov, bwhitener@eac.gov, Elieen L.
Kuala/EAC/GOV@EAC, [REDACTED]
bcc

Subject FOR YOUR APPROVAL: Voter ID PR and Roll Out Strategy

Commissioners,

I have incorporated your edits, so please take a look at the latest drafts of both documents and let me know if you have further changes. I recommend making this public on Thursday. If possible, please let me know by the end of the day on Wed. if you have additional edits. Press release edits were made in the first two paragraphs, including backing off calling this a "multi-year study," and a more direct description of the action you took -- you declined to adopt the report. The only edit in the memo is new language in the Q&A that points out that the \$500K included work for both prov. voting and voter ID.

Thank you, and let me know if you have any questions.



VoterIDRollOutProposal REV.doc



VoterIDTallyVotePRDRAFT3-27.doc

Jeannie Layson
U.S. Election Assistance Commission
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Washington, DC 20005
Phone: 202-566-3100
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025694



March 27, 2007

MEMORANDUM

To: Commissioners Davidson, Rodriguez, Hunter and Hillman
Fr: Jeannie Layson
Cc: Tom Wilkey, Julie Hodgkins, Karen Lynn-Dyson, Bryan Whitener
RE: Communications Strategy for Release of Voter ID Tally Vote Results

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I have provided a suggested overall message that reflects the action taken, as well as questions we should be prepared to answer.

Please let me know if you have any questions about my proposal, and I look forward to your input.

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3. Executive director should determine whether there are other key stakeholders that should be made aware of this decision from EAC personally, not from a press release. Possible candidates include members of Congress, NASS, individual secretaries of state, DOJ, and NASED.

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The findings of the preliminary research, which focused exclusively on the 2004 general elections, was insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors including, the many changes in state laws and regulations that have occurred since the 2004.

Q&A

We should be prepared to answer the following questions:

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In the case of the voter ID report, the Commission chose not to adopt a final report because it was determined that there was insufficient data to provide meaningful conclusions.

Q: You cited concerns with the contractor's methodology and analysis. Didn't your contract with Eagleton include specific language regarding these issues?

A: Yes, but in retrospect, perhaps we could have done a better job articulating how we wanted this research to be conducted.

Q: During the course of the project, did you see draft reports? If so, why didn't these concerns get addressed at that time?

A: We did receive progress reports, and when we identified areas of concern, we discussed it with the contractor. It was because of these concerns that EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: During the course of the contract, did you ever express these concerns with Eagleton?

A: Yes, and as a result of these conversations, EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: You spent more than \$500,000 for a report the Commission doesn't think should be adopted – so basically you're flushing a lot of money down the drain. Is this a wise use of taxpayer dollars?

A: There is value in what Eagleton provided, and this included work they did for us regarding provisional voting. As a result of the research on provisional voting, EAC

issued a set of best practices last fall. The voter ID data will help provide a baseline for how to move forward. And even though their research raised many questions, contemplating the answers to those questions has informed us on how to move forward.

Q: If you were not satisfied with the final product, why did you pay for it?

A: We adhered to the terms of the contract.

Q: EAC received this data in June of last year. What has taken so long to bring it to a conclusion?

A: This is an important issue, one that deserves careful deliberation and a thorough approach. Yes, we like to get things done quickly, but it is more important to take the time to get things right.

TRANSITION PHRASES

To stay on message and avoid being dragged into discussions about anything other than the action taken, employ the following phrases and transition back to the overall message.

Overall Message

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The findings of the preliminary research, which focused exclusively on the 2004 general elections, were insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors, including the many changes in state laws and regulations that have occurred since 2004.

Bridge/Transition Phrases

- What's really important here...
- The bottom line is...
- The point is...
- We have a responsibility to...
- I'll let others speak to that, but let me tell you what's important to EAC...
- Everyone agrees that...



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

EAC to Launch Comprehensive Study of Voter ID Laws

For Immediate Release
DATE, 2007

Contact: Jeannie Layson
Bryan Whitener
(202) 566-3100

WASHINGTON – The U.S. Election Assistance Commission (EAC) has voted unanimously to launch a comprehensive study focused on voter identification laws. The initial research on voter identification laws are available at www.eac.gov, but because this research focused exclusively on the 2004 general elections, included populations that are not eligible to vote, and did not take into account influential factors such as the competitiveness of campaigns, it was insufficient to provide meaningful conclusions and thus the Commission declined to adopt a report based on it.

“New voter identification laws have been enacted recently, and the Commission began working to determine the possible impact of these new laws,” said EAC Chair Donetta Davidson. “After careful consideration of the initial research conducted by our contractor, the Commission decided this important issue deserves a more in-depth research approach and that it should be examined beyond only one election cycle. The bottom line is that the research raises more questions than provides answers.”

EAC’s strategy for moving forward is based upon an examination of the initial research and the testimony and discussion about this research project at the Commission’s February 8, 2007, public meeting. For more information about the public meeting agenda, transcript, and testimony go to http://www.eac.gov/Public_Meeting_020807.asp.

EAC’s future research on this topic will be expanded to include more than one election cycle and to examine environmental and political factors and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004. EAC’s comprehensive research approach will undertake the following activities:

- Convene a working group of advocates, academics, research methodologists and election officials to discuss EAC’s next study of voter identification. Topics to be discussed include methodology, specific issues to be covered in the study and timelines for completing an EAC study on voter identification.
- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states’ requirements that require a voter to state his or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identity.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information already collected as well as additional data from the states to develop this baseline.

- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures and fraud. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender. Study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting.
- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

EAC is an independent bipartisan commission created by the Help America Vote Act of 2002 (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 Rodriguez, Caroline Hunter and Gracia Hillman.

###

DRAFT



"Rosemary Rodriguez"
<rosemaryrod2003@yahoo.co
m>
03/27/2007 02:20 PM

To jlayson@eac.gov, d davidson@eac.gov, chunter@eac.gov,
ghillman@eac.gov, rodriguez@eac.gov
cc twilkey@eac.gov, klynndyson@eac.gov,
jthompson@eac.gov, bwhitener@eac.gov, ekuala@eac.gov,
stephanie.wolson@gmail.com, sbanks@eac.gov,
bcc

Subject Re: FOR YOUR APPROVAL: Voter ID PR and Roll Out
Strategy

I think we should be prepared to answer a question that may go something like: *What are your specific objections/concerns with the methodologies utilized by Eagleton?*

----- Original Message -----

From: "jlayson@eac.gov" <jlayson@eac.gov>
To: d davidson@eac.gov; [REDACTED] chunter@eac.gov; ghillman@eac.gov
Cc: twilkey@eac.gov; klynndyson@eac.gov; jthompson@eac.gov; bwhitener@eac.gov;
ekuala@eac.gov; [REDACTED] sbanks@eac.gov; bbenavides@eac.gov
Sent: Tuesday, March 27, 2007 2:02:01 PM
Subject: FOR YOUR APPROVAL: Voter ID PR and Roll Out Strategy

Commissioners,

I have incorporated your edits, so please take a look at the latest drafts of both documents and let me know if you have further changes. I recommend making this public on Thursday. If possible, please let me know by the end of the day on Wed. if you have additional edits. Press release edits were made in the first two paragraphs, including backing off calling this a "multi-year study," and a more direct description of the action you took -- you declined to adopt the report. The only edit in the memo is new language in the Q&A that points out that the \$500K included work for both prov. voting and voter ID.

Thank you, and let me know if you have any questions.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

8:00? 8:25? 8:40? Find a flick in no time
with the Yahoo! Search movie showtime shortcut.

025702

Jeannie Layson/EAC/GOV
03/29/2007 12:50 PM

To ddavidson@eac.gov, [REDACTED]
Caroline C. Hunter/EAC/GOV@EAC, ghillman@eac.gov
cc twilkey@eac.gov, klyndyson@eac.gov,
jthompson@eac.gov, Elieen L. Kuala/EAC/GOV@EAC,
[REDACTED], sbanks@eac.gov, Bert A.
bcc

Subject FOR YOUR APPROVAL: VoterID press release and Q&A

History This message has been forwarded

Commissioners,
Based upon the revised tally vote language, I have made edits to the press release and to the Q&A. Please let me know if you have any edits. I plan to release this tomorrow if the tally vote is completed by then. Also, please pay special attention to the following answer I have composed, which is in the Q&A document. I will notify you before issuing the press release.

Q: What are your specific objections/concerns with the methodologies utilized by Eagleton?

A: First of all, we agree with the contractor that we should examine more than one federal election. Regarding the methodologies, the contractor conducted two analyses that had different outcomes. The first analysis showed no statistically significant correlations. The second analysis, based on statistics from the Current Population Survey, showed some evidence of a correlation. Also, the categorization of voter identification requirements included classifications that do not require identification documentation, such as "state your name." The bottom line is that the research produced more questions than answers, and that's why EAC is expanding its efforts to examine this important issue.



EAGLETONQ&A.doc VoterID release 3-30-07.doc
Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

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OVERALL MESSAGE

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The preliminary research focused exclusively on the 2004 election, was insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors including, the many changes in state laws and regulations that have occurred since the 2004.

Q&A

Q: Why not release the draft fraud report, too?

A: EAC issued a final Voting Fraud and Voter Intimidation Report in December 2006, which included recommendations adopted by the Commission to conduct a comprehensive assessment of all claims, charges and prosecutions of voting crimes.

In the case of the voter ID report, the Commission chose not to adopt a final report because it was determined that there was insufficient data to provide meaningful conclusions.

Q: You cited concerns with the contractor's methodology and analysis. Didn't your contract with Eagleton include specific language regarding these issues?

A: Yes, but in retrospect, perhaps we could have done a better job articulating how we wanted this research to be conducted.

Q: What are your specific objections/concerns with the methodologies utilized by Eagleton?

A: First of all, we agree with the contractor that we should examine more than one federal election. Regarding the methodologies, the contractor conducted two analyses that had different outcomes. The first analysis showed no statistically significant correlations. The second analysis, based on statistics from the Current Population Survey, showed some evidence of a correlation. Also, the categorization of voter identification requirements included classifications that do not require identification documentation, such as "state your name." The bottom line is that the research produced more questions than answers, and that's why EAC is expanding its efforts to examine this important issue.

Q: During the course of the project, did you see draft reports? If so, why didn't these concerns get addressed at that time?

A: We did receive progress reports, and when we identified areas of concern, we discussed it with the contractor. It was because of these concerns that EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: During the course of the contract, did you ever express these concerns with Eagleton?

A: Yes, and as a result of these conversations, EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: You spent more than \$500,000 for a report the Commission doesn't think should be adopted – so basically you're flushing a lot of money down the drain. Is this a wise use of taxpayer dollars?

A: There is value in what Eagleton provided, and this included work they did for us regarding provisional voting. As a result of the research on provisional voting, EAC issued a set of best practices last fall. The voter ID data will help provide a baseline for how to move forward. And even though their research raised many questions, contemplating the answers to those questions has informed us on how to move forward.

Q: If you were not satisfied with the final product, why did you pay for it?

A: We adhered to the terms of the contract.

Q: EAC received this data in June of last year. What has taken so long to bring it to a conclusion?

A: This is an important issue, one that deserves careful deliberation and a thorough approach. Yes, we like to get things done quickly, but it is more important to take the time to get things right.

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- What's really important here...
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- The bottom line is...
- The point is...
- We have a responsibility to...
- I'll let others speak to that, but let me tell you what's important to EAC...
- Everyone agrees that...



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

EAC to Launch Comprehensive Study of Voter ID Laws

For Immediate Release
March 30, 2007

Contact: Jeannie Layson
Bryan Whitener
(202) 566-3100

WASHINGTON – The U.S. Election Assistance Commission (EAC) has voted unanimously to launch a comprehensive study focused on voter identification laws after concluding that initial research focusing on only one election cycle was not sufficient to draw any conclusions. The Commission declined to adopt the report, but is releasing all of the data to the public. The information is available at www.eac.gov, and the Commission's statement regarding its decision is attached.

"After careful consideration of the initial research, the Commission decided this important issue deserves a more in-depth research approach, and that it should be examined beyond only one election cycle," said EAC Chair Donetta Davidson. "The Commission and our contractor agree that the research raises more questions than provides answers."

EAC's strategy for moving forward is based upon an examination of the initial research and the testimony and discussion about this research project at the Commission's February 8, 2007 public meeting. For more information about the public meeting, including the agenda, transcript, and testimony go to http://www.eac.gov/Public_Meeting_020807.asp.

EAC's future research on this topic will be expanded to include more than one federal election, environmental and political factors, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004. EAC's comprehensive research approach will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification.
- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud.

- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements.

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###

DRAFT

EAC Statement on Study of Voter Identification Requirements

Background

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. In May 2005, EAC contracted with Rutgers, the State University of New Jersey through its Eagleton Institute of Politics (“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.

The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Drawing on its nationwide review and legal analysis of state statutes and regulations for voter identification, the contractor compared states with similar voter identification requirements and drew conclusions based on comparing turnout rates among states for one election – November 2004. For example, the turnout rate in 2004 in states that required the voter to provide a photo identification document¹ was compared to the turnout rate in 2004 in states with a requirement that voters give his or her name in order to receive a ballot. Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates² and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.³

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor’s testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC’s website, www.eac.gov.

EAC Declines to Adopt Draft Report

EAC finds the Contractor’s summary of States’ voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the implementation of voter identification requirements, to be a first step in the Commission’s efforts to study the possible impact of voter identification requirements.

¹ In 2004, three of the states that authorized election officials to request photo identification allowed voters to provide a non-photo ID and still vote a regular ballot and two others permitted voters who lacked photo ID to vote a regular ballot by swearing and affidavit.

² The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. These data did not differentiate between citizens and non-citizens; because these numbers include non-citizens, the Contractor applied the percentage of citizens included in voting age population statistics in 2000 to the U.S. Census Bureau estimated voting age population in 2004. Thus, 2004 estimates of voting age population include persons who are not registered to vote.

³ The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S. citizens.

However, EAC has concerns regarding the data, analysis, and statistical methodology the Contractor used to analyze voter identification requirements to determine if these laws have an impact on turnout rates. The study only focused on one federal election. An analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations. A second analysis using a data set based upon the Current Population Survey (which was self-reported and showed a significantly higher turnout rate than other conventional data) was conducted that produced some evidence of correlation between voter identification requirements and turnout. The initial categorization of voter identification requirements included classifications that, actually, require no identification documentation, such as "state your name." The research methodology and the statistical analysis used by the Contractor were questioned by an EAC review group comprised of social scientists and statisticians. The Contractor and the EAC agree that the report raises more questions than provides answers and both agree the study should have covered more than one federal election.⁴ Thus, EAC will not adopt the Contractor's study and will not issue an EAC report based upon this study. All of the material provided by the Contractor is attached.

Further EAC Study on Voter Identification Requirements

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state his or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identify.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification. Topics to be discussed include methodology, specific issues to be covered in the study and timelines for completing an EAC study on voter identification.
- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender. Study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting.

⁴ See Transcript of EAC Public Meeting, February 8, 2007, page 109.

- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

DRAFT

Bryan Whitener/EAC/GOV
03/30/2007 02:40 PM

To
cc
bcc Elieen L. Kuala/EAC/GOV
Subject EAC to Launch Comprehensive Study of Voter ID Laws,
3-30-07

For Immediate Release

March 30, 2007

Contact:

Jeannie Layson
Bryan Whitener
(202) 566-3100

EAC to Launch Comprehensive Study of Voter ID Laws

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The report and the research, conducted by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics, are available at www.eac.gov. The Commission's statement regarding its decision is attached.

"After careful consideration of the initial research, the Commission decided this important issue deserves a more in-depth research approach, and that it should be examined beyond only one election cycle," said EAC Chair Donetta Davidson. "The Commission and our contractor agree that the research conducted for EAC raises more questions than provides answers."

EAC's strategy for moving forward is based upon an examination of the initial research and the testimony and discussion about this research project at the Commission's February 8, 2007 public meeting. For more information about the public meeting, including the agenda, transcript, and testimony go to http://www.eac.gov/Public_Meeting_020807.asp.

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- * Conduct an ongoing state-by-state review, reporting and tracking of voter identification

025712

requirements.

* Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation. EAC will use some of the information collected by the contractor as well as additional data from the states to develop this baseline.

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* Study how voter identification provisions that have been in place for two or more federal elections have impacted voter turnout, voter registration figures, and fraud.

* Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements.

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025713

receive a ballot. Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates* and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.*

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor's testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC's website, www.eac.gov.

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* 1 In 2004, three of the states that authorized election officials to request photo identification allowed voters to provide a non-photo ID and still vote a regular ballot and two others permitted voters who lacked photo ID to vote a regular ballot by swearing and affidavit.

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###

Bryan Whitener/EAC/GOV
04/03/2007 10:09 AM

To Donetta L. Davidson/EAC/GOV@EAC, Rosemary E. Rodriguez/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC
cc Bert A. Benavides/EAC/GOV@EAC, Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC, Curtis Crider/EAC/GOV@EAC, DeAnna M.
bcc
Subject FYI - Daily News (4-3-07, Tues)

Commissioners:

The following items are in the news.

#####

National

- Study Links Voter ID Rules to Non-Voting (audio includes Comm. Rodriguez interview; National Public Radio story)
- Civil rights enforcement called lax (Gannett News; Deborah Berry)

Florida

- Elections need paper trail, Nelson says
- Plan: Restore rights of felons
- Florida Governor Is Hoping to Restore Felon Voting Rights
- Felons may regain voting rights

Maryland

- State Poised to Become First To Scuttle Electoral

New Jersey

- State to repay \$64,000 from voting event
- Feds ask NJ to return some hip-hop summit money
- N.J. fined for improper use of federal grants on hip-hop voter events

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National

Study Links Voter ID Rules to Non-Voting (audio includes Comm. Rodriguez interview; National Public Radio story)

Listen to Audio

by Pam Fessler

Read the Report

- Report to the U. S. Election Assistance Commission on Best Practices to Improve Voter Identification Requirements(Requires Adobe Acrobat)

All Things Considered, March 30, 2007 · A new study shows that tough new voter identification requirements appear to reduce the probability that someone will vote – and that the impact is greater on minorities. The study comes amid intense debate over whether ID requirements should be expanded.

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National

Civil rights enforcement called lax (Gannett News; Deborah Berry)

Justice agency's record scrutinized

Gannett News Service

April 3, 2007

By Deborah Barfield Berry

WASHINGTON -- Amid calls for the ouster of Attorney General Alberto Gonzales, Democratic lawmakers and civil rights groups are targeting the Justice Department's enforcement record on civil and voting rights.

"I realize the president has gotten a free ride for the last six years, but that is over," said Rep. Jerrold Nadler, D-N.Y., chairman of the House judiciary subcommittee on the constitution, civil rights and civil liberties. The panel recently held the first oversight hearing under the Democratic-controlled Congress.

Democrats say the Justice Department -- under scrutiny for its ousters of eight U.S. attorneys and its mishandling of national security letters -- has been lax in enforcing civil rights laws and slow to investigate cases, particularly on behalf of African Americans.

The Citizens' Commission on Civil Rights and the Center for American Progress released a report in March criticizing the Civil Rights Division's record on housing, voting and employment. The groups said the administration has narrowed civil rights protections and allowed enforcement to "wither and die."

Several groups are urging Congress to set up a select committee to review the agency's enforcement of civil rights laws.

Judiciary Committee Chairman Sen. Patrick Leahy, D-Vt., said he is concerned "political appointees have reversed long-standing civil rights policies and impeded civil rights progress," said spokeswoman Tracy Schmalzer.

Justice Department officials defend their track record, saying the department sent an unprecedented number of monitors and observers to elections last fall, that it supported renewal of the 1965 Voting Rights Act and filed numerous cases on behalf of minority voters with language barriers.

"We will continue to closely investigate claims of voter discrimination and vigorously pursue action on behalf of all Americans whenever violations of federal law are found," Wan Kim, assistant attorney general at the Civil Rights Division, told the subcommittee.

Rep. Trent Franks, R-Ariz., ranking member of the judiciary subcommittee, praised officials for making "strategic decisions" on cases to pursue.

But civil rights groups say the division recently backed controversial proposals, including a Georgia plan that required voters to have government-issued photo identification cards and a Texas redistricting plan that diluted the strength of Latino voters.

Allan Lichtman, a political history professor at American University and a consultant to the Justice Department in the 1980s and 1990s, said he and other attorneys at the agency agreed the department shouldn't support the Texas redistricting plan. A political appointee rejected their recommendation, he said.

"I've just seen everything dry up under the Bush administration," Lichtman said.

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**Florida
Elections need paper trail, Nelson says**

The U.S. senator tells local officials he wants to end touch-screen voting.

David Damron
Orlando Sentinel
Sentinel Staff Writer
April 3, 2007

U.S. Sen. Bill Nelson met with county election supervisors Monday and pledged to make sure Florida and federal efforts to require a paper voting system go smoothly.

The seven election supervisors, from around the state including Central Florida, also sought assurances the reforms would not rely too heavily on local government funding.

Nelson and Florida Gov. Charlie Crist both are working on plans to create a verifiable voting system. Crist is touting a plan that would all but eliminate touch-screen machines in Florida, except for a small number to accommodate disabled voters.

Nelson filed a similar bill in February to apply nationwide. "People have to have confidence their vote was counted as intended," Nelson said.

Orange County Supervisor Bill Cowles said after the meeting that local election chiefs do not oppose the measures, but they want to make sure the reforms do not compete with each other and are passed quickly to avoid further confusion for voters or poll workers before the 2008 elections.

Sarasota County Election Supervisor Kathy Dent said her county likely would not be affected by legislation, because local voters approved a switch to a paper-ballot system.

A state audit said touch-screen machines in Sarasota County worked well in the 2006 election, but ballot design could have confused voters in a race between Republican Vern Buchanan and Democrat Christine Jennings, who lost by 369 votes. Sarasota County voters cast six times more blank ballots in that contest than voters in other counties in the race.

Critics called the audit a "whitewash."

Since the 2000 presidential election debacle, Florida has been a model for vote reforms, Nelson said. "What Florida does [in the current state lawmaking session] will be another indicator of what the nation should do."

Also Monday, Oviedo officials met briefly with Nelson to ask for federal funding for a widening project on State Road 426 and County Road 419. The project will cost \$60 million, but only \$20 million is available.

Sandra Pedicini of the Sentinel staff contributed to this report. David Damron can be reached at ddamron@orlandosentinel.com or 407-420-5311.

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**Florida
Plan: Restore rights of felons**

'Everybody deserves a second chance,' Crist says of campaign pledge

Orlando Sentinel

Jason Garcia and Maya Bell
Tallahassee Bureau
April 3, 2007

TALLAHASSEE -- Gov. Charlie Crist is expected to unveil a plan this week that could restore the civil rights, including the right to vote, of hundreds of thousands of convicted felons who have fulfilled their sentences.

Crist has scheduled a special meeting Thursday of the state Board of Executive Clemency, which could vote on a plan that would automatically restore civil rights for as many as 80 percent of all felons who have been released from prison.

"Everybody deserves a second chance," Crist said Monday.

The Republican governor pledged during his campaign to undo the Civil War-era law that denies most former convicts their civil rights -- which also include the right to serve on a jury and obtain a host of occupational licenses -- unless they complete a slow and sometimes impossible application process. Florida is one of three states that impose such a restriction.

The Governor's Office has been trying to build enough support for the idea among members of the clemency board, which is composed of Crist and the three-member state Cabinet. That includes Republican Agriculture Commissioner Charles Bronson and Democratic Chief Financial Officer Alex Sink, who have both expressed support for some form of automatic restoration, and Republican Attorney General Bill McCollum, a staunch opponent.

But the plan taking shape is already drawing fire from civil-rights activists who worry it won't go far enough.

Howard Simon, executive director of the American Civil Liberties Union of Florida, said officials are considering requiring that all ex-felons pay any restitution in full before their rights are restored.

Such a restriction, Simon said, would make a "charade" out of any effort to reform Florida's clemency system, which, Simon said, has left as many as 950,000 Floridians without their civil rights today.

It also would run contrary to the recommendations of a commission Jeb Bush appointed, Simon said.

Crist "clearly deserves an enormous amount of credit for trying to address this crisis -- and the numbers make it a crisis -- but it makes no sense to insist on payment first," Simon said.

"We're not saying ignore it [restitution] or overlook it. Just put people back to work first. If they get their civil rights back, they are eligible for close to occupational licenses -- from roofer to cosmetologist to barber."

Crist, however, said he has to devise a plan that wins enough support on the clemency board because attorneys have told him that he can't grant automatic restoration by himself through an executive order. Persuading the Republican-controlled Legislature to make the change would be "tough sledding," he said.

"I want to do the doable," Crist said. "I'm pushing as hard as I can to get as much as I can. But there's a point beyond which I cannot go."

People familiar with the discussions also said Crist's office was still negotiating Monday with Cabinet officers about which crimes would be covered by an automatic-restoration process. Some convicted felons, such as murderers and sex offenders, are certain to be excluded.

"It's still somewhat fluid," said Terry McElroy, a spokesman for Bronson. "I think everyone recognizes that there are certain crimes for which the state would likely not automatically restore civil rights."

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Florida
Florida Governor Is Hoping to Restore Felon Voting Rights

New York Times
April 3, 2007
By ABBY GOODNOUGH

MIAMI, April 2 – Hinting that a remarkable turnaround in state policy was near, Gov. Charlie Crist said Monday that he hoped to persuade members of the Florida cabinet this week to end the practice of stripping convicted felons of their right to vote.

Florida is the most populous of three states whose constitutions require withdrawal of voting rights from all convicted felons, and it has the nation's largest number of disenfranchised former offenders. The other two states are Kentucky and Virginia.

Felons in Florida who have served their prison and probation time can apply to have their voting rights reinstated, but the process can be time consuming and complex. Only a few hundred have their rights restored each year in Florida, where the American Civil Liberties Union says 950,000 remain disenfranchised.

Mr. Crist, a Republican, said that to win the support of some cabinet members, he might require former felons to pay whatever restitution they owe to victims before regaining their rights. Some civil rights groups, including the A.C.L.U., oppose such a compromise, but Mr. Crist said he had little choice.

"I want to do the doable," he told reporters in Tallahassee. "I'm pushing as hard as I can to get as much as I can, but there's a point beyond which I cannot go."

Only a constitutional amendment could formally end the ban, but under state law, the governor and cabinet – who also make up the state clemency board – could grant blanket clemency to everyone who completes their sentence. Mr. Crist needs two of the three cabinet members to sign off on the plan.

Alex Sink, a Democrat who is the state's chief financial officer, has said she supported modifying the ban. But Charles Bronson, the state's agriculture secretary, and William McCollum, its attorney general, Republicans, have opposed it.

Former Gov. Jeb Bush was adamantly against ending the ban, even though it contributed to problems in the 2000 presidential election. An unknown number of legal voters were removed from the rolls leading up to the election, after a company working for the state mistakenly identified the voters as felons. At the same time, some counties allowed felons to vote or turned away legitimate voters as suspected felons.

"I believe in my heart that everybody deserves a second chance," Mr. Crist said. "And I'm hopeful that maybe later this week we'll have an opportunity to restore civil rights for Floridians and give them that right to vote."

Howard Simon, executive director of the A.C.L.U. of Florida, said he thought Mr. Crist was focused on persuading Mr. Bronson to soften his stance. He said Mr. Bronson wanted a list of exceptions, of violent criminals who would not be eligible for voting rights. Mr. Crist said he would not grant automatic restoration to murderers and sex criminals.

Terence McElroy, a spokesman for Mr. Bronson, said Monday: "Commissioner Bronson continues to

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believe that people who commit violent felonies ought to be treated differently than others who do not.”

Jenny Nash, a spokeswoman for Mr. McCollum, said he believed that “violent habitual offenders should not receive automatic restoration.”

Mr. Simon said it made no sense to require former offenders to pay restitution to regain their civil rights.

“How can they be expected to pay it if the state keeps putting barriers in the way of allowing them to be re-employed?” he said. “You can put people on a payment plan, but get them back to work first.”

Christine Jordan Sexton contributed reporting from Tallahassee, Fla., and Terry Aguayo from Miami.

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**Florida
Felons may regain voting rights**

Crist seems to have the Cabinet votes to fulfill his most controversial campaign promise.

St. Petersburg Times
By STEVE BOUSQUET
Published April 3, 2007

TALLAHASSEE - After weeks of behind-the-scenes lobbying, Gov. Charlie Crist appears to have the two votes on the Cabinet he needs to restore civil rights to many ex-offenders.

Crist has called a meeting Thursday of the Board of Executive Clemency to consider changing a system that thrust Florida into the national spotlight as a state with some of the highest barriers to citizenship for felons who have served their time.

Crist promised in his campaign to support automatic restoration of civil rights without hearings for most felons who have "paid their debt to society" and completed sentences, including probation. Convicted sex offenders would not be included.

But the latest snag in the long-running controversy is a requirement that some felons literally pay their debts, in the form of full monetary restitution to victims, before they can regain the right to vote, serve on a jury or hold various professional licenses.

"It's not everything I would like," Crist said. "But it's a huge step in the right direction, to at least get the ball rolling."

Howard Simon of the American Civil Liberties Union said it "defies common sense" to compel felons to pay restitution first, because the lack of civil rights prevents them from getting a job so they can pay restitution.

Simon cited a report by former Gov. Jeb Bush's Ex-Offender Task Force which found the lack of restoration of civil rights "a significant barrier to employment" in many cases.

"Don't pretend you're going to reintegrate ex-offenders into society if you're still creating barriers," Simon said.

Over the weekend, the ACLU launched an e-mail and letter-writing campaign in support of full restoration of civil rights when all "nonmonetary" terms of a felon's sentence are completed.

Under current law, felons must petition the clemency board to seek the restoration of their rights, but because the board meets only four times each year, the backlog of requests is enormous, about 35,000

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people.

Reggie Garcia, a Tallahassee lawyer who specializes in clemency cases, said payment of restitution is not an issue in most clemency cases.

"I think the governor has shown tremendous good faith in bringing this forward," Garcia said.

It has proved to be one of Crist's most difficult political tasks.

Crist needs the votes of at least two of three Cabinet members, and Attorney General Bill McCollum strongly opposes automatic restoration of civil rights.

Spokesmen for the other two Cabinet members, Chief Financial Officer Alex Sink and Agriculture Commissioner Charles Bronson, said they support Crist's efforts to make restoration easier, and said payment of restitution should be a prerequisite.

The governor cited the case of Lisa Burford, who served 30 days in jail for stealing money from the bank where she once worked. A mother of four, she has not regained her nurse's license because of a felony, and still owes the bank \$25,000.

"My heart bleeds for her," Crist said. "There's somebody who truly is trying to be productive and do the right thing. And we're going to say no to her?"

Crist told the St. Petersburg Times editorial board that the Clemency Board could waive the restitution requirement on a case-by-case basis.

"What we can do at clemency is wipe it away, forgive the debt," Crist said. "And that would be a possibility for her."

Times political editor Adam C. Smith contributed to this report. Steve Bousquet can be reached at bousquet@sptimes.com or 850 224-7263.

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Maryland Maryland Poised to Become First To Scuttle Electoral

Washington Post
By Annapolis Notebook
Tuesday, April 3, 2007; B02

The House of Delegates approved a plan to effectively scrap the electoral college and elect presidential candidates by popular vote.

The Senate passed a similar bill last week, and the legislation is expected to head in the coming days to the desk of Gov. Martin O'Malley (D), who has indicated he will sign it.

Under the bill, Maryland's 10 electoral votes would be awarded to the winner of the national popular vote, instead of the candidate who wins the state. It would take effect only if states with a majority of votes in the electoral college agreed to do the same.

The proposal generated a lengthy debate on the House floor, where Democratic supporters said the change would give small states such as Maryland new attention from candidates.

"The current system does not treat every vote equally," Del. Jon S. Cardin (D-Baltimore County) said. "Maryland has become a spectator state. . . . Why would anybody be opposed to the winner of the popular

vote being the president?"

Opponents said Maryland would be rushing into a huge change. "It's an affront to the Constitution," said Del. Anthony J. O'Donnell (R-Calvert), the House minority leader. "Are you prepared to allow someone else to determine where Maryland's votes in the electoral college go?"

Maryland would be the first state to approve the change. Eighteen Democrats joined 36 Republicans -- all but one in the House GOP delegation -- in opposing the bill, which passed 85 to 54.

"The fact is that all of [the candidates'] resources go into two or three states, and their votes have greater weight," House Speaker Michael E. Busch (D-Anne Arundel) said.

-- Lisa Rein

Campaign Funding Bill Delayed Again

A bill to provide public funding to Maryland legislative candidates' campaigns suffered a major blow yesterday when Sen. Ulysses Currie (D-Prince George's) moved to delay debate until Friday, possibly killing any chance of the bill being passed before the session ends Monday.

"It might be a bill we can't afford, considering where we are right now," Currie said, referring to the bill's price tag and the state's looming budget deficit.

Candidates would have to raise \$6,750 in seed money to qualify for up to \$50,000 for a Senate race or \$40,000 for a House of Delegates run. The change could cost the state \$500,000 a year. The program would be voluntary.

The goal is to make politicians less obligated to deep-pocketed campaign contributors by offering candidates money for their run for office.

Supporters said they found new momentum last week after the release of secret FBI recordings in the coming corruption trial of a former Democratic state senator from Baltimore County, Thomas L. Bromwell, who is accused of steering telecommunications legislation to help donors.

Advocates lobbied hard to get the bill to the Senate floor last week. A vote was delayed Friday, and Currie asked for an unusual four-day delay.

"I am shocked this bill is out here," said Sen. Alex X. Mooney (R-Frederick), who opposes campaign spending limits.

Senate President Thomas V. Mike Miller Jr. (D-Calvert) said: "There are a couple of others of us like that."

Sen. Paul G. Pinsky (D-Prince George's) was upset by Currie's move.

"Somebody doesn't want to record his vote," Pinsky said, after making chicken noises. "Unbelievable."

-- Ovetta Wiggins

From Delegate to the Governor's Cabinet

Yesterday was the first day on the job for Maryland's new deputy secretary of state, former Prince George's delegate Brian R. Moe.

Moe, a member of the House of Delegates since 1998, lost his reelection bid last year in the Democratic primary. He was introduced to his former colleagues yesterday on the floor of the chamber.

The secretary of state post was one of a few Cabinet jobs Gov. Martin O'Malley (D) had not filled since taking office in January. The office has several duties, including maintaining business filings, regulating the state's charities and promoting Maryland's role in international relations.

-- John Wagner

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**New Jersey
State to repay \$64,000 from voting event**

Tuesday, April 03, 2007
BY RICK HEPP
Star-Ledger Staff

The state agreed yesterday to repay \$64,000 in federal election grants an audit found were improperly used on two hip-hop summits championed by former Attorney General Peter Harvey to bolster voting awareness among teens.

An audit by the U.S. Election Assistance Commission, which monitors federal election funds, found the state misused \$38,929 to feed students at the two shows and \$25,585 to bus them to the Sovereign Bank Arena in Trenton. The state spent a total of \$131,924 on the two events.

The commission issued a final determination yesterday requiring the state to repay the funds, which amount to a fraction of the \$84.9 million New Jersey received from 2003 through 2005 to implement the Help America Vote Act of 2002.

"The audit found we owed them money," Attorney General's Office spokesman David Wald said. "We are accepting the recommendation of this audit, and we took their other recommendations very seriously and made some changes."

The shows attracted more than 6,000 students in 2004 and 2005 to watch recording artists Russell Simmons; the Rev. Run, of Run- DMC; The Game, and others promote voting.

They also attracted scorn from lawmakers who called the concerts a waste of time and resources when the state was having a difficult time implementing new voting procedures.

Harvey yesterday defended the event as being part of the state's effort to register more than 460,000 new voters since 2004. He added staff planning the hip-hop summits were supposed to have checked with federal officials before tapping the funds, which are allowed to be spent on voter education and outreach.

"The effort was certainly well worth it," Harvey said. "With no celebrities and no audience, students would not have been interested in the event or interested in registering to vote. And you have to get the students to the facility, and you have to feed them if you are hosting an all-day event."

The money was taken from federal funding provided through the Help America Vote Act of 2002, which Congress implemented for new voting technology after errors with Florida's punch-card ballots marred the 2000 presidential election.

The act created an independent commission to assist local and state election officials, to certify voting systems and to monitor the funding to make sure the cash is being used as intended.

The commission's Office of Government Integrity reviewed more than \$84.9 million in federal funds New Jersey received from 2003 through 2005 and issued its findings last September. The commission's final determination yesterday was released after the commission received additional information from New Jersey.

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Rick Hepp may be reached at rhep [REDACTED]

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**New Jersey
Feds ask NJ to return some hip-hop summit money**

By GREGORY J. VOLPE
GANNETT STATE BUREAU
April 2, 2007

TRENTON -- New Jersey must repay the federal government \$64,514 for food and transportation costs association with former Attorney General Peter C. Harvey's Hip-Hop Summits aimed at getting young people to vote in 2004 and 2005.

The U.S. Election Assistance Commission, or EAC, released an audit today that said funds given out under the Help American Vote Act should not have been used for entertainment.

"EAC considers food provided to students at the summits and transportation provided to students to and from the summit as entertainment costs and not an allowable use of HAVA funds," the audit says. "In addition to being unallowable, EAC does not consider the costs reasonable since the summits were broadcast via the internet to other schools that did not incur food and travel expenses to obtain the same information."

Harvey could not immediately be reached at his private law office.

David Wald, spokesman for current Attorney General Stu Rabner said the money will be paid back.

Harvey spent \$131,924 for summits in 2004 and 2005, enlisting hip-hop figures like Russell Simmons, Wyclef Jean and Joe Budden to promote voting among young people. They were not compensated for the appearance and participated in panel discussions and did not provide live entertainment.

There was no summit before the 2006 U.S. Senate election and "there are no plans for future summits," Wald said.

The 2004 summit was attended by 2,000 students the 2005 event was attended by 4,000 while the event was broadcast live over the Internet.

Donna Kelly, an assistant Attorney General, responded to auditors in November saying in 2004 presidential election, the state got 460,000 newly registered voters and a 50 percent turnout among those 18 to 25 years old.

Published: April 02. 2007 3:51PM

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**New Jersey
N.J. fined for improper use of federal grants on hip-hop voter events**

Posted by the Asbury Park Press on 04/3/07
BY GREGORY J. VOLPE
GANNETT STATE BUREAU

TRENTON – New Jersey must repay the federal government \$64,514 after the U.S. Election Assistance