Karen Lynn-Dyson/EAC/GOV
03/20/2007 01:27 PM

To John.Weingart@rutgers.edu
cc jhodgkins@eac.gov, john.weingart@rutgers.edu, [redacted], twilkey@eac.gov
bcc
Subject Re:Review of Voter ID Statement

Quick question related to The Voting Age Population estimates used to estimate/calculate turnout rates (see footnote 2 in the statement)-

When taking into account noncitizens in the calculation were the noncitizens considered as part of the VAP or as the population as a whole?

Thanks for clarifying this for me.

Regards-

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

Juliet E. Hodgkins/EAC/GOV
02/14/2007 02:53 PM

To Jeannie Layson/EAC/GOV@EAC
cc
bcc
Subject Re: Eagleton

Is she sure that it was the voter ID stuff and not the provisional ballot stuff?

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV
02/14/2007 02:49 PM

To Juliet E. Hodgkins/EAC/GOV@EAC
cc
Subject Re: Eagleton

Karen says we sent them to Tom Hicks and to Michael McDonald. Grrr...

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

Juliet E. Hodgkins/EAC/GOV
02/14/2007 02:46 PM

To Jeannie Layson/EAC/GOV@EAC
cc
Subject Re: Eagleton

I don't know that we sent the appendixes to people. I think what we did was tell Eagleton that they could use their research. I wrote some letters for Tom to send. We can pull them tomorrow.

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV
02/14/2007 02:34 PM

To Karen Lynn-Dyson/EAC/GOV@EAC
cc jthompson@eac.gov, twilkey@eac.gov, ggilmour@eac.gov
Subject Re: Eagleton

After speaking with Karen, I was reminded that we sent the appendixes to several people. Does that mean I need to send those to anyone who submits a FOIA request for the draft Eagleton voter ID report?

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

Karen Lynn-Dyson/EAC/GOV

02/14/2007 02:18 PM

To Jeannie Layson/EAC/GOV@EAC
cc jthompson@eac.gov, twilkey@eac.gov
Subject Re: Eagleton Link

FYI-

This is a version of the paper which they presented at the APSA meeting this summer. As I recall we gave them permission to present this paper, because it was Counsel's belief that we could not prevent them from doing do.

Also, FYI- They cite/acknowledge the reviewers whom we gathered to review and react to the preliminary draft.

K

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

tel:202-566-3123

Jeannie Layson /EAC/GOV

02/14/2007 02:07 PM

To jthompson@eac.gov, klynndyson@eac.gov, twilkey@eac.gov
cc
Subject Eagleton

Did we know that they have released a paper that includes the data they collected on our behalf? Electionline is working on a story about their data. Go here
http://www.eagleton.rutgers.edu/News-Research/VoterID_Turnout.pdf

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

Juliet E. Hodgkins/EAC/GOV
11/17/2006 12:56 PM

To DeAnna M. Smith/EAC/GOV@EAC
cc
bcc
Subject Draft Voter Fraud and Voter Intimidation Report

DeAnna,

Shortly, I will send the draft voter fraud/voter intimidation report to the Commissioners. I am not going to include the appendixes as they are quite lengthy. However, I am going to let them know that you have access to the appendixes and can give the appendixes to them if they want to read them.

I have created a subfolder in the General Counsel folder, called Voter Fraud and Intimidation Report. There you will find the report and four appendixes. If any of the commissioners ask for the appendixes or another copy of the report, you will have access to them all. You will note that there are two versions of appendixes 2 and 3. That is because we need to make a decision on whether to attach the summaries prepared by the consultants or the summaries prepared by Peggy. You will see clearly the difference -- as they are marked either "consultant" or "Peggy." I will explain this to the Commissioners in the email that I send to them. I will be sure to copy you on the email that I send to the Commissioners.

Let me know if you have any questions. I should have Blackberry service for a while, at least through to Paris.

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100

Deliberative Process Privilege

Juliet E. Hodgkins/EAC/GOV
10/23/2006 09:22 AM

To DeAnna M. Smith/EAC/GOV@EAC
cc
bcc
Subject Fw: Letter to Mr. Reynolds Re: Voter Fraud Report

Please make corrections.

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
----- Forwarded by Juliet E. Hodgkins/EAC/GOV on 10/23/2006 09:19 AM -----

Paul DeGregorio /EAC/GOV
10/22/2006 09:58 PM

To Amie J. Sherrill/EAC/GOV
cc Juliet E. Thompson/EAC/GOV
Subject Re: Fw: Letter to Mr. Reynolds Re: Voter Fraud Report

Amie,

Mr. Reynolds letter inquires about the status of the report. He does not ask for it to be released, as the first line of our response to him suggests. Please have our draft response to him changed to reflect this fact.

Paul DeGregorio
Chairman
US Election Assistance Commission
1225 New York Ave, NW
Suite 1100
Washington, DC 20005
1-866-747-1471 toll-free
202-566-3100
202-566-3127 (FAX)
pdegregorio@eac.gov
www.eac.gov

Amie J. Sherrill/EAC/GOV

Amie J. Sherrill/EAC/GOV
10/20/2006 04:26 PM

To Paul DeGregorio/EAC/GOV@EAC
cc
Subject Fw: Letter to Mr. Reynolds Re: Voter Fraud Report

Attached is a draft letter from Julie to Mr. Reynolds of the Comm. on Civ Rights. It contains the same

language as the other letters we have sent. Please let me know if you would like for me to use your e-signature and get it faxed to them this afternoon.

Amie J. Sherrill
Special Assistant to Chairman Paul S. DeGregorio
U.S. Election Assistance Commission
1225 New York NW - Suite 1100
Washington, DC 20005
(202) 566 3106

---- Forwarded by Amie J. Sherrill/EAC/GOV on 10/20/2006 04:23 PM ----

DeAnna M. Smith/EAC/GOV
10/20/2006 04:02 PM

To Amie J. Sherrill/EAC/GOV@EAC
cc
Subject Letter to Mr. Reynolds Re: Voter Fraud Report

draft letter to Mr Reynolds.doc

DeAnna M. Smith
Paralegal Specialist
Office of the General Counsel
U.S. Election Assistance Commission
1225 New York Avenue, NW Suite 1100
Washington, D.C. 20005
202-566-3117 (phone)
202-566-1392 (fax)
www.eac.gov

Deliberative Process Privilege

October 20, 2006

Gerald A Reynolds
Chairman, Unites States Commission on Civil Rights
624 9th Street, NW
Washington, DC 20425

Via Facsimile Transmission ONLY
202-376-7672

RE: October 19, 2006 Letter

Dear Mr. Reynolds:

Your letter of October 19, 2006 requests the release of EAC's Voter Fraud and Intimidation Report. I would like to take this opportunity to clarify the purpose and status of this study.

In late 2005, EAC hired two consultants for the purpose of assisting EAC with two things: 1) developing a uniform definition of the phrase voter fraud, and 2) making recommendations on how to further study the existence, prosecution, and means of deterring such voter fraud. In May 2006, a status report on this study was given to the EAC Standards Board and EAC Board of Advisors during their public meetings. During the same week, a working group convened to react to and provide comment on the progress and potential conclusions that could be reached from the work of the two consultants.

The conversation at the working group meeting was lively on the very points that we were trying to accomplish as a part of this study, namely what is voter fraud and how do we pursue studying it. Many of the proposed conclusions that were suggested by the consultants were challenged by the working group members. As such, the consultants were tasked with reviewing the concerns expressed at the working group meeting, conducting additional research as necessary, and providing a draft report to EAC that took into account the working group's concerns and issues.

That draft report is currently being vetted by EAC staff. EAC will release a final report from this study after it has conducted a review of the draft provided by the consultants. However, it is important to remember the purpose of this study – finding a uniform definition of voter fraud and making recommendations on how to study the existence, prosecution and deterrence of voter fraud -- as it will serve as the basis of the EAC report on this study.

Thank you for your letter. You can be assured that as soon as a final report on the fraud and intimidation study is available, a copy will be made available to the public.

Sincerely,

Paul S. DeGregorio
Chairman

Juliet E. Thompson-Hodgkins/EAC/GOV
07/24/2006 09:49 AM

To "Cameron.Quinn@usdoj.gov" <Cameron.Quinn@usdoj.gov>@GSAEXTERNAL
cc
bcc
Subject Re: FW: The EAC- Tova Wang piece on voter fraud and intimidation

I can't open this as it is a word perfect file. Can you send it in Word or PDF?

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Cameron.Quinn@usdoj.gov" <Cameron.Quinn@usdoj.gov>

"Cameron.Quinn@usdoj.gov" <Cameron.Quinn@usdoj.gov>
07/20/2006 09:56 PM

To "jthompsonhodgkins@eac.gov" <jthompsonhodgkins@eac.gov>
cc
Subject FW: The EAC- Tova Wang piece on voter fraud and intimidation

Julie - thought John had sent these to you.

From: Tanner, John K (CRT)
Sent: Friday, July 07, 2006 4:37 PM
To: Quinn, Cameron (CRT)
Cc: Agarwal, Asheesh (CRT)
Subject: The EAC- Tova Wang piece on voter fraud and intimidation

The EAC paper is ridiculous. I have a call in to Julie. Here are some notes

Tova Wang.wpd

Juliet E. Thompson-Hodgkins/EAC/GOV
07/18/2006 04:35 PM

To "Cameron.Quinn@usdoj.gov" <Cameron.Quinn@usdoj.gov>@GSAEXTERNAL
cc
bcc
Subject Re: Voter Fraud/Voter Intimidation Research Project

As we discussed, we do have concerns that the interviews with Mr. Donsanto and Mr. Tanner were not accurately reflected in the document. I have searched my emails and find no comments having been transmitted by Mr. Tanner. As we also discussed, I did not sit in on the interview with Mr. Tanner, thus, I cannot independently identify the changes that need to be made. If you will forward his comments to me, I will assure that they are incorporated in the final document.

As for the public availability of the document, EAC does not intend to publish or distribute the draft document about which your agency has concerns. However, if we receive a request under FOIA, we will have to examine whether the document is releasable under the parameters set forth in that law. A final document will be produced with EAC review and will be vetted through our standards board and board of advisors, as usual -- including input from the Department of Justice.

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Cameron.Quinn@usdoj.gov" <Cameron.Quinn@usdoj.gov>

"Cameron.Quinn@usdoj.gov" <Cameron.Quinn@usdoj.gov>
07/17/2006 10:34 PM

To "jthompsonhodgkins@eac.gov" <jthompsonhodgkins@eac.gov>
cc
Subject Voter Fraud/Voter Intimidation Research Project

Julie - I'd like to officially send something to you to confirm the following from our conversation today, but wanted to give you a chance to react first, to be sure I was accurate in my understanding of our conversation:

(1) the "status report" issued by EAC to the Standards Board and Advisory Board in May was not something that EAC, institutionally, had necessarily intended for official public distribution, and certainly will not be further distributed, such that no additions/corrections to it make sense at this point;

(2) you acknowledge DOJ concerns that the "status report" at a minimum did not accurately reflect the conversations that Ms. Wang and Mr. Serebrov had with DOJ officials on at least two occasions, and that our concerns about the inaccurately reflected conversations are consistent with other information you received suggesting the characterization of the conversations was not entirely accurate;

(3) you are just getting in the draft material on this project from which, at some point, some kind of official document for public distribution is still contemplated, most likely before the end of the fiscal year; and

(4) in light of our concerns about the previous inaccurate characterization of the conversations with DOJ officials in the "status report", you will ensure that at a minimum we have an opportunity to review the draft report and provide feedback about information attributed to DOJ officials prior to any draft report being circulated more publicly.

Will the entire reports of the various research projects be circulated for review among Standards Board and Advisory Board members prior to issuance by the EAC? I had understood, please correct me if I'm wrong, that the VVSG guidelines were so circulated last year, but am not sure what else, if anything, has been circulated/reviewed in the past.

Thanks, Julie, for your help in correcting this!

Juliet E. Hodgkins/EAC/GOV
11/03/2006 07:06 PM

To "Job Serebrov" [redacted]
cc
bcc
Subject Re: Please send me the summary

Thanks!

Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: "Job Serebrov" [redacted]]
Sent: 11/03/2006 06:04 PM
To: Juliet Hodgkins
Subject: Re: Please send me the summary

Julie:

You should have these as existing literature summaries.

Job

--- jhodgkins@eac.gov wrote:

> Juliet Thompson Hodgkins
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100

Juliet E. Thompson/EAC/GOV
11/18/2005 02:34 PM

To "Job Serebrov" <[redacted]@GSAEXTERNAL
cc
bcc
Subject Re: Answer

I would not include issues of discrimination under the civil jurisdiction, but would include election crimes that are enforced through DOJ's criminal division.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Job Serebrov" <[redacted]>

"Job Serebrov"
<[redacted]>
11/18/2005 01:34 PM

To jthompson@eac.gov
cc
Subject Answer

Julie:

Do you have an answer for me on the DOJ issue? We have a conference call in half an hour.

Job

Juliet E. Thompson/EAC/GOV
11/18/2005 09:47 AM

To "Job Serebrov" <[redacted]t>@GSAEXTERNAL
cc
bcc
Subject Re: Question

As to paragraph 1, are you referring to criminal division actions or civil division actions ?

As to paragraph 2, I have talked to Karen. At this time, the anticipation is that the future project on this will be competitively let, and you and others will, of course, be able to respond to the solicitation. We are not sure what our needs will be for consultants/experts on this issue or other issues at this time.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Job Serebrov" <[redacted]et>

"Job Serebrov"
<[redacted]t>
11/18/2005 09:27 AM

To jthompson@eac.gov
cc
Subject Question

Julie:

I need clarification on something in the project before the conference call at 2:00 today between Peggy, Tova, and me. How much of what we are investigating should involve DOJ's jurisdictional matters under such things as the Voting Rights Act?

Also, did you have a chance to talk to Karen about a second project? I need to know because if there will not be one I will have to get a job with a local law firm until the 2006 elections.

Job

Juliet E. Thompson/EAC/GOV
11/03/2005 12:21 PM

To "Job Serebrov" <[redacted]>@GSAEXTERNAL
cc
bcc
Subject Re: Question

I will talk to Peggy. I have not been back to the office, so I don't know how far she's gotten on that.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Job Serebrov" <[redacted]t>

"Job Serebrov"
<[redacted]>
11/03/2005 11:13 AM

To jthompson@eac.gov
cc
Subject Re: Question

Fax it to 501,682.5117. Anything about time for pay?

--- jthompson@eac.gov wrote:

> They are going to the Commissioners today for
> approval. We will keep you posted. Do you have a
> fax number that you would want the contract sent to?
>
> ---
> Sent from my BlackBerry Wireless Handheld
>
>
>
> ----- Original Message -----
> From: "Job Serebrov" [[redacted]
> Sent: 11/03/2005 11:03 AM
> To: psims@eac.gov; jthompson@eac.gov
> Subject: Question
>
> Peggy and Julie:
>
> Were the contracts approved yet? Also, someone at
> the
> EAC was going to tell us how long it will take to
> process our Oct 25 invoices.
>
> Job
>
>
>

Juliet E. Thompson/EAC/GOV
11/03/2005 12:05 PM

To "Job Serebrov" <[redacted]
cc
bcc
Subject Re: Question

They are going to the Commissioners today for approval. We will keep you posted. Do you have a fax number that you would want the contract sent to?

Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: "Job Serebrov" [serebrov@sbcglobal.net]
Sent: 11/03/2005 11:03 AM
To: psims@eac.gov; jthompson@eac.gov
Subject: Question

Peggy and Julie:

Were the contracts approved yet? Also, someone at the EAC was going to tell us how long it will take to process our Oct 25 invoices.

Job

Juliet E. Thompson/EAC/GOV
10/28/2005 10:55 AM

To "Job Serebrov" <[redacted]GSAEXTERNAL
cc
bcc
Subject Re: Contracts

I am working on your contract today. I will get it to you as soon as possible.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100

Juliet E. Thompson/EAC/GOV
10/25/2005 04:20 PM

To "Job Serebrov"
<[redacted]@GSAEXTERNAL
cc
bcc
Subject Re: Fw: Invoice information

Both.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Job Serebrov" <[redacted]>

"Job Serebrov"
<[redacted]>
10/25/2005 04:18 PM

To jthompson@eac.gov
cc
Subject Re: Fw: Invoice information

Will do. I told you you need more personnel or a good cloning device.

Job

--- jthompson@eac.gov wrote:

> Go with what Peggy gave you. I was not in on the
> initial conversations on
> how this project would work. I asked Edgardo to put
> together some
> information that he distributed to other
> contractors, as I thought it was
> appropriate for their contracts. If this is not
> appropriate for your
> contract, that's fine. Again, I was not in on those
> discussions. Go with
> Peggy's instructions.
>
> Sorry that I can't talk to you right now, but I'm in
> a meeting and
> multi-tasking as others talk.
>
> Juliet E. Thompson
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100
>
>

>
> "Job Serebrov" <[redacted]>
> 10/25/2005 04:07 PM
>
> To
> jthompson@eac.gov
> cc
>
> Subject
> Re: Fw: Invoice information
>
>
>
>
>
>
> Julie:
>
> For our conversation, this information directly
> contradicts what Peggy and I just discussed. She
> indicated that an invoice be in this form:
>
> Job Serebrov
> Attorney at Law
> 2110 S. Spring Street
> Little Rock, AR 72206
>
> October 25, 2005
>
> INVOICE # 1
>
> $8,333.33-Month One: Providing Consulting Services
> in
> the Development of a Voting Fraud and Voter
> Intimidation Project.
>
> No expenses-Month One: Providing Consulting Services
> in the Development of a Voting Fraud and Voter
> Intimidation Project.
>
> Total=$8,333.33
>
> Further, when we first started discussions on this
> project with Karen, Tom and the gang we agreed that
> time billing was not a valid option for either of
> us.
> That is why the invoice is simple. Peggy said were
> to
> send a supplemental e-mail to her each month listing
> our monthly activities, again without time billing.
>
> It seems that the invoice described by Edgardo
> better
> fits a different project.
>
> Talk to you soon,
>
> Job
>
> --- jthompson@eac.gov wrote:
>

> > Here's the information you wanted. I don't have
> > Tova's email. Can you
> > forward this to her?
> >
> > Juliet E. Thompson
> > General Counsel
> > United States Election Assistance Commission
> > 1225 New York Ave., NW, Ste 1100
> > Washington, DC 20005
> > (202) 566-3100
> > ----- Forwarded by Juliet E. Thompson/EAC/GOV on
> > 10/25/2005 03:49 PM -----
> >
> > Edgardo Cortes/EAC/GOV
> > 10/25/2005 03:45 PM
> >
> > To
> > Juliet E. Thompson/EAC/GOV@EAC
> > cc
> >
> > Subject
> > Re: Invoice information
> >
> >
> >
> >
> >
> > Julie, here are the notes you can send to Job and
> > Tova (I don't have their
> > email addresses). If they have any more
> questions,
> > let me know and I will
> > get the answer. Thanks.
> > -Edgardo
> >
> >
> >
> > Here are some notes that may be useful in
> preparing
> > for invoicing and
> > reporting for your contracts.
> >
> > Invoices should include two main sections - direct
> > and indirect costs.
> >
> > Under the direct costs, the total number of hours
> > devoted to each task
> > should be listed as well as the task. This does
> not
> > have to be broken
> > down by individual, only by task.
> > You must maintain accurate time sheets for each
> > person working on the
> > project detailing how many hours were spent on
> each
> > task. Time should be
> > kept in quarter hour increments.
> >
> > Indirect costs include any subcontractor costs.
> >
> > Invoices should be submitted on a monthly basis.

> > Your Contracting
> > Representative will review the invoice and
> > supporting documentation and
> > either approve the invoice or ask for additional
> > information.
> >
> > You must provide written notice to the EAC project
> > manager when 75% of the
> > contract funds have been committed. This includes
> > signing any sub
> > contracts, etc. and does not necessarily coincide
> > with when 75% of the
> > money is disbursed.
> >
> > Federal contract records need to be available for
> > seven (7) years for
> > audit purposes. Please make sure to keep all
> > pertinent records including
> > receipts, time sheets, etc. in a secure place so
> > that they can be accessed
> > if the need arises.
> >
> > Edgardo Cortés
> > Election Research Specialist
> > U.S. Election Assistance Commission
> > 1225 New York Ave. NW, Ste. 1100
> > Washington, DC 20005
> > 866-747-1471 toll free
> > 202-566-3126 direct
> > 202-566-3127 fax
> > ecortes@eac.gov
>
>
>

Juliet E. Thompson/EAC/GOV
10/25/2005 04:13 PM

To "Job Serebrov" <[redacted]GSAEXTERNAL
cc
bcc
Subject Re: Fw: Invoice information

Go with what Peggy gave you. I was not in on the initial conversations on how this project would work. I asked Edgardo to put together some information that he distributed to other contractors, as I thought it was appropriate for their contracts. If this is not appropriate for your contract, that's fine. Again, I was not in on those discussions. Go with Peggy's instructions.

Sorry that I can't talk to you right now, but I'm in a meeting and multi-tasking as others talk.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Job Serebrov" <[redacted]t>

"Job Serebrov"
<[redacted]>
10/25/2005 04:07 PM

To jthompson@eac.gov
cc
Subject Re: Fw: Invoice information

Julie:

For our conversation, this information directly contradicts what Peggy and I just discussed. She indicated that an invoice be in this form:

Job Serebrov
Attorney at Law
2110 S. Spring Street
Little Rock, AR 72206

October 25, 2005

INVOICE # 1

$8,333.33-Month One: Providing Consulting Services in the Development of a Voting Fraud and Voter Intimidation Project.

No expenses-Month One: Providing Consulting Services in the Development of a Voting Fraud and Voter Intimidation Project.

Total=$8,333.33

Further, when we first started discussions on this

project with Karen, Tom and the gang we agreed that time billing was not a valid option for either of us. That is why the invoice is simple. Peggy said were to send a supplemental e-mail to her each month listing our monthly activities, again without time billing.

It seems that the invoice described by Edgardo better fits a different project.

Talk to you soon,

Job

--- jthompson@eac.gov wrote:

> Here's the information you wanted. I don't have
> Tova's email. Can you
> forward this to her?
>
> Juliet E. Thompson
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100
> ----- Forwarded by Juliet E. Thompson/EAC/GOV on
> 10/25/2005 03:49 PM -----
>
> Edgardo Cortes/EAC/GOV
> 10/25/2005 03:45 PM
>
> To
> Juliet E. Thompson/EAC/GOV@EAC
> cc
>
> Subject
> Re: Invoice information
>
>
>
>
>
> Julie, here are the notes you can send to Job and
> Tova (I don't have their
> email addresses). If they have any more questions,
> let me know and I will
> get the answer. Thanks.
> -Edgardo
>
>
>
> Here are some notes that may be useful in preparing
> for invoicing and
> reporting for your contracts.
>
> Invoices should include two main sections - direct
> and indirect costs.
>
> Under the direct costs, the total number of hours
> devoted to each task
> should be listed as well as the task. This does not

> have to be broken
> down by individual, only by task.
> You must maintain accurate time sheets for each
> person working on the
> project detailing how many hours were spent on each
> task. Time should be
> kept in quarter hour increments.
>
> Indirect costs include any subcontractor costs.
>
> Invoices should be submitted on a monthly basis.
> Your Contracting
> Representative will review the invoice and
> supporting documentation and
> either approve the invoice or ask for additional
> information.
>
> You must provide written notice to the EAC project
> manager when 75% of the
> contract funds have been committed. This includes
> signing any sub
> contracts, etc. and does not necessarily coincide
> with when 75% of the
> money is disbursed.
>
> Federal contract records need to be available for
> seven (7) years for
> audit purposes. Please make sure to keep all
> pertinent records including
> receipts, time sheets, etc. in a secure place so
> that they can be accessed
> if the need arises.
>
> Edgardo Cortés
> Election Research Specialist
> U.S. Election Assistance Commission
> 1225 New York Ave. NW, Ste. 1100
> Washington, DC 20005
> 866-747-1471 toll free
> 202-566-3126 direct
> 202-566-3127 fax
> ecortes@eac.gov

Juliet E. Thompson/EAC/GOV
08/26/2005 03:38 PM

To Karen Lynn-Dyson/EAC/GOV@EAC
cc
bcc
Subject Re: Kick off activities for the EAC Voting fraud/voter intimidation project

Wed i think chack with Nicole so as to avoid conflicting with the GAO meeting

---
Sent from my BlackBerry Wireless Handheld
Karen Lynn-Dyson

From: Karen Lynn-Dyson
Sent: 08/26/2005 03:32 PM
To: sda@mit.edu; wang@tcf.org; [redacted]
Cc: Thomas Wilkey; Nicole Mortellito; Juliet Thompson
Subject: Re: Kick off activities for the EAC Voting fraud/voter intimidation project

All-

Although Tom Wilkey and I are still working to process each of your contracts on this project, we would like to tentatively schedule an in-person meeting on September 12, here in Washington.

In the meantime, I'd like to propose that we all have a short teleconference call next Wednesday or Thursday at 1:00 PM to begin to talk through the scope of this project and the respective roles and responsibilities each of you might take on.

Could you let me know your availability for a 45 minute call on August 31 or September 1 at 1:00?

Thanks

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

Juliet E. Hodgkins/EAC/GOV
12/05/2006 03:12 PM

To "Tova Wang" <wang@tcf.org>@GSAEXTERNAL
cc [redacted]
bcc
Subject RE: fraud and intimidation report

Unfortunately, the issue is not whether either of you would/could release the document, but the fact that releasing it at all to non-EAC employees could be viewed as a waiver of our privilege.

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Tova Wang" <wang@tcf.org>

"Tova Wang" <wang@tcf.org>
12/05/2006 09:09 AM

To jhodgkins@eac.gov
cc [redacted]
Subject RE: fraud and intimidation report

Thanks Julie. What if we both agreed to sign a confidentiality agreement, embargoing any discussion of the report until after it is released? Tova

Tova Andrea Wang, Democracy Fellow
The Century Foundation
1333 H Street, NW, Washington, D.C. 20005
(202) 741-6263
Visit our Web site, www.tcf.org, for the latest news, analysis, opinions, and events.

-----Original Message-----
From: jhodgkins@eac.gov [mailto:jhodgkins@eac.gov]
Sent: Monday, December 04, 2006 4:57 PM
To: wang@tcf.org
Cc: [redacted]
Subject: Re: fraud and intimidation report

Tova & Job,

As you know, because the two of you are no longer under contract with the EAC, EAC is not afforded the same protections as if you were still functioning as EAC employees. As such, releasing the document to you would be the same as releasing it to any other member of the public.

Thus, EAC will not be able to release a copy of the proposed final report to you prior to its consideration and adoption by the Commission. The Commission will take up this report at its meeting on Thursday, Dec. 7. I

will have a copy available for you immediatley following their consideration - assuming that they do not change the report during their deliberations and voting on Dec. 7. If changes are made, I will have a copy available to you as soon as possible following that meeting.

In the final report, you will see that EAC took the information and work provided by the two of you and developed a report that summarizes that work , provides a definition for use in future study, and adopts parts or all of many of the recommendations made by you and the working group. In addition, you will note that EAC will make the entirety of your interview summaries, case summaries, and book/report summaries available to the public as appendixes to the report.

I know that you are anxious to read the report and that you may have questions that you would like to discuss following the release of the report. Please feel free to contact me with those questions or issues.

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100

wang@tcf.org

12/01/2006 02:07 PM

To jthompson@eac.gov

cc "Job Serebrov" <[redacted]t>

Subject fraud and intimidation report

Julie,

I understand from Tom Wilkey that you are planning on releasing our report at the public meeting next Thursday, December 7. As we discussed, I respectfully request that Job and I be permitted to review what you are releasing before it is released. I would like us both to be provided with an embargoed copy as soon as possible so we have time to properly review it before Thursday. I can be contacted by email, cell phone at [redacted] or office phone 202-741-6263. I hope to hear from you soon. Thanks.

Tova

Juliet E. Thompson/EAC/GOV
11/15/2005 06:20 PM

To "Tova Wang" <wang@tcf.org>@GSAEXTERNAL
cc Margaret Sims/EAC/GOV@EAC
bcc
Subject RE: contract

I believe that is correct. What I think you might also be concerned about is the timelines for completion. If you, Job and Peggy need to work out a revised completion schedule, then I would encourage you to do that. We recognize that our delays have impacted the original schedule and that adjustments should be noted accordingly.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Tova Wang" <wang@tcf.org>

"Tova Wang" <wang@tcf.org>
11/15/2005 06:17 PM

To jthompson@eac.gov
cc psims@eac.gov
Subject RE: contract

I guess for getting paid purposes it doesn't matter, it just matters with respect to the timeline for completion of the project. If thats right, I will sign and send the letter acknowledging receipt as is. Thanks so much.

Tova

-----Original Message-----
From: jthompson@eac.gov [mailto:jthompson@eac.gov]
Sent: Tuesday, November 15, 2005 6:14 PM
To: wang@tcf.org
Cc: psims@eac.gov
Subject: Re: contract

The invoice that you have submitted at this point is for work conducted in September, September 1 - 30.

The invoice that you will submit shortly, if you have not already is for work performed in October, 1- 31.

I am not sure if we are semantically calling these by different names (i.e., you submitted the Septebmer invoice in October, and October's work in November).

Let me know if this clarifies the point or confuses it.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100

"Tova Wang" <wang@tcf.org>

11/15/2005 01:33 PM

To psims@eac.gov, jthompson@eac.gov
cc
Subject contract

Just one question on the receipt of contract -- it says that the first invoice was for September, but it actually was for October when we really got started, right? Should this be adjusted to say October 1 to October 31?

Thanks.

Tova
-----Original Message-----
From: psims@eac.gov [mailto:psims@eac.gov]
Sent: Thursday, November 10, 2005 3:28 PM
To: s[redacted]; wang@tcf.org
Subject: Letters Were Signed

Job and Tova:

The Chair signed your letters this afternoon. Diana Scott has them and plans to fax everything to you. Have a good weekend!

Peggy Sims
Research Specialist
U.S. Election Assistance Commission
1225 New York Ave, NW - Ste 1100
Washington, DC 20005
Phone: 866-747-1471 (toll free) or 202-566-3120 (direct)
Fax: 202-566-3127
email: psims@eac.gov

Juliet E. Thompson/EAC/GOV
11/15/2005 06:13 PM

To "Tova Wang" <wang@tcf.org>@GSAEXTERNAL
cc Margaret Sims/EAC/GOV@EAC
bcc
Subject Re: contract

The invoice that you have submitted at this point is for work conducted in September, September 1 - 30.

The invoice that you will submit shortly, if you have not already is for work performed in October, 1- 31.

I am not sure if we are semantically calling these by different names (i.e., you submitted the Septebmer invoice in October, and October's work in November).

Let me know if this clarifies the point or confuses it.

Juliet E. Thompson
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
"Tova Wang" <wang@tcf.org>

"Tova Wang"
<wang@tcf.org>
11/15/2005 01:33 PM

To psims@eac.gov, jthompson@eac.gov
cc
Subject contract

Just one question on the receipt of contract -- it says that the first invoice was for September, but it actually was for October when we really got started, right? Should this be adjusted to say October 1 to October 31?

Thanks.

Tova

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From: psims@eac.gov [mailto:psims@eac.gov]
Sent: Thursday, November 10, 2005 3:28 PM
To: [redacted]; wang@tcf.org
Subject: Letters Were Signed

Job and Tova:

The Chair signed your letters this afternoon. Diana Scott has them and plans to fax everything to you. Have a good weekend!

Peggy Sims
Research Specialist

U.S. Election Assistance Commission
1225 New York Ave, NW - Ste 1100
Washington, DC 20005
Phone: 866-747-1471 (toll free) or 202-566-3120 (direct)
Fax: 202-566-3127
email: psims@eac.gov

Jeannie Layson /EAC/GOV
12/13/2006 09:01 AM

To jthompson@eac.gov
cc
bcc
Subject Tova

Wanted to make sure you saw this from yesterday's clips. This was posted on Rick Hasen's blog:

Tova Wang, who authored the draft report for the EAC, issued the following statement to me: "My co-consultant and I provided the EAC with a tremendous amount of research and analysis for this project. The EAC released what is their report yesterday."

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

"Job Serebrov" [redacted]

12/09/2006 10:19 AM

To jhodgkins@eac.gov
cc
bcc
Subject Fwd: Conclusions

Julie:

I sent this to Tova on Saturday to make it clear about my feelings and what my actions will be if she proceeds with her protest any further. I think it makes it clear that she would be fighting both of us. I know I am going to hear from her on this but the issue needs to be put to bed.

Job

--- Job Serebrov [redacted] wrote:

> Date: Sat, 9 Dec 2006 07:17:24 -0800 (PST)
> From: Job Serebrov [redacted]
> Subject: Conclusions
> To: Tova Wang <wang@tcf.org>
>
> Tova:
>
> I spoke to Julie late yesterday and she told me that
> you sent a letter, as you said you would. I must ask
> you to drop this if your request is denied. We were
> never guaranteed that our report, paid for by the
> EAC,
> would be published in the form that we sent it or
> with
> the conclusions that we arrived at.
>
> As I told you, I am satisfied with the published
> report from the EAC. I can live with the removal of
> the Donsanto comment and the other alterations. What
> I
> am very concerned about is that further action on
> your
> part would cause the EAC, in defending its final
> report, to criticize the report we submitted or to
> attack our report out right as some how unusable,
> even
> if this is not the case. Should this occur, I will
> defend both the final EAC report and our submission
> which will leave you alone fighting a two front war.
> I
> think it is more important to preserve the integrity
> of the over all project submission than to press the
> issue over how it was used. I hope this will not be
> necessary.
>
> Job
>

"Job Serebrov" [redacted]
12/07/2006 01:18 PM

To jhodgkins@eac.gov
cc
bcc
Subject Report

Julie:

Well I see you left out the controversial Donsanto remark. I really think the report is well done. It should have served to satisfy both sides---but wait---there is the Tova on the war path factor. Tova is totally disgusted with the report. She especially hates the omission of the summaries of the various sections (interviews, case law, reports, literature, and interviews). She is really upset with the Donsanto omission. I can see her going to some of the members of Congress she knows and trying to get a hearing. I know she will be sending you a letter, asking or demanding that you retract this report and publish the original one we submitted.

I told her that I am satisfied with the report and that I will have nothing to do with her future actions---which I expect will be plentiful like Santa's Christmas gifts or like the bubonic plague. In any case, this is a Tova production.

Now for the I told you so---this would have been far better had we been able to stick to the original plan to have me do this project alone. I told you so!!!

Keep a stiff upper lip,

Job

"Job Serebrov" [redacted]
12/05/2006 03:14 PM

To jhodgkins@eac.gov
cc
bcc
Subject RE: fraud and intimidation report

History: This message has been replied to.

Julie:

I was hoping that my e-mail reply to Tova would end all of this. On another note, Las Veas fell apart mostly due to timing issues. Unfortunately that leaves me, for now, looking for a job. Any ideas?

Job

--- jhodgkins@eac.gov wrote:

> Unfortunately, the issue is not whether either of
> you would/could release
> the document, but the fact that releasing it at all
> to non-EAC employees
> could be viewed as a waiver of our privilege.
>
>
> Juliet Thompson Hodgkins
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100
>
>
>
> "Tova Wang" <wang@tcf.org>
> 12/05/2006 09:09 AM
>
> To
> jhodgkins@eac.gov
> cc
> [redacted]
> Subject
> RE: fraud and intimidation report
>
>
>
>
>
>
> Thanks Julie. What if we both agreed to sign a
> confidentiality agreement,
> embargoing any discussion of the report until after
> it is released? Tova
>
>

> Tova Andrea Wang, Democracy Fellow
> The Century Foundation
> 1333 H Street, NW, Washington, D.C. 20005
> (202) 741-6263
> Visit our Web site, www.tcf.org, for the latest
> news, analysis, opinions,
> and events.
>
>
> -----Original Message-----
> From: jhodgkins@eac.gov [mailto:jhodgkins@eac.gov]
> Sent: Monday, December 04, 2006 4:57 PM
> To: wang@tcf.org
> Cc: [redacted]
> Subject: Re: fraud and intimidation report
>
>
> Tova & Job,
>
> As you know, because the two of you are no longer
> under contract with the
> EAC, EAC is not afforded the same protections as if
> you were still
> functioning as EAC employees. As such, releasing
> the document to you
> would
> be the same as releasing it to any other member of
> the public.
>
> Thus, EAC will not be able to release a copy of the
> proposed final report
> to
> you prior to its consideration and adoption by the
> Commission. The
> Commission will take up this report at its meeting
> on Thursday, Dec. 7. I
> will have a copy available for you immediatley
> following their
> consideration
> - assuming that they do not change the report during
> their deliberations
> and
> voting on Dec. 7. If changes are made, I will have
> a copy available to
> you
> as soon as possible following that meeting.
>
> In the final report, you will see that EAC took the
> information and work
> provided by the two of you and developed a report
> that summarizes that
> work
> , provides a definition for use in future study, and
> adopts parts or all
> of
> many of the recommendations made by you and the
> working group. In
> addition,
> you will note that EAC will make the entirety of
> your interview summaries,
> case summaries, and book/report summaries available

> to the public as
> appendixes to the report.
>
> I know that you are anxious to read the report and
> that you may have
> questions that you would like to discuss following
> the release of the
> report. Please feel free to contact me with those
> questions or issues.
>
> Juliet Thompson Hodgkins
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100
>
>
>
> wang@tcf.org
>
> 12/01/2006 02:07
> To
>
> PM
> jthompson@eac.gov
>
> cc
>
> "Job
> Serebrov"
>
> [redacted]
>
> Subject
>
> fraud and
> intimidation report
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>
> Julie,
>
> I understand from Tom Wilkey that you are planning
> on releasing our report
> at the public meeting next Thursday, December 7. As
> we discussed, I
> respectfully request that Job and I be permitted to
> review what you are
> releasing before it is released. I would like us
> both to be provided with
> an embargoed copy as soon as possible so we have
> time to properly review
> it

> before Thursday. I can be contacted by email, cell
> phone at [redacted]
> or
> office phone 202-741-6263. I hope to hear from you
> soon. Thanks.
>
> Tova
>
>
>
>
>

"Job Serebrov" [redacted]
12/05/2006 09:43 AM

To "Tova Wang" <wang@tcf.org>, jhodgkins@eac.gov
cc
bcc
Subject RE: fraud and intimidation report

Tova:

I don't want to go that far. I am fine with a Thursday release given the circumstances that we are under.

Job

Tova Wang <wang@tcf.org> wrote:
Thanks Julie. What if we both agreed to sign a confidentiality agreement, embargoing any discussion of the report until after it is released? Tova

Tova Andrea Wang, Democracy Fellow
The Century Foundation
1333 H Street, NW, Washington, D.C. 20005
(202) 741-6263
Visit our Web site, www.tcf.org, for the latest news, analysis, opinions, and events.

-----Original Message-----
From: jhodgkins@eac.gov [mailto:jhodgkins@eac.gov]
Sent: Monday, December 04, 2006 4:57 PM
To: wang@tcf.org
Cc: [redacted]
Subject: Re: fraud and intimidation report

Tova & Job,

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- assuming that they do not change the report during their deliberations and voting on Dec. 7. If changes are made, I will have a copy available to you as soon as possible following that meeting.

In the final report, you will see that EAC took the information and work provided by the two of you and developed a report that summarizes that work , provides a definition for use in future study, and adopts parts or all of many of the recommendations made by you and the working group. In addition, you will note that EAC will make the entirety of your interview summaries, case summaries, and book/report summaries available to the public as appendixes to the report.

I know that you are anxious to read the report and that you may have questions that you would like to discuss following the release of the report. Please feel free to contact me with those questions or issues.

Juliet Thompson Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100

wang@tcf.org

12/01/2006 02:07 To
PM jthompson@eac.gov
cc
"Job Serebrov"

Subject
fraud and intimidation report

Julie,

I understand from Tom Wilkey that you are planning on releasing our report at the public meeting next Thursday, December 7. As we discussed, I respectfully request that Job and I be permitted to review what you are releasing before it is released. I would like us both to be provided with an embargoed copy as soon as possible so we have time to properly review it before Thursday. I can be contacted by email, cell phone at [redacted] or office phone 202-741-6263. I hope to hear from you soon. Thanks.

Tova

"Job Serebrov"
<[redacted]>
11/18/2005 02:36 PM

To jthompson@eac.gov
cc
bcc
Subject Re: Answer

Ok.

--- jthompson@eac.gov wrote:

> I would not include issues of discrimination under
> the civil jurisdiction,
> but would include election crimes that are enforced
> through DOJ's criminal
> division.
>
> Juliet E. Thompson
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100
>
>
>
> "Job Serebrov" [redacted]>
> 11/18/2005 01:34 PM
>
> To
> jthompson@eac.gov
> cc
>
> Subject
> Answer
>
>
>
>
>
>
> Julie:
>
> Do you have an answer for me on the DOJ issue? We
> have
> a conference call in half an hour.
>
> Job
>
>
>

"Job Serebrov"
<[redacted]t>
11/18/2005 01:34 PM

To jthompson@eac.gov
cc
bcc
Subject Answer

History: This message has been replied to

Julie:

Do you have an answer for me on the DOJ issue? We have a conference call in half an hour.

Job

"Job Serebrov" [redacted]
11/18/2005 01:34 PM

To jthompson@eac.gov
cc
bcc
Subject Answer

Julie:

Do you have an answer for me on the DOJ issue? We have a conference call in half an hour.

Job

"Job Serebrov" [redacted]>
11/18/2005 10:10 AM

To jthompson@eac.gov
cc
bcc
Subject Re: Question

Both criminal and civil

--- jthompson@eac.gov wrote:

> As to paragraph 1, are you referring to criminal
> division actions or civil
> division actions?
>
> As to paragraph 2, I have talked to Karen. At this
> time, the anticipation
> is that the future project on this will be
> competitively let, and you and
> others will, of course, be able to respond to the
> solicitation. We are
> not sure what our needs will be for
> consultants/experts on this issue or
> other issues at this time.
>
> Juliet E. Thompson
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100
>
>
>
> "Job Serebrov" <[redacted]>
> 11/18/2005 09:27 AM
>
> To
> jthompson@eac.gov
> cc
>
> Subject
> Question
>
>
>
>
>
>
> Julie:
>
> I need clarification on something in the project
> before the conference call at 2:00 today between
> Peggy, Tova, and me. How much of what we are
> investigating should involve DOJ's jurisdictional
> matters under such things as the Voting Rights Act?
>
> Also, did you have a chance to talk to Karen about a
> second project? I need to know because if there will

> not be one I will have to get a job with a local law
> firm until the 2006 elections.
>
> Job
>
>
>

"Job Serebrov" [redacted]>
11/18/2005 09:27 AM

To jthompson@eac.gov
cc
bcc
Subject Question

History: This message has been replied to

Julie:

I need clarification on something in the project before the conference call at 2:00 today between Peggy, Tova, and me. How much of what we are investigating should involve DOJ's jurisdictional matters under such things as the Voting Rights Act?

Also, did you have a chance to talk to Karen about a second project? I need to know because if there will not be one I will have to get a job with a local law firm until the 2006 elections.

Job

"Job Serebrov"
[redacted]
11/03/2006 07:08 PM

To jhodgkins@eac.gov
cc
bcc
Subject Re: Please send me the summary

More

--- jhodgkins@eac.gov wrote:

> Juliet Thompson Hodgkins
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100

GAO_Report__JS_.doc
indiana_litigation___official.doc
Section_5_Recommendation_Memorandum_summary.doc
Securing_the_Vote.doc
Shattering_the_Myth.doc
South_Dakota_FINAL.doc
Steal_this_Vote_Review_final.doc
The_Long_Shadow_of_Jim_Crow.doc
The_New_Poll_Tax__JS_.doc
Washington_FINAL.doc
Wisconsin_Audit_Report.doc
Wisconsin_FINAL.doc
Wisconsin_Vote_Fraud_TF.doc

"Job Serebrov"
[redacted]
11/03/2006 07:04 PM

To jhodgkins@eac.gov
cc
bcc
Subject Re: Please send me the summary

History: This message has been replied to and forwarded.

Julie:

You should have these as existing literature summaries.

Job

--- jhodgkins@eac.gov wrote:

> Juliet Thompson Hodgkins
> General Counsel
> United States Election Assistance Commission
> 1225 New York Ave., NW, Ste 1100
> Washington, DC 20005
> (202) 566-3100

A_Funny_ThingReview.doc
American_Center_Report_FINAL.doc
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Chandler_Davidson_summary____official.doc
Crazy_Quilt.doc
Deliver_the_Vote_Review.doc
dnc_ohio.doc
DOJ_Public_Integrity_Reports__JS_.doc
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Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote

GAO Report

In 2002, the Help America Vote Act (HAVA) was enacted and, among other things, it requires states to implement provisional voting for elections for federal office. HAVA, in general, requires that individuals not listed as registered or whose eligibility is questioned by an election official must be notified about and permitted to cast a provisional ballot that is set aside for review by election officials at a later time so that they can determine whether the person is eligible to vote under state law. HAVA also requires that provisional ballots be provided to first-time voters who had registered to vote by mail on or after January 1, 2003, but were unable to show photo identification or another qualifying identification document when voting in person or by mail in a federal election. In addition, HAVA requires that election officials must provide access to information that permits voters to learn if their provisional ballot was counted, and, if not, why not.

This Report focuses on the efforts of local election officials in 14 jurisdictions within 7 states to manage the registration process, maintain accurate voter registration lists, and ensure that eligible citizens in those jurisdictions had the opportunity to cast ballots during the 2004 election. Specifically, for the 2004 election, the Report concentrates on election officials' characterization of their experiences with regard to (1) managing the voter registration process and any challenges related to receiving voter registration applications; checking them for completeness, accuracy, and duplication; and entering information into voter registration lists; (2) removing voters' names from voter registration lists and ensuring that the names of eligible voters were not inadvertently removed; and (3) implementing HAVA provisional voting and identification requirements and addressing any challenges encountered related to these requirements. The Report also provides information on motor vehicle agency (MVA) officials' characterization of their experiences assisting citizens who apply to register to vote at MVA offices and forwarding voter registration applications to election offices.

The Report analyzed information collected from elections and motor vehicle agency offices in seven states—Arizona, California, Michigan, New York, Texas, Virginia, and Wisconsin. These states take various approaches to administering elections. Within each of the seven states, using population data from the 2000 U.S. Census, two jurisdictions were selected: a local jurisdiction with a large population and a local jurisdiction with a small population. The 14 jurisdictions we selected were Gila and Maricopa Counties, Arizona; Los Angeles and Yolo Counties, California; City of Detroit and Delta Township, Michigan; New York City and Rensselaer County, New York; Bexar and Webb Counties, Texas; Albemarle and Arlington Counties, Virginia; and the cities of Franklin and Madison, Wisconsin.

Information was gathered for the Report in a number of ways. First, relevant laws, state reports, and documents related to the voter registration process in the seven states were reviewed. Second, state and local election officials in the 7 states and 14 jurisdictions

were interviewed to obtain information on their registration processes and implementation of the HAVA requirements for provisional voting and voter identification. Third, a survey was sent to election officials in the 14 jurisdictions to gather information about their experiences with the November 2004 election. Finally, a survey was sent to state and local MVA officials in 6 of the 7 states and 12 of the 14 jurisdictions. The survey primarily asked questions about the MVA offices' experiences with (1) assisting citizens with completing voter registration applications, (2) forwarding the applications to election offices, and (3) responding to individuals and state or local election officials who contacted their offices about individuals who declared they had applied to register to vote at MVA offices but their names were not on voter registration lists when they went to vote in the November 2004 election.

Election officials representing all but one of the jurisdictions surveyed following the November 2004 election said they faced some challenges managing the voter registration process, including (1) receiving voter registration applications; (2) checking them for completeness, accuracy, and duplication; and (3) entering information into voter registration lists; when challenges occurred, election officials reported they took various steps to address them. Officials in 7 of the 14 jurisdictions reported that their staff faced challenges checking voter registration applications for completeness, accuracy, or duplicates. According to these officials, these challenges occurred for a variety of reasons, including problems contacting individuals to obtain complete and accurate information and insufficient staffing to check the applications. They reported that, among other things, their staff addressed these challenges by sending letters or calling applicants to obtain correct information. Finally, 6 of the 14 election officials reported that their staff faced challenges entering or scanning voter information into registration lists for reasons such as the volume of applications received close to Election Day and problems with the scanning equipment. To address these challenges, they reported that more staff were hired and staff worked overtime.

All but 1 of the jurisdictions reported removing names from registration lists during 2004 for various reasons, including that voters requested that their names be removed from the voter registration list; information from the U.S. Postal Service (USPS) showing that voters had moved outside the jurisdiction; felony records received from federal, state, or local governments identifying voters as ineligible due to felony convictions; and death records received from state or local vital statistics offices. When removing names from registration lists, election officials reported that they took various steps to ensure that the names of eligible voters were not inadvertently removed from voter registration lists. These steps included sending letters or postcards to registrants to verify that voters wanted their names removed; matching voters' identifying information with USPS data and sending voters identified by USPS as having moved outside the jurisdiction notices of removal; and matching voter registration records with felony records or death records to confirm it was the same person.

All of the jurisdictions reported that they permitted citizens to cast provisional ballots during the November 2004 election. In addition, 12 of the 14 jurisdictions to which this was applicable reported that they offered certain first-time voters who registered by mail

the opportunity to cast provisional ballots. Election officials in 13 of the 14 jurisdictions reported that 423,149 provisional ballots were cast, and 70 percent (297,662) were counted. Not all provisional votes were counted because, as election officials reported, not all provisional ballots met states' criteria for determining which ballots should be counted. Reasons that provisional ballots cast during the 2004 election were not counted, as reported by election officials, included, among others, that individuals did not meet the residency eligibility requirements, had not registered or tried to register to vote with the election office, had not submitted the voter registration applications at motor vehicle agency offices, or election officials did not have time to enter information from applicants into their voter registration lists because applications were received at the election offices very close to or after the state registration deadline.

Local election officials in 12 of the 13 jurisdictions 13 we surveyed reported that they set up mechanisms to inform voters—without cost—about the outcome of their provisional votes during the November 2004 election. These mechanisms included toll-free telephone numbers, Web sites, and letters sent to the voters who cast provisional ballots. Election officials also reported that provisional voters in their jurisdictions received written information at their polling places about how to find out the outcome of their provisional ballots, and provisional voters in 8 of the 13 jurisdictions had the opportunity to access information about the outcome of their ballots within 10 days after the election. Finally, election officials representing 8 of the 14 jurisdictions reported facing challenges implementing provisional voting for various reasons, including some poll workers not being familiar with provisional voting or, in one jurisdiction representing a large number of precincts, staff not having sufficient time to process provisional ballots. To address these challenges, the officials reported that they provided additional training to poll workers and hired additional staff to count provisional ballots.

INDIANA ID LITIGATION SUMMARY

MEMORANDUM IN SUPPORT OF DEMOCRATS. MOTION FOR SUMMARY JUDGMENT

Although the proponents of SEA 483 asserted that the law was intended to combat voter fraud, no evidence of the existence of such fraud has ever been provided. No voter has been convicted of or even charged with the offense of misrepresenting his identity for purposes of casting a fraudulent ballot in person, King Dep. 95-96; Mahern Aff. ¶¶ 2-3, though there have been documented instances of absentee ballot fraud. King Dep. 120. Indeed, no evidence of in person, on-site voting fraud was presented to the General Assembly during the legislative process leading up to the enactment of the Photo ID Law. Mahern Aff. ¶¶ 2-

The State cannot show any compelling justification for subjecting only voters who vote in person to the new requirements of the Photo ID Law, while exempting absentee voters who vote by mail or persons who live in state-certified residential facilities.
On the other hand, absentee ballots are peculiarly vulnerable to coercion and vote tampering since there is no election official or independent election observer available to ensure that there is no illegal coercion by family members, employers, churches, union officials, nursing home administrators, and others.

The Law gives virtually unbridled discretion to partisan precinct workers and challengers to make subjective determinations such as (a) whether a form of photo identification produced by a voter conforms to what is required by the Law, and (b) whether the voter presenting himself or herself at the polls is in fact the voter depicted in the photo. Robertson Dep. 29-34, 45; King Dep. 86, 89. This is significant because any voter who is challenged under this Law will be required to vote by provisional ballot and to make a special trip to the election board.s office in order to have his vote counted. Robertson Dep. 37; King Dep. 58.

The Photo ID Law confers substantial discretion, not on law enforcement officials, but on partisan precinct poll workers and challengers appointed by partisan political officials, to determine both whether a voter has presented a form of identification which conforms to that required by the Law and whether the person presenting the identification is the person depicted on it. Conferring this degree of discretion upon partisan precinct officials and members of election boards to enforce the facially neutral requirements of the Law has the potential for becoming a means of suppressing a particular point of view.

The State arguably might be justified in imposing uniform, narrowly-tailored and not overly-burdensome voter identification requirements if the State were able to show that there is an intolerably high incidence of fraud among voters misidentifying themselves at the polls for the purpose of casting a fraudulent ballot. But here, the State has utterly failed to show that this genre of fraud is rampant or even that it has ever occurred in the context of on-site, in-person voting (as opposed to absentee voting by mail) so as to justify these extra burdens, which will fall disproportionately on the poor and elderly.

In evaluating the breadth of the law and whether the State has used the least restrictive means for preventing fraud, the Court must take into account the other mechanisms the State currently employs to serve the statute's purported purposes, as well as other, less restrictive means it could reasonably employ. *Krislov,* 226 F.3d at 863. The State of Indiana has made it a felony for a voter to misrepresent his or her identity for purposes of casting a fraudulent ballot.

And where the State has already provided a mechanism for matching signatures, has made it a crime to misrepresent one's identity for purposes of voting, and requires the swearing out of an affidavit if the voter's identity is challenged, it already has provisions more than adequate to prevent or minimize fraud in the context of in-person voting, particularly in the absence of any evidence that the problem the Law seeks to address is anything more than the product of hypothesis, speculation and fantasy.

MEMORANDUM OF THE STATE OF INDIANA, THE INDIANA SECRETARY OF STATE, AND THE CO-DIRECTORS OF THE INDIANA ELECTION DIVISION IN SUPPORT OF THEIR JOINT MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO THE MOTIONS FOR SUMMARY JUDGMENT FILED BY BOTH SETS OF PLAINTIFFS

In-person voter-identity fraud is notoriously difficult to detect and investigate. In his book *Stealing Elections*, John Fund observes that actual in-person voter fraud is nearly undetectable without a voter photo-identification requirement because anybody who provides a name that is on the rolls may vote and then walk away with no record of the person's actual identity. *See generally* John Fund, *Stealing Elections* (2004). The problem is only exacerbated by the increasingly transient nature of society. Documentation of in-person voter fraud often occurs only when a legitimate voter at the polls hears a fraudulent voter trying to use her name, as happened to a woman in California in 1994. *See* Larry J. Sabato & Glenn R. Simpson, *DirtyLittle Secrets* 292 (1996).

Regardless of the lack of extensive evidence of in-person voter fraud, the Commission on Federal Election Reform (known as the Baker-Carter Commission) recently concluded that "there is no doubt that it occurs." State Ex. 1, p. 18.[1] Legal cases as well as newspaper and other reports confirm that in-person voter-identity fraud, including voter impersonation, double votes, dead votes, and fake addresses, plague federal and state elections. [The memorandum details several specific cases of various types of alleged voting fraud from the past several years]

Though they are largely unable to study verifiable data concerning in-person voter fraud, scholars are well aware of the conditions that foster fraudulent voting. *See* Fund, *supra*; Sabato & Simpson, *supra*, 321. In particular, fraud has become ever more likely as "it has become more difficult to keep the voting rolls clean of 'deadwood' voters who have moved or died" because such an environment makes "fraudulent voting easier and therefore more tempting for those so inclined." Sabato & Simpson, *supra,* 321. "In

general, experts believe that one in five names on the rolls in Indiana do not belong there." State Ex. 25.

For this case, Clark Benson, a nationally recognized expert in the collection and analysis of voter-registration and population data, conducted his own examination of Indiana's voter registration lists and concluded that they are among the most highly inflated in the nation.

The Crawford Plaintiffs cite the concessions by Indiana Election Division Co-Director King and the Intervenor-State that they are unaware of any historical in-person incidence of voter fraud occurring at the polling place (Crawford Brief, p. 23) as conclusive evidence that in-person voter fraud does not exist in Indiana. They also seek to support this conclusion with the testimony of two "veteran poll watchers," Plaintiff Crawford and former president of the Plaintiff NAACP, Indianapolis Chapter, Roderick E. Bohannon, who testified that they had never seen any instances of in-person voter fraud. (*Id.*)

At best, the evidence on this issue is in equipoise. While common sense, the experiences of many other states, and the findings of the Baker-Carter Commission all lead to the reasonable inferences that (a) in-person polling place fraud likely exists, but (b) is nearly impossible to detect without requiring photo identification, the State can cite to no confirmed instances of such fraud. On the other hand, the Plaintiffs have no proof that it does not occur.

At the level of logic, moreover, it is just reasonable to conclude that the lack of confirmed incidents of in-person voting fraud in Indiana is the result of an ineffective identification security system as it is to conclude there is no in-person voting fraud in Indiana. So while it is undisputed that the state has no proof that in-person polling place fraud has occurred in Indiana, there does in fact remain a dispute over the existence *vel non* of in-person polling place fraud.

It is also important to understand that the nature of in-person election fraud is such that it is nearly impossible to detect or investigate. Unless a voter stumbles across someone else trying to use her identity, *see* Sabato & Simpson, *supra,* 292, or unless the over-taxed poll worker happens to notice that the voter's signature is different from her registration signature State Ext. 37, ¶ 9, the chances of detecting such in-person voter fraud are extremely small. Yet, inflated voter-registration rolls provide ample opportunity for those who wish to commit in-person voter fraud. *See* Fund, *supra,* 24, 65, 69, 138; Sabato & Simpson, *supra,* 321. And there is concrete evidence that the names of dead people have been used to cast fraudulent ballots. *See* Fund, *supra,* 64. Particularly in light of Indiana's highly inflated voter rolls State Ex. 27, p. 9, Plaintiffs' repeated claims that there has never been any in-person voter fraud in Indiana can hardly be plausible, even if the state is unable to prove that such fraud has in fact occurred.

Summary of the U.S Department of Justice Section 5 Recommendation Memorandum: August 25, 2005 regarding HB 244 – parts that pertain to the issue of voter fraud.

Overview: Five career attorneys with the civil rights department investigated and analyzed Georgia's election reform law. Four of those attorneys recommended objecting to Section 59, the voter identification requirement. The provision required all voters to present government issued photo identification in order to vote. The objection was based on the attorneys' findings that there was little to no evidence of polling place fraud, the only kind of fraud an ID requirement would address, and that the measure would disenfranchise many voters, predominantly minority voters, in violation of Section 5 of the Voting Rights Act.

Factual Analysis: The sponsor of the measure in the state legislature said she was motivated by the fact that she is aware of vote buying in certain districts; she read John Fund's book; and that "if there are fewer black voters because of this bill, it will only be because there is less opportunity for fraud. She said that when black voters in her black precincts are not paid to vote, they do not go to the polls."

A member of the Fulton County Board of Registrations and Elections said that prior to November 2004, Fulton County received 8,112 applications containing "missing or irregular" information. Only 55 of those registrants responded to BOE letters. The member concluded that the rest must be "bogus" as a result. He also stated that 15,237 of 105,553 precinct cards came back as undeliverable, as did 3,071 cards sent to 45,907 new voters. Of these 3,071, 921 voted.

Secretary of State Cathy Cox submitted a letter testifying to the absence of any complaints of voter fraud via impersonation during her tenure.

In the legal analysis, the attorneys state that if they determine that Georgia could have fulfilled its stated purpose of election fraud, while preventing or ameliorating the retrogression, an objection is appropriate. /They conclude that the state could have avoided retrogression by retaining various forms of currently accepted voter ID for which no substantiated security concerns were raised. Another non-retrogressive alternative would have been to maintain the affidavit alternative for those without ID, since "There is no evidence that penalty of law is an insufficient deterrent to falsely signing an affidavit of identity."

The attorneys point out that the state's recitation of a case upholding voter fraud in Dodge County does not support the purpose of the Act because that case involved vote buying and selling, not impersonation or voting under a false identity.

Securing the Vote: An Analysis of Election Fraud, by Lorraine Minnite

Professor Lori Minnite conducted a comprehensive survey and analysis of vote fraud in the United States. The methodology included doing nexis searches for all 50 states and surveying existing research and reports. In addition, Minnite did a more in-depth study of 12 diverse states by doing nexis searches, studying statutory and case law, and conducting interviews with election officials and attorneys general. Finally, the study includes an analysis of a few of the most high profile cases of alleged fraud in the last 10 years, including the Miami mayoral election (1997), Orange County congressional race (1996), and the general election in Missouri (2000). In these cases, Minnite shows that many allegations of fraud do not end up being meritorious.

Minnite finds that available evidence suggests that the incidence of election fraud is minimal and rarely affects election outcomes. Election officials generally do a very good job of protecting against fraud. Conditions that give rise to election fraud have steadily declined over the last century as a result of weakened political parties, strengthened election administration, and improved voting technology. There is little available evidence that election reforms such as the National Voter Registration Act, election day registration, and mail-in voting have resulted in increases in election fraud.

Election fraud appears also to be very rare in the 12 states examined more in-depth. Legal and news records turned up little evidence of significant fraud in these states or any indication that fraud is more than a minor problem. Interviews with state officials further confirmed this impression.

Minnite found that, overall, the absentee mail-in ballot process is the feature most vulnerable to voter fraud. There is not a lot of evidence of absentee ballot fraud but the potential for fraud is greatest in this area because of a lack of uniformly strong security measures in place in all states to prevent fraud.

Minnite suggest several reforms to prevent what voter fraud does take place. These include effective use of new statewide voter registration databases; identification requirements for first time voters who register by mail should be modified to expand the list of acceptable identifying documents; fill important election administration positions with nonpartisan professionals; strengthen enforcement through adequate funding and authority for offices responsible for detecting and prosecuting fraud; and establish Election Day Registration because it usually requires voter identification and authorization in person before a trained election worker, which reduces the opportunity for registration error or fraud.

Shattering the Myth: An Initial Snapshot of Voter Disenfranchisement in the 2004 Elections, People for the American Way, NAACP, Lawyers Committee for Civil Rights

Shattering the Myth is a description and analysis of the complaints and allegations of voting irregularities gathered by the Election Protection program during the 2004 presidential election. Election Protection was an effort involving hundreds of organizations and thousands of citizens to protect the voting rights of Americans across the country. The project included sending thousands of monitors to the polls and hosting a national toll free voters' rights hotline. EP mounted extensive field efforts in 17 states.

Election Protection received more than a thousand complaints of voter suppression or intimidation. Complaints ranged from intimidating experiences at polling places to coordinated suppression tactics. For example:

- Police stationed outside a Cook County, Illinois, polling place were requesting photo ID and telling voters if they had been convicted of a felony that they could not vote.
- In Pima, Arizona, voters at multiple polls were confronted by an individual, wearing a black tee shirt with "US Constitution Enforcer" and a military-style belt that gave the appearance he was armed. He asked voters if they were citizens, accompanied by a cameraman who filmed the encounters.
- There were numerous incidents of intimidation by partisan challengers at predominately low income and minority precincts
- Voters repeatedly complained about misinformation campaigns via flyers or phone calls encouraging them to vote on a day other than November 2, 2004 or of false information regarding their right to vote. In Polk County, Florida, for example, a voter received a call telling her to vote on November 3. Similar complaints were also reported in other counties throughout Florida. In Wisconsin and elsewhere voters received flyers that said:
    - "If you already voted in any election this year, you can't vote in the Presidential Election."
    - "If anybody in your family has ever been found guilty of anything you can't vote in the Presidential Election."
    - "If you violate any of these laws, you can get 10 years in prison and your children will be taken away from you."

There were also numerous reports of poll workers refusing to give voters provisional ballots.

The following is a summary of the types of acts of suppression and intimidation included in the report and a list of the states in which they took place. All instances of irregularities that were more administrative in nature have been omitted:

1. Improper implementation of voter identification rules, especially asking only African Americans for proof of identity: Florida, Ohio, Pennsylvania, Illinois, Missouri, Arkansas, Georgia, Louisiana

2. Individuals at the polls posing as some sort of law enforcement authority and intimidating and harassing voters: Arizona, Missouri
3. Intimidating and harassing challengers at the polls: Ohio, Michigan, Wisconsin, Missouri, Minnesota
4. Deceptive practices and disinformation campaigns, such as the use of flyers with intentional misinformation about voting rights or voting procedures, often directed at minority communities; the use of phone calls giving people misinformation about polling sites and other procedures; and providing verbal misinformation at the polls in a way that appears to have been intentionally misleading: Florida, Pennsylvania, Illinois, Wisconsin, Missouri, North Carolina, Arkansas, Texas
5. Refusal to provide provisional ballots to certain voters: Ohio, Pennsylvania, Illinois, Michigan, Colorado, Missouri, Texas, Georgia, Louisiana
6. Registration applications submitted through third parties that were not processed: Arizona, Michigan, Nevada (registration forms destroyed by Sproul Associates)
7. Improper removal from the voter registration list: Arizona
8. Individuals questioning voters' citizenship: Arizona
9. Police officers at the polls intimidating voters: Illinois, Michigan, Wisconsin, Missouri, North Carolina

The report does not provide corroborating evidence for the allegations it describes. However, especially in the absence of a log of complaints received by the Department of Justice, this report provides a very useful overview of the types of experiences some voters more than likely endured on Election Day in 2004.

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Summary of South Dakota Election Irregularities in 2002 and 2004

2002

In fall 2002, one of South Dakota's Senators, Democrat Tim Johnson, was up for re-election, and was engaged in a very close race with his Republican challenger, John Thune. Both parties were engaged in a massive voter registration effort, and registered over 24,000 new voters in the five months between the June primary and the November election, increasing the number of registered voters in the state from around 452,000 to 476,000.[1]

A month before the election, several counties reported irregularities in some of the voter registration documents they'd received. In response to these reports, South Dakota Attorney General, Mark Barrnett, with the state US Attorney and the FBI, launched an investigation.[2] Because of the importance of the race in determining the partisan balance of power in the Senate, the voter registration discrepancies got a good deal of national press, including a number of editorials accusing American Indians of stuffing ballot boxes.[3] The following allegations were also picked up by out-of-state newssources, including Fox News and the Wall Street Journal:

- Supporters of Thune, who lost the election by 524 votes, collected 47 affidavits from poll watchers claiming voting irregularities.
- Allegations were made that three individuals were offered money by Johnson supporters to vote.

Barrnett, who was alerted to the affidavits when he read an early media report that referred to them, stated that these allegations were either false or didn't warrant concern. "Most of the stuff that's in those other 47 affidavits are the kind of problems that we see in every election. People parking too close to the polling place with a sign in their window, people shooting their mouths off at the polling place. The kind of things that local election officials generally do a pretty good job of policing."[4] The allegations of voter bribery were false.

Though most of the allegations of fraud that were filed turned out to be false, Attorney General Barrnett's investigation did uncover two cases of voter registration fraud:

- The most high-profile case was that of Becky Red Earth-Villeda. Ms. Red Earth-Villeda was hired by the state Democratic party to register voters on the American Indian reservations. She was charged with 19 counts of forgery. No fraudulent voting was associated with Ms. Red Earth-Villeda, nor was there any evidence

[1] Kafka, Joe. "More people registered to vote." *Associated Press State and Local Wire.* October 29, 2002.
[2] Kafka, Joe. "Voter registration fraud being investigated." *Associated Press State and Local Wire.* October 11, 2002.
[3] "Barnett: No evidence that fraud affected vote." *Associated Press State and Local Wire.* Sioux Falls, South Dakota. November 21, 2002.
[4] Kafka, Joe. "Woman charged in voter-fraud case, other claims false." *Associated Press State and Local Wire.* Pierre, South Dakota. December 14, 2002.

that fraudulent voting occurred in the state.[5] All charges were dropped in January 2004, when, in court, it was determined by the state handwriting specialist that Ms. Red Earth-Villeda had not forged the signatures.[6]

- Lyle Nichols. Mr. Nichols was arrested for submitting five forged voter registration cards to his county office. He was working for an organization called the Native American Voter Registration Project, and was paid $3 for each registration. The five charges were dropped after Mr. Nichols pleaded guilty to possession of a forgery, and was sentenced with 54 days in jail, which is how much time he'd already spent there because of the charges.[7]

2004

In October 2004, just before the general election, eight people working for a campus GOP Get-out-the-Vote organization resigned their positions after they were accused of submitting absentee ballot requests that had not been notorized properly. Because many of these ballot requests had already been processed and the ballots themselves had been cast, county auditors decided not to pursue the issue.[8]

Besides this incident, there were no reports of voter registration or voting irregularities in the run-up to the November 2004 election, as there were in 2002.[9] However, as with the primary and special elections in June 2004, there were complaints about voter intimidation from American Indians attempting to vote, as well as difficulties with the adoption of the state's new photo identification regulations (after the 2002 election, the state legislature passed more stringent requirements about the kind of identification voters would need to provide at the polls.)

Incidents:

Voter Intimidation: The Four Directions Committee, an organization dedicated to helping American Indians register to vote and get to the polls, got a temporary restraining order on several Republican supporters who, they alleged, had been setting up video equipment outside of polling places on American Indian reservations and following around American Indians who voted early and recording their license plates.[10]

Vote Buying: A Republican election monitor from Virginia, Paul Brenner, claimed that Senator Tom Daschle's campaign was paying people to vote. Local county auditors

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[5] Kafka, Joe. "Woman charged in voter-fraud case, other claims false." *Associated Press State and Local Wire*. Pierre, South Dakota. December 14, 2002.
[6] Walker, Carson. "Charges dropped against woman accused of voter fraud." *Associated Press State and Local Wire*. Sioux Falls, South Dakota. January 28, 2004.
[7] "Rapid City man arrested for voter fraud." *Associated Press State and Local Wire*. Rapid City, South Dakota. October 18, 2002.
[8] Melmer, David. "Voting problems resurface in South Dakota." *Indian Country Today*. October 27, 2004.
[9] Melmer, David. "Election Day goes smoothly on Pine Ridge, S.D., reservation." *Indian Country Today*. November 10, 2004.
[10] Walker, Carson. "Observer alleges vote buying; worker says he never went to Pine Ridge." *Associated Press State and Local Wire*. October 31, 2004.

believe Brenner started the rumor himself. As there was no evidence for either side, the claims were not taken seriously. [11]

[11] Walker, Carson. "Some problems and oddities reported on Election Day." *Associated Press State and Local Wire.* November 2, 2004.

Steal this Vote-Dirty Elections and the Rotten History of Democracy in America by Andrew Gumbel

The bulk of the book comprises stories from United States electoral history outside the scope of this project. However, these tales are instructive in showing how far back irregular and illegal voting practices go. Cases include the 1868 New York City elections; the Tilden-Hayes election; the impact of the introduction of the secret ballot; the 1981 consent decree; the 1990 Helms campaign; the 1960 presidential election controversy in Chicago; the rise of the voting machine business, including the introduction of punch card machines; and allegations by Republicans regarding NVRA.

Steal this Vote ~~is heavily slanted in favor of Democrats~~ focuses almost entirely on alleged transgressions by Republican, although at times it does include complaints about Democratic tactics. Gumbel's accusations, if credible, especially in the Bush-Gore election, would ~~have~~ indicate~~d that~~ there were a number of problems in key states in such areas as intimidation, vote counting, and absentee ballots. However, ~~the most glaring problem with the accuracy and veracity of the text is~~due to its possible biases, lack of specific footnoting, and insufficient ~~and corresponding lack of~~ identification of primary source material, caution is strongly urged with respect to utilizing this book for assessing the amount and types of voter fraud and voter intimidation occurring. ~~Gumbel is either guilty of generally listing sources or interviews without identifying pages or making the interviews public. Because of this, Steal this Vote cannot be used as a credible research tool.~~

The Long Shadow of Jim Crow, People for the American Way and the National Association for the Advancement of Colored People

This report describes the pervasive and repeated practices of voter intimidation and vote suppression that have taken place in very recent years and during contemporary American history. The most recent cases included in the report are the incident in which Florida law enforcement questioned elderly African American voters in Orlando regarding the 2003 mayoral race, which had already been resolved, shortly before the 2004 election; the 2004 Florida felon purge list; the case of South Dakota in 2004 in which Native Americans were improperly and illegally required to show photo identification at the polls or denied the right to vote, and similar improper demands for ID from minorities in other parts of the country; the use of challengers in minority districts in many locations; the challenge to the right of African American students to vote in Texas in 2004; the presence of men looking like law enforcement challenging African American voters at the polls in Philadelphia in 2003; the distribution of flyers in Louisiana and elsewhere in a number of elections over the last few years in minority areas telling them to vote on the wrong day; and the FBI investigation into thousands of Native American voters in South Dakota in 2002, which resulted in no showing of wrongdoing.

The report also points out that, "Over the past two decades, the Republican Party has launched a series of 'ballot security' and 'voter integrity' initiatives which have targeted minority communities. At least three times, these initiatives were successfully challenged in federal courts as illegal attempts to suppress voter participation based on race.

It goes on to describe the numerous instances of voter intimidation and suppression during the 2000 election, the 1990s, the 1980s and back through the civil rights movement of the 1960s, putting current efforts in historical perspective. Describing the chronology of events in this way demonstrates the developing patterns and strategic underpinnings of the tactics used over the last forty years.

The New Poll Tax: Republican-Sponsored Ballot-Security Measures are Being Used to Keep Minorities from Voting

By Laughlin McDonald

McDonald argues that "the discriminatory use of so-called 'ballot security" programs" has been a reoccurring scandal since the passage of the Voting Rights Act of 1965. These programs are deceptively presented as preventing voter fraud and thereby furthering good government. However, McDonald states "but far too often they [the ballot security programs] are actually designed to suppress minority voting -- and for nakedly partisan purposes."

McDonald blames the federal government as well as the states for use of suspect ballot security programs. He cites the implementation of the U.S. Department of Justice's in "Voting Integrity Initiative" in South Dakota as the worst example of a joint federal-state effort to prevent voter fraud. Alleged voter fraud only in counties with significant Native American populations was targeted. South Dakota Attorney General Mark Barnett "working with the FBI, announced plans to send state and federal agents to question almost 2,000 new Native-American registrants, many of whom were participating in the political process for the first time." However, statistics show that these efforts only served to increase Native American voter participation. Native Americans "were targeted based on fraud allegations that proved to be grossly exaggerated; at the end of the investigation, only one Native American was even charged with a voting-rules violation."

McDonald cites several other ballot security efforts that were really disguised attempts at minority voter suppression:

> In Pine Bluff, Ark., Democrats accused Republican poll watchers of driving away voters in predominantly black precincts by taking photos of them and demanding identification during pre-election day balloting. Democrats in Michigan charged that a plan by Republicans to station hundreds of "spotters" at heavily Democratic precincts was an effort to intimidate black voters and suppress Democratic turnout. In South Carolina, a lawsuit filed the day before the election alleged that officials in Beaufort County had adopted a new and unauthorized policy allowing them to challenge voters who gave rural route or box numbers for their registration address. According to the complaint, a disproportionate number of those affected by the new rule would be African-American voters who lived in the rural areas of the county.

McDonald is also critical of the Help America Vote Act (HAVA). He states that HAVA "contains other provisions that may enhance the opportunities for harassment and intimidation of minorities through ballot-security programs." McDonald specifically attacks the photo ID requirement for anyone who registered by mail but has not previously voted. McDonald argues that the ID requirement will suppress minority voting because minorities are less likely then non-minorities to have a photo ID, a photo ID is expensive to obtain and all the alternatives to photo ID present similar obstacles to minority voters. He also argues that there is no evidence that photo ID will combat voter

fraud but it only really provides "another opportunity for aggressive poll officials to single out minority voters and interrogate them."

McDonald lists some classic past ballot security efforts by the Republicans that have been abused: the 1981 gubernatorial election anti-fraud initiative leading to the well known consent decree prohibiting the Republicans from repeating this, a similar Republican effort in Louisiana in 1986 in Senator John Breaux's race which again resulted in prohibition by a state court judge, and a similar effort by Republicans in Senator Jesse Helms 1990 reelection. This time the Department of Justice sued the Republican Party and Helm's reelection committee, resulting in another consent decree prohibiting future ballot security programs without court approval.

McDonald indicates that the crux of the problem is lax enforcement of federal voters rights laws. He states, "there is no record of the purveyors of any ballot-security program being criminally prosecuted by federal authorities for interfering with the right to vote." The only positive case law McDonald cited was a decision by the United States Court of Appeals for the Eighth Circuit that affirmed "an award of damages ranging from $500 to $2,000, payable by individual poll officials to each of seven black voters who had been unlawfully challenged, harassed, denied assistance in voting or purged from the rolls in the town of Crawfordsville [Arkansas]."

McDonald concludes by stating that Congress and the states should adopt "nondiscriminatory, evenly applied measures to ensure the integrity of the ballot."

Summary of Election Irregularities in Washington State 2004

The 2004 Washington state gubernatorial election was decided by one of the narrowest margins in American electoral history; 261 votes – less than a millionth of the 2.8 million votes cast statewide - separated the leading candidate, Republican Dino Rossi, from his competitor, Democrat Christine Gregoire. The state law-mandated recount that followed brought the margin down to 42 votes, and the subsequent hand recount ordered by the state Democratic Party gave Gregoire the lead, with 129 more votes than Rossi.

The race was so close that the parties decided to go to court to dispute the tally – the Republicans wanted the election results set aside and to have a revote; the Democrats sought a court-legitimated win. Each side set out into the field to find a way to swing the election in their favor. The trial and accompanying investigation, which lasted through the spring of 2005, revealed a litany of problems with the state's election system:

- The process by which absentee ballots are matched to the voters who requested them led to discrepancies between the number of absentee ballots received and the number of votes counted.[1]
- After the final certification of the election results, King County discovered 96 uncounted absentee ballots, Pierce county found 64, and Spokane County found eight; all had been misplaced following the election, but there was no mechanism for reconciling the number of absentee ballots received with the number counted.[2]
- Hundreds of felons who were ineligible to vote were able to cast ballots because they were not aware that they needed to apply to have their voting rights re-instated. [3]
- The system for verifying the eligibility of voters who had cast provisional ballots was found to be questionable.[4]
- Due to poll worker error, about 100 provisional ballots were improperly cast, and a hundred more were counted, though they were not verified as having been cast by eligible voters.[5]

The trial also revealed that most of these problems were the result of understaffing and human error.[6] In total, 1,678 ballots were proven to have been cast illegally, but none of these votes was subtracted from the candidates' totals because no evidence was produced in court as to how each individual voted.[7] Further, despite the scrutiny that the election

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[1] Ervin, Keith. "County elections official demoted; 2004 balloting fallout – Chief predicts 'series of changes'." *The Seattle Times*. June 15, 2005. *See also* Postman, David. "Judge left to mull vote-fraud claim." *The Seattle Times*. June 5, 2005.
[2] Ervin, Keith. "Voters irked by uncounted ballots." *The Seattle Times*. June 17, 2005.
[3] Postman, David. "Judge left to mull vote-fraud claim." *The Seattle Times*. June 5, 2005.
[4] Roberts, Gregory. "GOP contrasts elections offices; Chelan County's work better than King's, judge in gubernatorial case told." *The Seattle Post-Intelligencer*. May 25, 2005.
[5] Ervin, Keith. "Prosecutors to challenge 110 voters; They are said to be felons – 2 counties discover uncounted ballots." *The Seattle Times*. April 29, 2005.
[6] Ervin, Keith. "King County ballot numbers don't add up; 4000 discrepancies – Review of records finds flaws at each stage of the election; voting, processing, counting." *The Seattle Times*. May 25, 2005.
[7] Borders v. King County. Court's Oral Decision. 6. June. 2005.

returns revealed, and the extensive discussion of voter fraud throughout the investigation, just eight cases of voter fraud were discovered:

- 4 people were accused of casting absentee ballots for their deceased spouses. [8]
- A mother and daughter were charged with the absentee ballot of the mother's husband who had died earlier in the year
- 1 man cast the ballot of the deceased prior resident of his home.
- A homeless resident of Seattle cast two ballots, one in the name of Dustin Ocoilain. [9]

[8] Johnson, Gene. "Two plead guilty to voting twice in 2004 general election." *Associated Press*. June 2, 2005.

[9] Ervin, Keith. "6 accused of casting multiple votes; King County voters face criminal charges - Jail time, fines possible." *Seattle Times*. June 22, 2005.

An Evaluation: Voter Registration Elections Board: Wisconsin Audit Report 05-12: September 2005

The Joint Legislative Audit Committee of the Wisconsin Legislature required the Wisconsin Audit Report. The Report obviously does not include the 2006 statistics for statewide voter registration as required by HAVA. Wisconsin voter registration is required by statute in only 172 municipalities---those with populations of 5,000 or more. Another 167 smaller municipalities opted to maintain voter registration lists. Currently, 28.9 % of the voting-age population is not required to register before voting.

According to the Report, great variation was found in the implementation of existing voter registration laws. For example, 46 % of municipalities that responded to the survey did not send address verification cards to individuals who registered by mail or at the polls on Election Day in November 2004.
Further, only 85.3 % of survey respondents reported updating their voter registration lists to remove inactive voters, as required by law.

Current voter registration practices were determined to be insufficient to ensure the accuracy of voter registration lists used by poll workers or to prevent ineligible persons from registering to vote. The Report identified 105 instances of voting irregularities in six municipalities, including 98 ineligible felons who may have voted. The names of these individuals were forwarded to appropriate district attorneys for investigation.

Due to concerns about ineligible voting, stemming from the 2004 election, the Joint Legislative Audit Committee requested that voter registration procedures be evaluated. The following was investigated for this Report:

* voter registration requirements and the methods by which voters register, including requirements in other states;

* the address verification process, including the use of address verification cards to confirm the residency of those who register by mail or at the polls;

* procedures and practices for updating voter registration lists; and,

* the role of the Elections Board.

Wisconsin allows qualified electors to register in person, by mail, or with a special registration deputy before Election Day, and at the polls on Election Day. In municipalities where registration is required by statute, 20.3 % of Wisconsin voters registered at the polls on Election Day in November 2004. Municipal clerks rely on registrants to affirm their eligibility, including citizenship and age. However, requirements for providing identification or proof of residence vary depending on when an individual registers and by which method.

Address verification cards are the primary tool available to municipal clerks for verifying the residency of registered voters and detecting improper registrations by mail or at the polls. Statutes require that clerks send cards to everyone who registers by mail or on Election Day. However, only 42.7 % of the 150 municipalities surveyed sent cards to both groups, and 46 % did not send any address verification cards.

Statutes also require clerks to provide the local district attorney with the names of any Election Day registrants whose cards are undeliverable at the address provided. However, only 24.3 % of the clerks who sent cards also forwarded names from undeliverable cards to district attorneys. District attorneys surveyed indicated that they require more information than is typically provided to conduct effective investigations.

To ensure that voter registration lists contain only the names of qualified electors, municipal clerks are required by statute to remove or inactivate the names of individuals who have not voted in four years, to update registration information for individuals who move or change their names, and to remove or inactivate the names of deceased individuals. They are also required to notify registered voters before removing their names from registration lists. These statutory requirements are not consistently followed:

* 85.3 % of municipalities removed the names of inactive voters from their voter registration lists;

* 71.4 % sometimes or always notified registered voters before removing their names; and

* 54.0 % reported removing the names of ineligible felons.

Because of such inconsistencies, registration lists contain duplicate records and the names of ineligible individuals. For example, more than 348,000 electronic voter registration records from eight municipalities were reviewed, identifying 3,116 records that appear to show individuals who are registered more than once in the same municipality.

In six municipalities where sufficient information was available, there was 105 instances of potentially improper or fraudulent voting in the 2004 elections. These included: 98 ineligible felons who may have voted; 2 individuals who may have voted twice; 1 voter who may have been underage; and 4 absentee ballots that should not have been counted because the voters who cast them died before Election Day.

Recommendations:

* adjusting the early registration deadline to provide clerks more time to prepare registration lists;

* establishing more stringent requirements for special registration deputies, including prohibiting compensation based on the number of individuals registered;

* establishing uniform requirements for demonstrating proof of residence for all registrants;

* providing municipal clerks with more flexibility in the use of address verification cards;

* Authorizing civil penalties for local election officials and municipalities that fail to comply with election laws; and,

* implementing mandatory elections training requirements for municipal clerks.

The Report also recognized that the new HAVA registration procedures would help with existing registration problems.

Summary of Wisconsin Voting Irregularities November 2004

Instances of Illegal Voting, Milwaukee:
A probe led by U.S. Attorney Steve Biskupic and Milwaukee County District Attorney Michael McCann found about 200 cases of illegal felon voting and at least 100 cases of other forms of illegal voting in the city of Milwaukee. Of these, 14 were prosecuted:

10 were instances of felons voting while on probation or parole:
5 are awaiting trial. (one of them is DeShawn Brooks) [1]
1 has been acquitted [2]
1 has been found guilty in trial (Kimberly Prude) [2]
3 have reached plea agreements (Milo Ocasio[3])
[names: Ethel M. Anderson, Correan F. Edwards, Jiyto L. Cox, Joseph J. Gooden[4]]

4 were instances of double voting:
1 produced a hung jury (Enrique Sanders) [2]
1 was found incompetent to stand trial and his case was dismissed
1 initially pleaded guilty but now wants a trial. [5]
1 is awaiting trial.

Two of those accused of double voting were driven to multiple polling places in a van, but the identity of the driver of the vehicle is not known, and the DA does not suspect conspiracy. [6]

In addition to these, four people were charged with felonies in the Milwaukee County Circuit Court; two cases were filed against people accused of sending in false registration cards under the auspices of the Association of Community Organizations for Reform Now; the other two were felons who voted illegally.[7]

Instances of Illegal Voting, Statewide:
The Legislative Audit Bureau, a nonpartisan research agency, released its analysis of state-wide 2004 election results in September 2005. The agency reviewed the names, addresses, and birthdates of over 348,000 individuals credited with having voted in November 2004, from the electronic voter registration records of 6 cooperating municipalities, and compared them to lists from the Department of Corrections of felons serving sentences on election day, and to lists from the municipalities (to check up on

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[1] Barton, Gina. "Man acquitted in voter fraud trial; Felon had been under supervision at time." *Milwaukee Journal-Sentinel.* October 6, 2005.
[2] Schultze, Steve. "No vote fraud plot found. Inquiry leads to isolated cases, Biskupic says." *Milwaukee Journal-Sentinel.* December 5, 2005.
[3] "Felon says he voted illegally." *Milwaukee Journal-Sentinel.* September 17, 2005.
[4] Barton, Gina. "4 charged with voting illegally in November." *Milwaukee Journal-Sentinel.* August 17, 2005.
[5] Milwaukee J-S. December 5, 2005.
[6] Milwaukee J-S. December 5, 2005.
[7] Milwaukee J-S. December 5, 2005.

double-voting) and to lists from the US Social Security Administration. LAB's search revealed 105 "questionable" votes:

- 98 ballots cast by ineligible felons, 57 of which were in Madison, 2 in Waukesha, 15 in Eau Claire, 16 in Appleton, 1 in the Village of Ashwaubenon
- 2 instances of double-voting (one in Madison, one in Waukesha).
- 4 votes counted despite the voter's having died two weeks or less before the election.
- 1 case in which a 17-year-old voted in Madison.[8]

The LAB referred the names of these people to the appropriate District Attorney for prosecution, and several cases are awaiting trial.

It should be noted that this study is not a complete survey of election returns state-wide in Wisconsin; the LAB's analysis is based on the voting records of the six municipalities that provided the LAB with sufficient information to conduct this study.

It should also be noted that the LAB discovered significant error in the data provided them by these municipalities, including:

- 91 records in which the individual's birthdate was incorrectly recorded as later than November 2, 1986
- 97 cases in which a person was mistakenly recorded as having voted twice
- More than 15,000 records were missing birthdates, making it more difficult to determine voter eligibility by comparing these records to lists of felons and deceased persons. [9]

General Findings

Both reports (the Legislative Audit Bureau's and the report of the Joint Task Force on Election Reform convened in Milwaukee) that did in-depth studies of the Wisconsin election returns in 2004 found that there was no evidence of systematic, wide-spread fraud.[10] As the above statistics indicate, there are very few cases in which an individual intentionally voted illegally, and the majority of the discovered instances of fraudulent voting involved felons who were unaware that they were committing a crime. Certainly the number of fraudulent votes, intentional and unintentional, is dwarfed by the amount of administrative error – and the amount of potential there was for fraud.

Registration Irregularities

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[8] Borowski, Greg J. "State audit digs up wider vote problems; Thousands of voters on rolls more than once." *Milwaukee Journal-Sentinel.* September 17, 2005

[9] "An Evaluation: Voter Registration." *Legislative Audit Bureau.* Madison, Wisconsin. September 2005. Pg. 50-52.

[10] Brinkman, Phil. "Voting fraud in November not a problem in Madison; Nearly all suspect voters turn out to be people who moved or made innocent mistakes." *Wisconsin State Journal.* May 11, 2005.

Duplicate Registrations: In the data from the six participating municipalities, LAB found 3116 records for individuals who appear to be registered more than once in the same municipality (0.9% of the records they reviewed). These duplications were primarily the result of name changes, in which the registrar neglected to remove the old name from the registration list, previous addresses that were not deleted, and misspellings and other typograpahical errors.

Deceased Voters: the LAB study found 783 persons who were deceased, but whose records had not been eliminated from the registration lists. Most of the municipalities participating in the survey rely on obituaries and notifications from family members to purge their voter registration lists of deceased voters.

Felons: Comparing a list of felons from the Department of Corrections to their voter registration data lists, LAB found 453 felons who were registered to vote. This is largely because, although municipal clerks are informed of federal felony convictions, they have no way of obtaining records on state felony convictions. [11]

[11] Legislative Audit Bureau Report: pg 43-47.

Preliminary Findings of Joint Task Force Investigating Possible Election Fraud: May 10, 2005

On January 26, 2005, the Milwaukee Police Department, Milwaukee County District Attorney's Office, Federal Bureau of Investigation, and the United States Attorney's Office formed a task force to investigate alleged voting irregularities during the November 2004 elections. The purpose of the task force was to determine whether evidence of criminal fraud existed in the irregularities and, if evidence of fraud was found, to pursue criminal prosecutions.

The task force has made the following specific determinations based on evidence examined to date:

* evidence of more than 100 individual instances of suspected double-voting, voting in names of persons who likely did not vote, and/or voting in names believed to be fake. Those investigations continue;

* more than 200 felons voted when they were not eligible to do so. In order to establish criminal cases, the government must establish willful violations in individual instances;

* persons who had been paid to register voters as "deputy registrars" falsely listed approximately 65 names in order to receive compensation for the registrations. The evidence does not indicate that these particular false registrations were later used to cast votes; and,

* the number of votes counted from the City of Milwaukee exceeds the number of persons recorded as voting by more than 4,500.

The investigation concentrated on the 70,000+ same-day registrations. It found that a large majority of the reported errors were the result of data entry errors, such as street address numbers being transposed. However, the investigation also found more than 100 instances where votes were cast in a manner suggesting fraud. These include:

* persons with the same name and date of birth recorded as voting more than once;

* persons who live outside Milwaukee, but who used non-existent City addresses to register and vote in the City;

* persons who registered and voted with identities and addresses that cannot in any way be linked to a real person;

* persons listed as voting under a name and identity of a person known to be deceased; and

* persons whose identities were used to vote, but who in subsequent interviews told task force investigators that they did not, in fact, vote in the City of Milwaukee.

The investigation found persons who were paid money to obtain registrations allegedly falsified approximately 65 names on registration forms, allegedly to obtain more money for each name submitted. There is no evidence gathered to date that votes were cast under these specific false names. Also found were more than 200 felons who were not eligible to vote in the 2004 election, but who are recorded as having done so.

An additional finding of the task force was that the number of votes cast far exceeds the total number of recorded voters. The day after the 2004 election, the City of Milwaukee reported the total number of votes as 277,344. In late November an additional 191 previously uncounted absentee ballots were added, for a total of 277,535 votes cast. Still later, an additional 30 ballots were added, bringing the total number of counted votes to 277,565. City records, however, have been unable to match this total to a similar number of names of voters who cast ballots – either at the polls (under a prior registration or same day registration) or cast absentee ballots. At present, the records show a total of 272,956 voter names – for a discrepancy of 4,609. This part of the investigation was hampered by widespread record keeping errors with respect to recording the number of voters.

In the 2004 election, same-day registrations were accepted in which the card had incomplete information that would help establish identity. For example: 48 original cards for persons listed as voting had no name; 548 had no address; 28 did not have signatures; and another 23 cards had illegible information. These were part of approximately 1,300 same-day registrations for which votes were cast, but which election officials could not authenticate as proper voters within the City. Included in this 1,300 were 141 same-day registrants from addresses outside the City of Milwaukee, but who voted within the City of Milwaukee. In several instances, the voter explicitly listed municipality names other than Milwaukee on the registration cards.

Another record keeping procedure hampering the investigation appears to be the post-election misfiling or loss of original green registration cards that were considered duplicates, but that in fact corresponded to additional votes. These cards were used to record votes, but approximately 100 cards of interest to investigators can no longer be located. In addition, other original green registration cards continue to be found.

A Funny Thing Happened on the Way to the White House by David E. Johnson & Jonny R. Johnson

A Funny Thing Happened adds almost nothing to the present study. It contains no footnotes and no references to primary source material, save what may be able to be gleaned from the bibliography. The Johnsons take a historical look at United States Presidential elections from Andrew Jackson to George Bush by providing interesting stories and other historical information. Unfortunately, there are only three pages out of the entire book that touches on vote fraud in the first Bush election.

The authors assert that the exit polls in Florida were probably correct. The problem was the pollsters had no way of knowing that thousands of votes would be invalidated. But the authors do not believe that fraud was the cause of the tabulation inaccuracy. The major cause was undervotes and overvotes which, if all counted, would have altered the result, compounded by the use of the butterfly ballot in some strategic counties. Additionally, Ralph Nader's votes were primarily a bleed off of needed Gore votes. The authors accused Katherine Harris, then Florida Secretary of State and co-chair of the Bush campaign in Florida for prematurely certifying the state vote. The authors also ridiculed United States Secretary of State James A. Baker III, for using the courts to block attempts to hand count votes. Finally, the authors indicated that a mob of Republican partisans descended on the vote counters in Dade County and effectively stopped the count.

Vote Fraud, Intimidation & Suppression In The 2004 Presidential Election

American Center for Voting Rights Report

According to its website," the American Center For Voting Rights Legislative Fund was founded in February 2005 on the belief that public confidence in our electoral system is the cornerstone of our democracy... ACVR Legislative Fund supports election reform that protects the right of all citizens to participate in the election process free of intimidation, discrimination or harassment and which will make it easy to vote but tough to cheat.

Using court records, police reports and news articles, ACVR Legislative Fund presented this Report documenting hundreds of reported incidents and allegations from around the country. ACVR Legislative Fund found that thousands of Americans were disenfranchised by illegal votes cast on Election Day 2004. For every illegal vote cast and counted on Election Day, a legitimate voter is disenfranchised. This report alleges a coordinated effort by members of some organizations to rig the election system through voter registration fraud, the first step in any vote fraud scheme that corrupts the election process by burying local officials in fraudulent and suspicious registration forms. ACVR Legislative Fund further found that, despite their heated rhetoric, paid Democrat operatives were far more involved in voter intimidation and suppression activities than were their Republican counterparts during the 2004 presidential election.

In addition to recommended changes and a zero-tolerance commitment by the political parties, ACVR Legislative Fund has identified five cities as "hot spots" which require additional immediate attention. These cities were identified based on the findings of this report and the cities' documented history of fraud and intimidation. These cities are: Philadelphia, PA, Milwaukee, WI, Seattle, WA, St. Louis/East St. Louis, MO/IL, and Cleveland, OH.

Without going into great detail in this review, this Report: refutes charges of voter intimidation and suppression made against Republican supporters, discusses similar charges against Democrats, details incidents vote fraud and illegal voting and finally discusses problems with vote fraud, voter registration fraud and election irregularities around the country. The majority of this Report is an attempt to redeem Republicans and vilify Democrats.

In terms of sheer numbers, the report most often alleges voter intimidation and voter registration fraud, and to a lesser degree absentee ballot fraud and vote buying.

The Report presented the following recommendations for future action:

* Both national political parties should formally adopt a zero-tolerance fraud and intimidation policy that commits the party to pursuing and fully prosecuting individuals and allied organizations who commit vote fraud or who seek to deter any eligible voter from participating in the election through fraud or intimidation. No amount of legislative

reform can effectively deter those who commit acts of fraud if there is no punishment for the crime and these acts continue to be tolerated.

* States should adopt legislation requiring government-issued photo ID at the polls and for any voter seeking to vote by mail or by absentee ballot. Government-issued photo identification should be readily available to all citizens without cost and provisions made to assure availability of government-issued identification to disabled and low-income citizens.

* States should adopt legislation requiring that all polling places be fully accessible and accommodating to all voters regardless of race, disability or political persuasion and that polling locations are free of intimidation or harassment.

* States should create and maintain current and accurate statewide voter registration databases as mandated by the federal Help America Vote Act ("HAVA") and establish procedures to assure that the statewide voter roll is current and accurate and that the names of eligible voters on the roll are consistent with the voter roll used by local election authorities in conducting the election.

* States should adopt legislation establishing a 30-day voter registration cutoff to assure that all voter rolls are accurate and that all registrants can cast a regular ballot on Election Day and the election officials have opportunity to establish a current and accurate voter roll without duplicate or fictional names and assure that all eligible voters (including all recently registered voters) are included on the voter roll at their proper precinct.

* States should adopt legislation requiring voter registration applications to be delivered to the elections office within one week of being completed so that they are processed in a timely manner and to assure the individuals registered by third party organizations are properly included on the voter roll.

* States should adopt legislation and penalties for groups violating voter registration laws, and provide the list of violations and penalties to all registration solicitors. Legislation should require those organizations obtaining a voter's registration to deliver that registration to election officials in a timely manner and should impose appropriate penalties upon any individual or organization that obtains an eligible voter's registration and fails to deliver it to election authorities.

* States should adopt legislation prohibiting "bounty" payment to voter registration solicitors based on the number of registration cards they collect.

America's Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy

Advancement Project

The thesis of the Report, America's Modern Poll Tax, written after the 2000 election, is that structural disenfranchisement—the effect of breakdowns in the electoral system, is the new poll tax. Structural disenfranchisement includes "bureaucratic blunders, governmental indifference, and flagrant disregard for voting rights." The blame for structural disenfranchisement is laid squarely at the feet of states and localities that "shirk their responsibilities or otherwise manipulate election systems," resulting in voters "either turned away from the polls or their votes are thrown out."

The interlocking practices and mechanics that comprise structural disenfranchisement are referred to a "ballot blockers" in the report. Most ballot blockers involve the structural elements of electoral administration: "ill-trained poll workers, failures to process registration cards on time or at all, inaccurate registration rolls, overbroad purges of voter rolls, unreasonably long lines, inaccurate ballot translations and a shortage of translators to assist voters who have limited English language skills." The Report argues that a culture of indifference overlays these issues that both tolerates and excuses widespread disenfranchisement. This culture of indifference is exemplified by legislatures that do not properly fund election systems, officials that send antiquated equipment into poor and minority areas, poorly translated ballots and polling placed that are not wheelchair accessible.

The data and conclusions in the Report are taken from eight sample case studies of states and cities across the country and a survey of state election directors that reinforces the findings of the case studies. Examples of state and city problems were: New York City-in six polling places Chinese translations inverted the Democrats with the Republicans; Georgia-the state computer crashed two weeks before the election, dropping thousands of voters from the rolls; Virginia-registration problems kept an untold number from voting; Chicago-in inner-city precincts with predominately minority populations, almost four out of every ten votes cast for President (in 2000) were discarded; St. Louis-thousands of qualified voters were placed on inactive lists due to an overbroad purge; Florida-a voting list purge of voters whose name and birth date closely resembled those of people convicted of felonies; and, Texas-significant Jim Crow like barriers to minority voting.

The survey of state election directors found: election directors lack the resources to effectively do their jobs and some lack the "ability or will to force local election officials to fix serious problems"; election officials are highly under funded and legislatures refuse to grant their requests for more money; due to a lack of funds, election officials must use old and inferior equipment and can't improve training or meet structural needs; election officials are generally unaware of racial disparities in voting; only three of the 50 state election administrators are non-white.

The Report "concludes that affected communities and democracy advocates should mobilize to force change." A number of recommendations are made to protect the

electoral franchise including: Federal policies that set nationwide and uniform election policies; federal guarantee of access to provisional ballots; enforcement of voter disability laws; automatic restoration of voting rights to those convicted of a crime after they have completed their sentence; a centralized data base of voters administered by non-partisan individuals; federal standards limiting precinct discarded vote rates to .25 %; federal requirements that jurisdiction provide voter education, including how to protect their right to vote; and laws that strengthen the ability of individuals to bring actions to enforce voting rights and anti-discrimination laws.

Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General

By The Brennan Center for Justice at NYU School of Law and Dr. Michael McDonald of George Mason University

General

A September 15, 2005 Report submitted to the New Jersey Attorney General included lists of purportedly illegitimate votes in New Jersey in the 2004 general election, including lists of 10,969 individuals who purportedly voted twice and lists of 4,756 voters who were purportedly dead or incarcerated in November 2004. For the present Analysis of the Report, the lists of voters submitted to the New Jersey Attorney General, as well as a copy of the New Jersey county voter registration files were obtained, and an initial investigation of the report's claims was conducted. The analysis shows that the lists submitted are substantially flawed.

The Analysis is based on methodology only: its authors did not gain access to original documents related to registration or original pollbook records; only recently were copies of the counties' original registration data files acquired and compiled, which contain some notable gaps; and the lists submitted to the Attorney General contain significant errors and little documentation, which complicated the analysis. Nonetheless, the analysts say that information collected is sufficient for generally assessing the quality of evidence presented to support the September 15 report. Analysis of the suspect lists reveals that the evidence submitted does not show what it purports to show: cause for concern that there is serious risk of widespread fraud given the state of the New Jersey voter registration rolls.

These suspect lists were compiled by attempting to match the first name, last name, and birth date of persons on county voter registration files. Entries that supposedly "matched" other entries were apparently deemed to represent the same individual, voting twice. This methodology was similar to the method used in compiling the notoriously inaccurate Florida "purge lists" of suspected ineligible felons in 2000 and 2004. As Florida's experience shows, matching names and birth dates in the voter registration context can easily lead to false conclusions – as was almost certainly the case here.

This Analysis reveals several serious problems with the methodology used to compile the suspect lists that compromise the lists' practical value. For example, the data used in the Report from one county appears to be particularly suspect and anomalous, and may have substantially skewed the overall results. In addition, middle initials were ignored throughout all counties, so that "J_____ A. Smith" was presumed to be the same person as "J_____ G. Smith." Suffixes were also ignored, so that fathers and sons – like "B_____ Johnson" and "B_____ Johnson, Jr." – were said to be the same person.

Underlying many of the entries on these lists, and similar lists compiled in Florida and elsewhere, is a presumption that two records with the same name and date of birth must

represent the same person. As *explained* in this analysis, this presumption is not consistent with basic statistical principles. Even when votes appear to have been cast in two different cities under the same name and birth date, statistics show that voter fraud is not necessarily to blame. With 3.6 million persons who voted in the 2004 election in New Jersey, the chance that some have the same name and birth date is not far-fetched.

Analysis of the Claim of Double Voting by 4,497 Individuals

Attempts to match data on one list to data on another list will often yield "false positives:" two records that at first appear to be a match but do not actually represent the same person. The natural incidence of "false positives" for a matching exercise of this scale – especially when, as here, conducted with relatively little attention to detail – readily explains the ostensible number of double votes.

1,803 of these 4,397 records of ostensibly illegal votes seem to be the product of a glitch in the compilation of the registration files. These records reflect two registration entries by the same person from the same address, with a notation next to each that the individual has voted. For example, 55-year-old W_____ A. Connors, living at 253 B_____ Ave. in a New York commuter suburb, is listed on the data files with an (erroneous) first registration date in 1901 and a second registration date in 1993; Mr. Connors is thus represented twice on the data files submitted. Each of these entries also indicates that W_____ A. Connors at 253 B_____ Ave voted in 2004. There is no credible indication, however, that Mr. Connors actually voted twice; indeed, given the clearly erroneous registration date on the files, it is far more likely that data error is to blame for the doubly logged vote as well.

More plausibly, the bulk of these 1,803 records may be traced to irregularities in the data processing and compilation process for one single county: the Middlesex County registration file accounts for only 10% of registered voters in the state but 78% of these alleged double votes. The suspect lists themselves contain an acknowledgment that the problem in Middlesex is probably not fraud: 99% of these Middlesex voters are labeled on the lists submitted to the Attorney General with a notation that the record is "less likely" to indicate an illegal double vote.

Another 1,257 entries of the 4,397 records probably represent similar data errors – also largely driven by a likely glitch in the Middlesex County file, which is also vastly over represented in this category. These records show ever-so-slight variations in records listed with the same date of birth at the same address: for example, the same first and last names, but different middle initials or suffixes (e.g., J_____ T. Kearns, Sr., and J_____ T. Kearns, Jr., both born the same day and living at the same address; or J_____ E. Allen and J_____ P. Allen, born the same day and living at the same address).

Approximately 800 of the entries on the list likely represent different people, with different addresses and different middle initials or suffixes. For example, W_____ S. Smith, living in a northern New Jersey town, and W_____ C. Smith, living in another town two hours away, share the same date of birth but are not the same person. Nor are

T_____ Brown, living in a New York commuter suburb, and T_____ H. Brown, Jr., living in a small town over an hour west, despite the fact that they also share the same birth date. About three-quarters of the entries in this category reveal data that affirmatively conflict – for example, a middle initial ("W_____ S.") in one case, and a different middle initial ("W_____ C.") in another, listed at different addresses. There is absolutely no good reason to conclude that these individuals are in fact the same, when the available evidence indicates the contrary.

For approximately 200 of the entries in this category, however, less information is available. These entries show a middle initial ("J_____ W. Davis") in one case, and no middle initial ("J_____ Davis") in another – again, at different addresses. The lack of the middle initial is ambiguous: it could mean that one of the J_____ Davis in question has no middle name, or it could mean that the middle initial was simply omitted in a particular registration entry. Although these entries involve less conclusive affirmative evidence of a false match than the entries noted above, there is still no good reason to believe that "J_____ W. Davis" and "J_____ Davis," at different addresses, represent the same person.

Of the individuals remaining, there are serious concerns with the accuracy of the dates of birth. Seven voters were apparently born in January 1, 1880 – which is most likely a system default for registrations lacking date-of-birth information. For 227 voters, only the month and year of birth are listed: this means only that two voters with the same name were born in the same month and year, an unsurprising coincidence in a state of several million people.

That leaves approximately 289 votes cast under the same name and birth date – like votes cast by "P_____ S. Rosen," born in the middle of the baby boom – but from two different addresses. It may appear strange, but there may be two P_____ S. Rosens, born on the same date in 1948 – and such coincidences are surprisingly common. For any one person, the odds of someone else having the same name and birth date is small. But because there are so many voters in New Jersey, a sizable number will have the same name and birth date simply by chance. In a group of just 23 people, it is more likely than not that two will share the same birthday. For 40 people, the probability is 90%. Many, if not most, of the 289 alleged double votes of persons registered at different addresses most likely reflect two separate individuals sharing a first name, last name, middle intial, and birth date.

The September 15 Report makes much of the raw potential for foul play based on the unsurprising fact that there are voters who appear on the New Jersey registration rolls more than once. As noted above, many of the names identified reflect two different individuals and not simply duplicate entries. But there is no doubt that there are duplicate entries on New Jersey's registration rolls. It is well known that voter registration rolls contain "deadwood" – registration entries for individuals no longer living at a given address or deceased. There is no evidence, however, that these extra registrations are used for widespread illegal voting. Moreover, the problem of deadwood will soon be largely resolved: both the National Voter Registration Act of 1993 and the Help America

Vote Act of 2002 require states to implement several systems and procedures as of January 1, 2006, that will clean the voter rolls of duplicate or invalid entries while protecting eligible voters from unintended disfranchisement.

Building Confidence in U.S. Election, National Commission on Federal Election Reform ("Carter/Baker Commission)

The impetus for the Carter-Baker Commission and its report was the sense of the members that not enough had been done to reform the system since the 2000 election and that Americans had lost confidence in elections. The report makes several observations about the current system and makes 87 recommendations. Several of those recommendations are meant to be implemented in conjunction with one another in order to be effective, so the report is really a push for a comprehensive overhaul of the system as it works today.

Among the observations made that are relevant to the EAC study of fraud and intimidation are the following:

- The November 2004 elections showed that irregularities and fraud still occur.
- Failure to provide voters with such basic information as their registration status and their polling site location raises a barrier to voting as significant as inconsistent procedures on provisional ballots or voter ID requirements.
- There is no evidence of extensive fraud in U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election.
- The Commission is concerned that the different approaches to identification cards might prove to be a serious impediment to voting.
- Voter registration lists are often inflated by the inclusion of citizens who have moved out of state but remain on the lists. Moreover, under the National Voter Registration Act, names are often added to the list, but counties and municipalities often do not delete the names of those who moved. Inflated voter lists are also caused by phony registrations and efforts to register individuals who are ineligible. At the same time, inaccurate purges of voter lists have removed citizens who are eligible and are properly registered.
- Political party and nonpartisan voter registration drives generally contribute to the electoral process by generating interest in upcoming elections and expanding participation. However, they are occasionally abused. There were reports in 2004 that some party activists failed to deliver voter registration forms of citizens who expressed a preference for the opposing party.
- Vote by mail raises concerns about privacy, as citizens voting at home may come under pressure to vote for certain candidates, and it increases the risk of fraud.
- While election fraud is difficult to measure, it occurs. The U.S. Department of Justice has launched more than 180 investigations into election fraud since October 2002. These investigations have resulted in charges for multiple voting, providing false information on their felon status, and other offenses against 89 individuals and in convictions of 52 individuals. The convictions related to a variety of election fraud offenses, from vote buying to submitting false voter registration information and voting-related offenses by non-citizens. In addition to the federal investigations, state attorneys general and local prosecutors handle cases of election fraud. Other cases are never pursued because of the difficulty in

obtaining sufficient evidence for prosecution or because of the low priority given to election fraud cases.

- Absentee ballots remain the largest source of potential voter fraud
- Non-citizens have registered to vote in several recent elections
- The growth of "third-party" (unofficial) voter registration drives in recent elections has led to a rise in reports of voter registration fraud.
- Many states allow the representatives of candidates or political parties to challenge a person's eligibility to register or vote or to challenge an inaccurate name on a voter roll. This practice of challenges may contribute to ballot integrity, but it can have the effect of intimidating eligible voters, preventing them from casting their ballot, or otherwise disrupting the voting process.

Its pertinent recommendations for reform are as follows:

- Interoperable state voter databases are needed to facilitate updates in the registration of voters who move to another state and to eliminate duplicate registrations, which are a source of potential fraud.
- Voters should be informed of their right to cast a provisional ballot if their name does not appear on the voter roll, or if an election official asserts that the individual is not eligible to vote, but States should take additional and effective steps to inform voters as to the location of their precinct
- The Commission recommends that states use "REAL ID" cards for voting purposes.
- To verify the identity of voters who cast absentee ballots, the voter's signature on the absentee ballot can be matched with a digitized version of the signature that the election administrator maintains. While such signature matches are usually done, they should be done consistently in all cases, so that election officials can verify the identity of every new registrant who casts an absentee ballot.
- Each state needs to audit its voter registration files to determine the extent to which they are accurate (with correct and current information on individuals), complete (including all eligible voters), valid (excluding ineligible voters), and secure (with protections against unauthorized use). This can be done by matching voter files with records in other state agency databases in a regular and timely manner, contacting individuals when the matches are inconclusive, and conducting survey research to estimate the number of voters who believe they are registered but who are not in fact listed in the voter files.
- Each state should oversee political party and nonpartisan voter registration drives to ensure that they operate effectively, that registration forms are delivered promptly to election officials, that all completed registration forms are delivered to the election officials, and that none are "culled" and omitted according to the registrant's partisan affiliation. Measures should also be adopted to track and hold accountable those who are engaged in submitting fraudulent voter registrations. Such oversight might consist of training activists who conduct voter registration drives and tracking voter registration forms to make sure they are all accounted for. In addition, states should apply a criminal penalty to any activist who deliberately fails to deliver a completed voter registration form.

- Investigation and prosecution of election fraud should include those acts committed by individuals, including election officials, poll workers, volunteers, challengers or other nonvoters associated with the administration of elections, and not just fraud by voters.
- In July of even-numbered years, the U.S. Department of Justice should issue a public report on its investigations of election fraud. This report should specify the numbers of allegations made, matters investigated, cases prosecuted, and individuals convicted for various crimes. Each state's attorney general and each local prosecutor should issue a similar report.
- The U.S. Department of Justice's Office of Public Integrity should increase its staff to investigate and prosecute election-related fraud.
- In addition to the penalties set by the Voting Rights Act, it should be a federal felony for any individual, group of individuals, or organization to engage in any act of violence, property destruction (of more than $500 value), or threatened act of violence that is intended to deny any individual his or her lawful right to vote or to participate in a federal election.
- To deter systemic efforts to deceive or intimidate voters, the Commission recommends federal legislation to prohibit any individual or group from deliberately providing the public with incorrect information about election procedures for the purpose of preventing voters from going to the polls.
- States should define clear procedures for challenges, which should mainly be raised and resolved before the deadline for voter registration. After that, challengers will need to defend their late actions. On Election Day, they should direct their concerns to poll workers, not to voters directly, and should in no way interfere with the smooth operation of the polling station.
- State and local jurisdictions should prohibit a person from handling absentee ballots other than the voter, an acknowledged family member, the U.S. Postal Service or other legitimate shipper, or election officials. The practice in some states of allowing candidates or party workers to pick up and deliver absentee ballots should be eliminated.
- All states should consider passing legislation that attempts to minimize the fraud that has resulted from "payment by the piece" to anyone in exchange for their efforts in voter registration, absentee ballot, or signature collection.
- Nonpartisan structures of election administration are very important, and election administrators should be neutral, professional, and impartial.
- No matter what institutions are responsible for conducting elections, conflict-of-interest standards should be introduced for all federal, state, and local election officials. Election officials should be prohibited by federal and/or state laws from serving on any political campaign committee, making any public comments in support of a candidate, taking a public position on any ballot measure, soliciting campaign funds, or otherwise campaigning for or against a candidate for public office. A decision by a secretary of state to serve as co-chair of his or her party's presidential election committee would clearly violate these standards.

Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – Or Both?

By Chandler Davidson

As the author describes it, this Report focuses on vote suppression through "ballot security programs:"

> These are programs that, in the name of protecting against vote fraud, almost exclusively target heavily black, Latino, or Indian voting precincts and have the intent or effect of discouraging or preventing voters in those precincts from casting a ballot. In some cases, these programs have been found by courts to be illegal. Still, they continue to exist in spite of strong criticism by leaders of minority communities, their allies, and voting rights lawyers.
>
> There are several noteworthy characteristics of these programs. They focus on minority precincts almost exclusively. There is often only the flimsiest evidence that vote fraud is likely to be perpetrated in such precincts. In addition to encouraging the presence of sometimes intimidating Republican poll watchers or challengers who may slow down voting lines and embarrass potential voters by asking them humiliating questions, these programs have sometimes posted people in official-looking uniforms with badges and side arms who question voters about their citizenship or their registration. In addition, warning signs may be posted near the polls, or radio ads may be targeted to minority listeners containing dire threats of prison terms for people who are not properly registered—messages that seem designed to put minority voters on the defensive. Sometimes false information about voting qualifications is sent to minority voters through the mail."

He further states that a most common theme of the programs over the last 50 years is that of sending white challengers to minority precincts. He says that the tactic of doing mailings, collecting returned materials, and using that as a basis for creating challenger lists and challenging voters at the polls, started in the 1950s and continues to today. The problem with this practice is that reasons for a mailing to be returned include a wrong address, out of date or inaccurate addresses, poor mail delivery in minority areas, and matching mistakes. Davidson also sets out to demonstrate through documentary evidence that the practices have been and are approved of or winked at by high ups in the party.

Davidson goes on to provide numerous examples from the last 50 years to demonstrate his thesis, going through the historical development of Republican ballot security programs from the 1950s through to the present. The author cites and quotes internal Republican letters and memoranda, primary sources and original documents, media

reports, scholarly works, as well as the words of judges' rulings in some of the cases that ended up in litigation to prove his argument.

In addition to describing how the schemes really were brought to the fore in the 1964 election, he describes more recent incidents such as 1981 in New Jersey, 1982 Dallas, Louisiana 1986, Houston 1986, Hidalgo 1988 Orange County 1988, North Carolina 1990, South Carolina 1980-1990, and South Dakota 2002. (Summaries of these examples are available)

Davidson concludes with an outline of some of the features of vote suppression efforts put forth by Republicans under the guise of ballot security programs, as described in the Report, from the 1950s to the present day:

> 1. An organized, often widely publicized effort to field poll watchers in what Republicans call "heavily Democratic," but what are usually minority, precincts;
> 2. Stated concerns about vote fraud in these precincts, which are occasionally justified but often are not;
> 3. Misinformation and fear campaigns directed at these same precincts, spread by radio, posted signs in the neighborhoods, newspapers, fliers, and phone calls, which are often anonymously perpetrated;
> 4. Posting "official-looking" personnel at polling places, including but not limited to off-duty police—sometimes in uniform, sometimes armed;
> 5. Aggressive face-to-face challenging techniques at the polls that can confuse, humiliate, and intimidate—as well as slow the voting process—in these same minority precincts;
> 6. Challenging voters using inaccurate, unofficial lists of registrants derived from "do-not-forward" letters sent to low-income and minority neighborhoods;
> 7. Photographing, tape recording, or videotaping voters; and
> 8. Employing language and metaphors that trade on stereotypes of minority voters as venal and credulous.

The report ends with some observations on the state of research on the incidence of fraud, which the author finds lacking. He suggests that vote suppression of qualified minority voters by officials and partisan poll-watchers, challengers, and uniformed guards should also be considered as included in any definition of election fraud. Davidson also offers a few recommendations for reform, noting that Democrats should not protest all programs aimed at ballot integrity, but rather work with Republicans to find solutions to problems that confront both parties and the system as a whole.

A 'Crazy-Quilt' of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law

By Alec Ewald

"A Crazy-Quilt of Tiny Pieces" presents results from the first nationwide study to document the implementation of American felony disenfranchisement law. Data came from two main sources: a 33-state survey of state elections officials and telephone interviews with almost one hundred city, county, town, and parish officials drawn from 10 selected states. In the spring of 2004, a two-page survey consisting of questions regarding disqualification and restoration procedures was sent to the offices of the statewide elections director in each of the fifty states. Responses were collected through the summer and early fall of 2004. Thirty-three states responded. No state currently administers and enforces its criminal disqualification and restoration laws in an efficient, universally-understood and equitable way. Some do not appear to notify local elections officials of convictions, or do not do so in a clear and timely way; others risk "false positives" in disqualification, particularly with suspended sentences or offenses not subject to disenfranchisement; many ask local officials to handle disqualification and restoration with little or no guidance or supervision from the state; none have clear policies regarding new arrivals from other states with old convictions.

The report reaches seven major conclusions:

1. Broad variation and misunderstanding in interpretation and enforcement of voting laws:
• More than one-third (37%) of local officials interviewed in ten states either described their state's fundamental eligibility law incorrectly, or stated that they did not know a central aspect of that law.
• Local registrars differ in their knowledge of basic eligibility law, often within the same state. Differences also emerge in how they are notified of criminal convictions, what process they use to suspend, cancel, or "purge" voters from the rolls, whether particular documents are required to restore a voter to eligibility, and whether they have information about the criminal background of new arrivals to the state.

2. Misdemeanants disenfranchised in at least five states:
• The commonly-used term "felon disenfranchisement" is not entirely accurate, since at least five states – Colorado, Illinois, Michigan, South Carolina, and Maryland -- also formally bar some or all people convicted of misdemeanors from voting.
• It is likely that misdemeanants in other states who do retain the formal right to vote could have difficulty exercising that right, given ignorance of their eligibility and the lack of clear rules and procedures for absentee voting by people in jail who have not been convicted of a felony.
• Maryland excludes persons convicted of many misdemeanors, such as "Unlawful operation of vending machines," "Misrepresentation of tobacco leaf weight," and "Racing horse under false name."

3. Significant ambiguities in voting laws:
• Disenfranchisement in Tennessee is dependent on which of five different time periods a felony conviction occurred between 1973 and the present.
• In Oregon, disenfranchisement is determined not by conviction or imprisonment for a felony, but for being placed under Department of Corrections supervision. Since 1997, some persons

convicted of a felony and sentenced to less than 12 months' custody have been sent to county jails and hence, are eligible to vote.

4. Disenfranchisement results in contradictory policies within states:
• The "crazy-quilt" pattern of disenfranchisement laws exists even within states. Alabama and Mississippi have both the most and least restrictive laws in the country, a result which is brought about by the fact that certain felonies result in the loss of voting rights for life, while others at least theoretically permit people in prison to vote.
• Most felonies in Alabama result in permanent disenfranchisement, but drug and DUI offenses have been determined to not involve the "moral turpitude" that triggers the loss of voting rights.
• In Mississippi, ten felonies result in disenfranchisement, but do not include such common offenses as burglary and drug crimes.

5. Confusing policies lead to the exclusion of legal voters and the inclusion of illegal voters:
• The complexity of state disenfranchisement policies results in frequent misidentification of voter eligibility, largely because officials differ in their knowledge and application of disqualification and restoration law and procedures.

6. Significant variation and uncertainty in how states respond to persons with a felony conviction from other states:
• No state has a systematic mechanism in place to address the immigration of persons with a felony conviction, and there is no consensus among indefinite-disenfranchisement states on whether the disqualification is properly confined to the state of conviction, or should be considered in the new state of residence.
• Interpretation and enforcement of this part of disenfranchisement law varies not only across state lines, but also from one county to another within states. Local officials have no way of knowing about convictions in other states, and many are unsure what they would do if a would-be voter acknowledged an old conviction. Because there is no prospect of a national voter roll, this situation will continue even after full HAVA implementation.

7. Disenfranchisement is a time-consuming, expensive practice:
• Enforcement requires elections officials to gather records from different agencies and bureaucracies, including state and federal courts, Departments of Corrections, Probation and Parole, the state Board of Elections, the state police, and other counties' elections offices.

Policy Implications

1. Policies disenfranchising people living in the community on probation or parole, or who have completed a sentence are particularly difficult to enforce:
• States which disenfranchise only persons who are currently incarcerated appear able to enforce their laws more consistently than those barring non-incarcerated citizens from voting.

2. Given large-scale misunderstanding of disenfranchisement law, many eligible persons incorrectly believe they cannot vote, or have been misinformed by election officials:
• More than one-third of election officials interviewed incorrectly described their state's law on voting eligibility.
• More than 85% of the officials who misidentified their state's law either did not know the eligibility standard or specified that the law was more restrictive than was actually the case.

3. Occasional violation of disenfranchisement law by non-incarcerated voters not surprising:

• Given the complexity of state laws and the number of state officials who lack an understanding of restoration and disqualification procedures, it should come as no surprise that many voters are ignorant of their voting status, a fact that is likely to have resulted in hundreds of persons with a felony conviction registering and voting illegally in recent years.

4. Taken together, these findings undermine the most prominent rationale for disenfranchisement: that the policy reflects a strong, clear consensus that persons with a felony conviction are unfit to vote and constitute a threat to the polity:
• First, when significant numbers of the people who administer elections do not know important aspects of disenfranchisement law, it is hard to conclude that the restriction is necessary to protect social order and the "purity" of the ballot box.
• Second, because they are all but invisible in the sentencing process, "collateral" sanctions like disenfranchisement simply cannot accomplish the denunciatory, expressive purposes their supporters claim. We now know that disenfranchisement is not entirely "visible" even to the people running American elections.
• Third, deep uncertainty regarding the voting rights of people with felony convictions who move from one state to another indicates that we do not even know what purpose disenfranchisement is supposed to serve – whether it is meant to be a punishment, or simply a non-penal regulation of the franchise.

Recommendations

1. Clarify Policies Regarding Out-of-State Convictions:
• State officials should clarify their policies and incorporate into training programs the means by which a felony conviction in another state affects an applicant's voting eligibility. For example, sentence-only disenfranchisement states should clarify that newcomers with old felony convictions from indefinite disenfranchisement states are eligible to vote. And those states which bar some people from voting even after their sentences are completed must clarify whether new arrivals with old felony convictions from sentence-only disenfranchisement states are automatically eligible, and must explain what procedures, if any, should be followed for restoration.

2. Train Election Officials:
• Clarify disenfranchisement policies and procedures for all state and local election officials through development of materials and training programs in each state. At a minimum, this should include distribution of posters, brochures and FAQ sheets to local and state elections offices.

3. Train Criminal Justice Officials:
• Provide training on disqualification and restoration policies for all correctional and criminal justice officials, particularly probation and parole staff. Correctional and criminal justice officials should also be actively engaged in describing these policies to persons under criminal justice supervision.

4. Review Voting Restrictions on Non-Incarcerated People:
• Given the serious practical difficulty of enforcing laws disqualifying people who are not incarcerated from voting – problems which clearly include both excluding eligible people from voting and allowing those who should be ineligible to vote -- state policymakers should review such policies to determine if they serve a useful public purpose.

Deliver the Vote: A History of Election Fraud, An American Political Tradition---1742-2004

by Tracy Campbell.

In Deliver the Vote, Campbell traces the historical persistence of voter fraud from colonial times through the 2004 Bush-Kerry election. From the textual information, it quickly becomes obvious that voter fraud was not limited to certain types of people or to certain political parties. Major American political figures fail to emerge unscathed. For instance, before independence, George Washington plied potential voters with drink as payment for their vote. This type of early vote buying succeeded in electing Washington to the Virginia Assembly over a heavily favored candidate. Both the Democrat and Republican Parties also participated in vote fraud. Finally, there were several regions of the country know for fraudulent voting problems such as Chicago, St. Louis, Texas, and Kentucky, especially Louisville.

Germane to the voter fraud project, Campbell indicates that in the Bush-Gore election, both camps committed major errors. Campbell contends that the central problem in that election was the 175,000 invalidated votes. It is evident that Florida was procedurally unprepared to deal with the voluminous questions that arose in determining valid from invalid votes. Campbell glosses over the Bush-Kerry election but does note from one who opposed Kerry, that there was something amiss with the Ohio final vote tally. This book is well researched and provided numerous citations to source material.

Democracy At Risk: The November 2004 Election in Ohio
Democratic National Committee

In December 2004, the DNC announced a comprehensive investigative study and analysis of election administration issues arising from the conduct of the 2004 general election in Ohio. The DNC decided to undertake this study because of the many reports, made to the Democratic Party, appearing in the press and made to advocacy groups, immediately after the election, of problems in the administration of the election in that state—problems that prevented many Ohio citizens who showed up at the polls to be able to vote and to have their vote counted. This study was intended to address the legitimate questions and concerns that have been raised and to develop factual information that would be important and useful in crafting further necessary election reforms.

Most Pertinent Findings

- Overall, 28 percent of Ohio voters reported problems with their voting experience, including ballot problems, locating their proper polling place and/or intimidation.
- Twice as many African American voters as white voters reported experiencing problems at the polls (52 percent vs. 25 percent).
- Scarcity of voting machines caused long lines that deterred many people from voting. Three percent of voters who went to the polls left their polling places and did not return due to the long lines.
- Statewide, African American voters reported waiting an average of 52 minutes before voting while white voters reported waiting an average of 18 minutes.
- Overall, 20 percent of white Ohio voters reported waiting more than twenty minutes, while 44 percent of African American voters reported doing so.
- Of provisional voters in Cuyahoga County, 35 percent were African American, compared to 25 percent of non-provisional voters, matched by geography. African American voters were 1.2 times more likely than white voters to be required to vote provisionally.
- Under Ohio law, the only voters who should have been asked for identification were those voting in their first Federal election who had registered by mail but did **not** provide identification in their registration application. Although only 7 percent of all Ohio voters were newly registered (and only a small percentage of those voters registered by mail and failed to provide identification in their registration application), more than one third (37 percent) reported being asked to provide identification.—meaning large numbers of voters were illegally required to produce identification.
- African American voters statewide were 47 percent more likely to be required to show identification than white voters. Indeed, 61 percent of

African American men reported being asked to provide identification at the polls.
- 6 percent of all voters reported feelings of intimidation.
- Statewide, 16 percent of African Americans reported experiencing intimidation versus only 5 percent of white voters.

The report also includes a useful summary and description of the reports that came through Ohio Election Protection on Election Day, which included a wide variety of problems, including voter intimidation and discrimination.

Most Pertinent Recommendations

- States should be encouraged to codify into law all required election practices, including requirements for the adequate training of official poll workers.
- States should adopt uniform and clear published standards for the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access. These standards should be based on set ratios of numbers of machines and pollworkers per number of voters expected to turn out, and should be made available for public comment before being adopting.
- States should adopt legislation to make clear and uniform the rules on voter registration.
- States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle.
- State and local jurisdictions should adopt clear and uniform rules on the use of, and the counting of, provisional ballots, and distribute them for public comment well in advance of each election day.
- States should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.)
- State Attorneys General and local authorities should vigorously enforce, to the full extent permitted by state law, a voter's right to vote without showing identification.
- States should make voter suppression a criminal offense at the state level, in all states.
- States should improve the training of pollworkers.
- States should expend significantly more resources in educating voters on where, when and how to vote.
- Partisan officials who volunteer to work for a candidate should not oversee or administer any elections.

DOJ Public Integrity Reports 2002, 2003, and 2004

General Background

The Public Integrity Reports are submitted to Congress pursuant to the Ethics in Government Act of 1978, which requires the Attorney General to report annually to Congress on the operations and activities of the Justice Department's Public Integrity Section. The Report describes the activities of the Public Integrity Section. It also provides statistics on the nationwide federal effort against public corruption. The Public Integrity Section was created in 1976 in order to consolidate in one unit of the Criminal Division the Department's oversight responsibilities for the prosecution of criminal abuses of the public trust by government officials. Section attorneys prosecute selected cases involving federal, state, or local officials, and also provide advice and assistance to prosecutors and agents in the field regarding the handling of public corruption cases. In addition, the Section serves as the Justice Department's center for handling various issues that arise regarding public corruption statutes and cases. An Election Crimes Branch was created within the Section in 1980 to supervise the Department's nationwide response to election crimes, such as ballot fraud and campaign financing offenses. The Branch reviews all major election crime investigations throughout the country and all proposed criminal charges relating to election crime.

One of the Section's law enforcement priorities is its supervision of the Justice Department's nationwide response to election crimes. The purpose of Headquarters' oversight of election crime matters is to ensure that the Department's nationwide response to election crime is uniform, impartial, and effective. An Election Crimes Branch, headed by a Director and staffed by Section attorneys on a case-by-case basis, was created within the Section in 1980 to handle this supervisory responsibility.

The Election Crimes Branch oversees the Department's handling of all election crime allegations other than those involving civil rights violations, which are supervised by the Voting Section of the Civil Rights Division. Specifically, the Branch supervises four types of corruption cases: crimes that involve the voting process, crimes involving the financing of federal election campaigns, crimes relating to political shakedowns and other patronage abuses, and illegal lobbying with appropriated funds. Vote frauds and campaign-financing offenses are the most significant and also the most common types of election crimes.

Divisions of the Election Crimes Branch

As affecting the present EAC study, the appropriate divisions of the Election Crimes Branch are:

Vote frauds-During 2002 the Branch assisted United States Attorneys' Offices in Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nevada, North Carolina, Rhode Island, South Carolina, South Dakota, Texas, Utah, West Virginia, and

Wisconsin in handling vote fraud matters that occurred in their respective districts. This assistance included providing expertise in the evaluation of allegations to determine whether investigation would produce prosecutable federal criminal cases, helping to structure investigations, providing legal assistance with respect to the formulation of charges, and assisting in establishing task force teams of federal and state law enforcement officials to investigate vote fraud matters.

During 2003 the Branch assisted United States Attorneys' Offices in Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, Nevada, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virgin Islands, West Virginia, and Wisconsin in handling vote fraud matters that occurred in their respective districts. This assistance included providing expertise in the evaluation of allegations to determine whether investigation would produce prosecutable federal criminal cases, helping to structure investigations, providing legal assistance with respect to the formulation of charges, and assisting in establishing task force teams of federal and state law enforcement officials to investigate vote fraud matters.

During 2004 the Branch assisted United States Attorneys' Offices in the following states in the handling of vote fraud matters that occurred in their respective districts: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, Washington, and Wisconsin. This assistance included evaluating vote fraud allegations to determine whether investigation would produce a prosecutable federal criminal case, helping to structure investigations, providing legal advice concerning the formulation of charges, and assisting in establishing several task force teams of federal and state law enforcement officials to investigate vote fraud matters.

Litigation-The Branch Director or Section attorneys also prosecute selected election crimes, either by assuming total operational responsibility for the case or by handling the case jointly with a United States Attorney's Office. The Section also may be asked to supervise the handling of a case in the event of a partial recusal of the local office. For example, in 2002 the Branch continued to supervise the prosecution of a sheriff and his election attorney for using data from the National Crime Information Center regarding voters' criminal histories to wage an election contest.

District Election Officer Program-The Branch also assists in implementing the Department's long-standing District Election Officer (DEO) Program. This Program is designed to ensure that each of the 93 United States Attorneys' Offices has a trained prosecutor available to oversee the handling of election crime matters within the district and to coordinate district responses with Headquarters regarding these matters. The DEO Program involves the appointment of an Assistant United States Attorney in each federal district to serve a two-year term as a District Election Officer; the training of these