

**DOCUMENTS NUMBERED 07850-11888**

Thomas R. Wilkey/EAC/GOV  
11/09/2006 12:20 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc

Subject Tova and Job

History

 This message has been replied to.

Julie;

I had a call from Tova who had a call from Job on what are plans are for the report.

I think it would be a good idea for us to have a brief meeting with them early next week so that both understand what we are doing here.

I told her we had found some interesting things they has assemled...but I think it would be good to "clear the air " with both of them

Thanks

Tom

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

007850

Thomas R. Wilkey/EAC/GOV  
05/01/2006 03:00 PM

To Karen Lynn-Dyson/EAC/GOV@EAC, Juliet E.  
Thompson-Hodgkins/EAC/GOV

cc

bcc

Subject Re: E-mail to Voter ID peer reviewers

Did we resolve the contact issues on this?

---

Sent from my BlackBerry Wireless Handheld  
Karen Lynn-Dyson

**From:** Karen Lynn-Dyson  
**Sent:** 05/01/2006 02:58 PM  
**To:** Thomas Wilkey; Juliet Thompson-Hodgkins  
**Subject:** E-mail to Voter ID peer reviewers

Tom and Julie-

Please take a look at this draft e-mail and let me know if it captures all that it needs to.

Would like to get this out ASAP- appreciate your feedback..

Dear Jonathan Nagler  
Dear Jan Leighley  
Dear Adam Berinsky

On behalf of the U.S. Election Assistance Commission (EAC), thank you in advance for agreeing to assist us with the review of research conducted by the Eagleton Institute of Politics on voter identification. By **Friday, May 5, 2006**, you will receive, in electronic form, the research paper and relevant data analysis which supports the paper's findings. Through this independent review by a small group of experts familiar with elections data and research we are seeking feedback on:

- The research methodology which was used to support the paper's conclusions
- The specific statistical applications which were used to analyze the data and arrive at various conclusions

If there are alternate methodological and statistical approaches to analyzing the data on voter identification, and if there is other data on voter identification that you think should have been included in the analysis, please be certain to note this in your comments.

On **May 11, 2006** EAC will conduct a 60-90 minute phone call with key Eagleton Institute staff responsible for the research, members of Eagleton's peer review group and the EAC-identified reviewers who have been asked to consider the research. Through this dialogue EAC hopes to gather varying perspectives and insights on the research strategies and methods that were

007851

employed by Eagleton. As a result of this conversation, EAC anticipates that some revisions will be made to the Eagleton research paper. This paper is scheduled to be presented to EAC's Board of Advisors and Standards Boards in late May.

While EAC agency policy does not allow us to provide you with financial compensation for your review of this research we greatly appreciate your willingness to assist us with this important task. We believe that the research findings we will provide on voter identification are important and will most certainly be enhanced by your insights and expertise.


Sincerely,

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

007852

**Deliberative Process  
Privilege**

Margaret Sims/EAC/GOV  
11/17/2006 02:48 PM

To Gavin S. Gilmour/EAC/GOV@EAC  
cc Juliet E. Hodgkins/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC  
bcc  
Subject Re: My Thoughts –PRIVILEGED COMMUNICATION 

Gavin:

This looks good to me. I just have a few questions/clarifications, both involving the second paragraph:

1. First sentence - Do you mean "intra-agency", rather than interagency?
2. Second sentence - If we plan to release an EAC report based on the material provided by the consultants, then can we avoid implying that we are ever going to release a report written by the consultants?
3. Sixth sentence - I was present at only one interview, not all of them; but I did facilitate and help schedule the interviews.

-- Peggy

Gavin S. Gilmour/EAC/GOV

Gavin S. Gilmour/EAC/GOV  
11/17/2006 01:39 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV, Margaret Sims/EAC/GOV@EAC  
cc  
Subject My Thoughts –PRIVILEGED COMMUNICATION

Do Not Release



People for the American Way.doc

Gavin S. Gilmour  
Deputy General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

THIS MESSAGE IS FOR ITS INTENDED RECIPIENT ONLY. IT IS A PRIVILEGED DOCUMENT AND SHALL NOT BE RELEASED TO A THIRD PARTY WITHOUT THE CONSENT OF THE SENDER.

007853

The document you request on voter fraud is protected from release under FOIA. Specifically, the responsive information is protected by the Deliberative Process Privilege and exempted from release under 5 U.S.C. §552(b)(5). As you may know, the Deliberative Process Privilege protects intra-agency documents that are (1) predecisional in nature and (2) part of the deliberative process. In other words, the documents must be part of a process that recommends or presents opinions on a policy matter before that matter is adopted. Such documents are exempt from release (1) to encourage open and frank discussions on policy matters between agency subordinates and superiors, (2) to protect against premature disclosure of proposed policies and (3) to protect against public confusion that might result from disclosure of rationales that were not in fact the ultimate basis for agency action.

The report you have requested is an interagency document that is not yet complete and has not been reviewed and approved by the Commissioners (the relevant policy makers). The document was created by two contract employees with the support of EAC staff. The contract employees were hired pursuant EAC's authority to hire consultants and experts under 5 U.S.C. §3109 (See 42 U.S.C. §15324(b)). Individuals hired under this authority enter into an employment relationship with the EAC. The contract employees at issue were closely supervised by an EAC program director who participated directly in the project. For example, the supervisor participated in each interview conducted for the project. Further, the contract employees were provided research materials and other support from EAC law clerks and staff. Communications with contract employees are interagency communications for the purposes of FOIA.<sup>1</sup> Work continues to proceed on the draft.

Similarly, the document you have requested constitutes a recommendation on a policy matter. The purpose or subject of the draft report at issue is to make an EAC determination on how voter fraud should be studied by the Agency. This is to be done by (1) accessing the nature and quality of the information that presently exists on the subject matter (2) defining the terms and scope of EAC study as proposed under HAVA, (3) determining what is to be studied and (4) determining how it is to be studied. Clearly, EAC's interpretation of HAVA and its determination of what it will study and how it will use its resources to study it are matters of agency policy. This policy can only be made by the EAC's duly appointed commissioners. This has not yet been done. Thus, any draft created by staff is a proposal or recommendation on a policy matter and clearly both predecisional and deliberative.

For these reasons, the draft document you have requested is exempt from release. The release of an incomplete and unofficial document would serve only to confuse the public. We expect the report to be made final and approved by the Commission in December. It will be made public at that time. Upon its release you may obtain a copy of it on our Website.

---

<sup>1</sup> Department of the Interior v. Klamath Water Users Protective Association, 532 U.S. 1, 9-11 (2001) and Hertzberg v. Veneman, 273 F. Supp. 2d 67, 76 n.2 (D.D.C. 2003).

DRAFT

The EAC has decided to waive the processing fees for your request. If you interpret any portion of this response as an adverse action, you may appeal it to the Election Assistance Commission. Your appeal must be in writing and sent to the address noted on the above letterhead. Any appeal submitted, must be postmarked no later than 60 calendar days from the date of this letter. Please include your reasons for reconsideration and attach a copy of this letter.

Sincerely,

CONFIDENTIAL

007855

**Deliberative Process  
Privilege**

Margaret Sims /EAC/GOV  
11/17/2006 09:28 AM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc

Subject Draft Voter Fraud/Voter Intimidation Report

History

This message has been replied to.

Julie:

I really like the tone, focus, and organization of the paper. I also liked the way you interspersed the lists of Working Group members, interviewees, and reports reviewed with the text (drawing the reader's attention to the info, cutting down on the # of appendices, and giving the eye a break from regular text). Attached is your document with my comments, questions, and suggested changes. I did not do much to it.

Regarding your questions about the appendices:

I really did not prepare my summaries with an eye toward publication, but the consultants' summaries probably include incendiary info (particularly re DOJ interviews). As for the case law, we have multiple, voluminous charts, but no list. We can create a list from the charts, but that will take time. The Commissioners may want to see the consultants' or my summaries and the case law charts, but do we need to publish them?

Do we need to put short bios for Tova and Job in an appendix? --- Peggy



EAC VF-VI Report- rev 11-17-06.doc

007856



**EAC REPORT ON ~~VOTER~~ FRAUD AND VOTER INTIMIDATION STUDY**

Comment [M1]: HAVA §241(b)(6) refers to voting (rather than voter) fraud and 241(b)(7) refers to voter intimidation. Do we want to do a global change from voter fraud to voting fraud, or leave it as is?

**INTRODUCTION**

Voter fraud and intimidation is a phrase familiar to many voting-aged Americans. However, it means different things to different people. Voter fraud and intimidation is a phrase used to refer to crimes, civil rights violations, and at times even the correct application of state or federal laws to the voting process. Past study of this topic has been as varied as its perceived meaning. In an effort to help understand the realities of voter fraud and voter intimidation in our elections, EAC has begun this, phase one, of a comprehensive study on election crimes. In this phase of its examination, EAC has developed a definition of election crimes and adopted some research methodology on how to assess the true existence and enforcement of election crimes in this country.

**PURPOSE AND METHODOLOGY OF THE EAC STUDY**

Section 241 of the Help America Vote Act of 2002 (HAVA) calls on the U.S. Election Assistance Commission (EAC) to research and study various issues related to the administration of elections. During Fiscal Year 2006, EAC began projects to research several of the listed topics. These topics for research were chosen in consultation with the EAC Standards Board and Board of Advisors. Voter fraud and voter intimidation, listed in §§241(b)(6) and (7), were topics ~~was a topic that~~ EAC as well as its advisory boards felt were important to study to help improve the administration of elections for federal office.

EAC began this study with the intention of identifying a common understanding of voter fraud and intimidation and devising a plan for a comprehensive study of these issues. This study was not intended to be a comprehensive review of existing voter fraud and voter intimidation actions, laws, or prosecutions. That type of research is well beyond the basic understanding that had to be established regarding what is commonly referred to as voter fraud and voter intimidation. Once that understanding was reached, a definition had to be crafted to refine and in some cases limit the scope of what reasonably can be researched and studied as evidence of voter fraud and voter intimidation. That definition will serve as the basis for recommending a plan for a comprehensive study of the area.

To accomplish these tasks, EAC employed two consultants, Tova Wang and Job Serebrov, who along with EAC staff and interns conducted the research that forms the basis of this report. The c ~~Consultants~~ were chosen based upon their experience with the topic and ~~– In addition, consultants were chosen to assure a bipartisan representation in this study. The consultants and EAC staff were charged to:~~ (1) ~~to research the current state of information on the topics of voter fraud and voter intimidation;~~ (2) ~~to develop a uniform definition of voter fraud and voter intimidation;~~ and (3) ~~to propose recommended strategies for researching this subject.~~

EAC consultants reviewed existing studies, articles, reports and case law on voter fraud and intimidation. In addition, EAC consultants conducted interviews with selected experts in the field. Last, EAC consultants and staff presented their study to a working group that provided feed back. The working group participants were:

**The Honorable Todd Rokita**  
Indiana Secretary of State  
Member, EAC Standards Board and the  
Executive Board of the Standards Board

**Kathy Rogers**  
Georgia Director of Elections, Office of  
the Secretary of State  
Member, EAC Standards Board

**J.R. Perez**  
Guadalupe County Elections  
Administrator, Texas

**Barbara Arnwine**  
Executive Director, Lawyers Committee  
for Civil Rights under Law  
Leader of Election Protection Coalition

**Benjamin L. Ginsberg**  
Partner, Patton Boggs LLP  
Counsel to national Republican  
campaign committees and Republican  
candidates

**Robert Bauer**  
Chair of the Political Law Practice at the  
law firm of Perkins Coie, District of  
Columbia  
National Counsel for Voter Protection,  
Democratic National Committee

**Mark (Thor) Hearne II**  
Partner-Member, Lathrop & Gage, St  
Louis, Missouri  
National Counsel to the American  
Center for Voting Rights

**Barry Weinberg**  
Former Deputy Chief and Acting Chief,  
Voting Section, Civil Rights Division,  
U.S. Department of Justice

*Technical Advisor:*

**Craig Donsanto**  
Director, Election Crimes Branch, U.S.  
Department of Justice

Throughout the process, EAC staff assisted the consultants by providing statutes and cases on this subject as well as supervision on the direction, scope and product of this research.

The consultants drafted a report for EAC that included their summaries of existing laws, relevant cases, studies and reports on voter fraud and intimidation as well as summaries of the interviews that they conducted. The draft report also provided a definition of voter fraud and intimidation and made certain recommendations developed by the consultants or by the working group on how to pursue further study of this subject. This document was vetted and edited to produce this final report.

**Comment [M2]:** The consultants did not really summarize existing law

## **EXISTING INFORMATION ABOUT FRAUD AND INTIMIDATION**

To begin our study of voter fraud and voter intimidation, EAC consultants reviewed the current body of information on voter fraud and intimidation. What the world knows about these issues comes largely from a very limited body of reports, articles and books.

There are volumes of case law and statutes in the various states that also impact our understanding of what actions or inactions are legally considered fraud or intimidation. Last, there is anecdotal information available through media reports and interviews with persons who have administered elections, prosecuted fraud, and studied these problems. All of these resources were used by EAC consultants to provide an introductory look at the available knowledge of voter fraud and voter intimidation.

### **Reports and Studies of Voter Fraud and Intimidation**

Over the years, there have been a number of studies and reports published conducted about ~~the concepts of~~ voter fraud and voter intimidation. EAC consultants reviewed many of these studies and reports to develop a base-line understanding of the information that is currently available about voter fraud and voter intimidation. EAC consultants reviewed the following articles, reports and books, summaries of which are available in Appendix “\_\_”:

#### **Articles and Reports**

- People for the American Way and the NAACP, “The Long Shadow of Jim Crow,” December 6, 2004.
- Laughlin McDonald, “The New Poll Tax,” *The American Prospect* vol. 13 no. 23, December 30, 2002.
- Wisconsin Legislative Audit Bureau, “An Evaluation: Voter Registration Elections Board” Report 05-12, September, 2005.
- Milwaukee Police Department, Milwaukee County District Attorney’s Office, Federal Bureau of Investigation, United States Attorney’s Office “Preliminary Findings of Joint Task Force Investigating Possible Election Fraud,” May 10, 2005.
- National Commission on Federal Election Reform, “Building Confidence in U.S. Elections,” Center for Democracy and Election Management, American University, September 2005.
- The Brennan Center for Justice at NYU School of Law and Spencer Overton, Commissioner and Law Professor at George Washington University School of Law “Response to the Report of the 2005 Commission on Federal Election Reform,” September 19, 2005.
- Chandler Davidson, Tanya Dunlap, Gale Kenny, and Benjamin Wise, “Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – or Both?” A Report to the Center for Voting Rights & Protection, September, 2004.

- Alec Ewald, "A Crazy Quilt of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law," The Sentencing Project, November 2005.
- American Center for Voting Rights "Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election," August 2, 2005.
- The Advancement Project, "America's Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy" November 7, 2001
- The Brennan Center and Professor Michael McDonald "Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General," The Brennan Center for Justice at NYU School of Law, December 2005.
- Democratic National Committee, "Democracy at Risk: The November 2004 Election in Ohio," DNC Services Corporation, 2005
- Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2002."
- Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2003."
- Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2004."
- Craig Donsanto, "The Federal Crime of Election Fraud," Public Integrity Section, Department of Justice, prepared for Democracy.Ru, n.d., at [http://www.democracy.ru/english/library/international/eng\\_1999-11.html](http://www.democracy.ru/english/library/international/eng_1999-11.html)
- People for the American Way, Election Protection 2004, Election Protection Coalition, at <http://www.electionprotection2004.org/edaynews.htm>
- Craig Donsanto, "Prosecution of Electoral Fraud under United State Federal Law," *IFES Political Finance White Paper Series*, IFES, 2006.
- General Accounting Office, "Elections: Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote," Report to Congressional Requesters, September 2005.

- Lori Minnite and David Callahan, "Securing the Vote: An Analysis of Election Fraud," Demos: A Network of Ideas and Action, 2003.
- People for the American Way, NAACP, Lawyers Committee for Civil Rights, "Shattering the Myth: An Initial Snapshot of Voter Disenfranchisement in the 2004 Elections," December 2004.

#### Books

- John Fund, *Stealing Elections: How Voter Fraud Threatens Our Democracy*, Encounter Books, 2004.
- Andrew Gumbel, *Steal this Vote: Dirty Elections and the Rotten History of Democracy in American*, Nation Books, 2005.
- Tracy Campbell, *Deliver the Vote: A History of Election Fraud, An American Political Tradition – 1742-2004*, Carroll & Graf Publishers, 2005.
- David E. Johnson and Jonny R. Johnson, *A Funny Thing Happened on the Way to the White House: Foolhardiness, Folly, and Fraud in the Presidential Elections, from Andrew Jackson to George W. Bush*, Taylor Trade Publishing, 2004.
- Mark Crispin Miller, *Fooled Again*, Basic Books, 2005.

During our review of these documents, we learned a great deal about the type of research that has been conducted in the past concerning voter fraud and voter intimidation. None of the studies or reports was based on a comprehensive nationwide study, survey or review of all allegations, prosecutions or convictions of state or federal crimes related to voter fraud or voter intimidation in the U.S. Most reports focused on a limited number of case studies or instances of alleged voter fraud or intimidation. For example, "Shattering the Myth: An Initial Snapshot of Voter Disenfranchisement in the 2004 Elections," a report produced by the People for the American Way, focused exclusively on citizen reports of fraud or intimidation to the Election Protection program during the 2004 presidential election. Similarly, reports produced annually by the Department of Justice, Public Integrity Division, deal exclusively with crimes reported to and prosecuted by the United States Attorneys and/or the Department of Justice through the Public Integrity Section.

It is also apparent from a review of these articles and books that there is no consensus on the pervasiveness of voter fraud and voter intimidation. Some reports, such as "Building Confidence in U.S. Elections," suggest that there is little or no evidence of extensive fraud in U.S. elections or of multiple voting. This conflicts directly with other reports, such as the "Preliminary findings of Joint Task Force Investigating Possible Election Fraud," produced by the Milwaukee Police Department, Milwaukee County District

Attorney's Office, FBI and U.S. Attorney's Office. That report cited evidence of more than 100 individual instances of suspected double-voting, voting in the name of persons who likely did not vote, and/or voting using a name believed to be fake.

Voter intimidation is also a topic of some debate. Generally, speaking there is little agreement on what constitutes actionable voter intimidation. Some studies and reports cover only intimidation that involves physical or financial threats, while others cover non-criminal intimidation and even legal practices that they allege suppress the vote.

One point of agreement is that absentee voting and voter registration by ~~third-party~~ nongovernmental groups has created opportunities for fraud. A number of studies cited circumstances in which voter registration drives have falsified voter registration applications or have destroyed voter registration applications of persons affiliated with voters of a certain political party. Others conclude that paying persons per voter registration application creates the opportunity and perhaps the incentive for fraud.

**Comment [M3]:** The term "third-party" is often used for minor political parties. As most of the voter registration drive problems have involved major party operatives and advocacy groups, "nongovernmental" seems a better choice.

### Interviews with Experts

In addition to reviewing prior studies and reports on voter fraud and intimidation, EAC consultants interviewed a number of persons regarding their experiences and research of voter fraud and voter intimidation. Persons interviewed included

**Wade Henderson**  
Executive Director,  
Leadership Conference for Civil Rights

**Pat Rogers**  
Attorney, New Mexico

**Wendy Weiser**  
Deputy Director,  
Democracy Program, The Brennan  
Center

**Rebecca Vigil-Giron**  
Secretary of State, New Mexico

**William Groth**  
Attorney for the plaintiffs in the Indiana  
voter identification litigation

**Sarah Ball Johnson**  
Executive Director,  
State Board of Elections, Kentucky

**Lori Minnite**  
Barnard College, Columbia University

**Stephen Ansolobhere**  
Massachusetts Institute of Technology

**Neil Bradley**  
ACLU Voting Rights Project

**Chandler Davidson**  
Rice University

**Nina Perales**  
Counsel,  
Mexican American Legal Defense and  
Education Fund

**Tracey Campbell**  
Author, *Deliver the Vote*

**Douglas Webber**  
Assistant Attorney General, Indiana

**Heather Dawn Thompson**

Director of Government Relations,  
National Congress of American Indians

**Jason Torchinsky**  
Assistant General Counsel,  
American Center for Voting Rights

**Robin DeJarnette**  
Executive Director,  
American Center for Voting Rights

**Harry Van Sickle**  
Commissioner of Elections,  
Pennsylvania

**Joseph Sandler**  
Counsel  
Democratic National Committee

**John Ravitz**  
Executive Director  
New York City Board of Elections

**Sharon Priest**  
Former Secretary of State, Arkansas

**Kevin Kennedy**  
Executive Director  
State Board of Elections, Wisconsin

**Evelyn Stratton**  
Justice  
Supreme Court of Ohio

**Tony Sirvello**  
Executive Director  
International Association of Clerks,  
Recorders, Election Officials and  
Treasurers

**Joseph Rich**  
Former Director  
Voting Section, Civil Rights Division  
U.S. Department of Justice

**Craig Donsanto**  
Director, Public Integrity Section  
U.S. Department of Justice

**John Tanner**  
Director  
Voting Section, Civil Rights Division  
U.S. Department of Justice

These interviews in large part confirmed the conclusions that were gleaned from the articles, reports and books that were analyzed. For example, the interviewees largely agreed that absentee balloting is subject to the greatest proportion of fraudulent acts, followed by vote buying and voter registration fraud. They similarly pointed to voter registration drives by third-party nongovernmental groups as a source of fraud, particularly when the workers are paid per registration. Many asserted that impersonation of voters is probably the least frequent type of fraud, citing as reasons that it was the most likely type of fraud to be discovered, and that there are stiff penalties associated with this type of fraud, and that it was an inefficient method of influencing an election.

Interviewees differed on what they believe constitutes actionable voter intimidation. Law enforcement and prosecutorial agencies tend to look to the criminal definitions of voter intimidation which generally require some threat of physical or financial harm. On the other hand, voter rights advocates tended to point to activities such as challenger laws, voter identification laws, the location of polling places, and distribution of voting machines as activities that can constitute voter intimidation.

Those interviewed also expressed opinions on the enforcement of voter fraud and voter intimidation laws. States have varying authorities to enforce these laws. In some states, enforcement is left to the county or district attorney, and in others enforcement is managed by the state's attorney general. Regardless, voter fraud and voter intimidation are difficult to prove and require resources and time that local law enforcement and prosecutorial agencies do not have. Federal law enforcement and prosecutorial agencies have more time and resources but have limited jurisdiction. They can only prosecute election crimes related to elections with a federal candidate on the ballot and those committed by a public official under color of law involving federal candidates. Those interviewed differed on the effectiveness of the current system of enforcement. Some including those that allege that prosecutions are not sufficiently aggressive. Others and those that feel that the current laws are sufficient for prosecuting fraud and intimidation.

A summary of the each of the interviews conducted is attached as Appendix “\_\_\_”.

### **Case Law and Statutes**

Consultants reviewed over 40,000 cases that were identified using a series of search terms related to voter fraud and voter intimidation. The majority of these cases came from appeal courts. This is not a surprising situation, since most cases that are publicly reported come from courts of appeal. Very few cases that are decided at the district court level are reported for public review.

Very few of the identified cases were applicable to this study. Of those that were applicable, no apparent thematic pattern emerged. However, it did seem that the greatest number of cases reported on fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying and challenges to felon eligibility.

A listing of the cases reviewed in this study is attached as Appendix “\_\_\_”.

### **Media Reports**

EAC consultants reviewed thousands of media reports concerning a wide variety of potential voter fraud or voter intimidation, including:

- absentee ballot fraud,
- voter registration fraud,
- voter intimidation and suppression,
- deceased voters,
- multiple voting,
- felons voting,
- non-citizens voting,
- vote buying,
- deceptive practices, and



- fraud by election officials.

While these reports showed that there were a large number of allegations of voter fraud and voter intimidation, they provided much less information as to whether the allegations were ever formalized as complaints to law enforcement, whether charges were filed, whether prosecutions ensued, and whether any convictions were made. The media reports were enlightening as to the pervasiveness of complaints of fraud and intimidation throughout the country, the correlation between fraud allegations and the perception that the state was a “battleground” or “swing” state, and the fact that there were reports of almost all types of voter fraud and voter intimidation. However, these reports do not provide much data for analysis as to the number of complaints, charge and prosecutions of voter fraud and intimidation throughout the country.

## DEFINITION OF ELECTION CRIMES

From our study of available information on voter fraud and voter intimidation, we have learned that these terms mean many things to many different people. These terms are used casually to refer to anything from vote buying to refusing to register a voter to falsifying voter registration applications. Upon further inspection, however, it is apparent that there is no common understanding of what is and what is not “voter fraud” and “voter intimidation.” Some think of voter fraud and voter intimidation only as criminal acts, while others include actions that may constitute civil wrongs, civil rights violations, and even legal and appropriate activities. In order to come up with a common definition and list of activities that can be studied, EAC assessed the appropriateness of the terminology that is currently in use and applied certain factors to limit the scope and reach of what can and will be studied by EAC in the future.

### New Terminology

The phrase “voter fraud” is really a misnomer for a concept that is much broader. “Fraud” is a concept that connotes an intentional act of deception, which may constitute either a criminal act or civil tort depending upon the willfulness of the act.

**Fraud, n. 1.** A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. • Fraud is <sup>usually</sup> a tort, but in some cases (esp. when the conduct is willful) it may be a crime.

Comment [M4]: Sic? Or is this a typo?

Black’s Law Dictionary, Eighth Edition, p. 685.

A “voter” is a person who is eligible to and engages in the act of voting. Black’s Law Dictionary, Eighth Edition, p. 1608. Using these terms to form a definition of “voter fraud,” it means fraudulent or deceptive acts committed by the voter or in which the voter is the victim. Thus, a voter who intentionally provides false information on a voter registration application or intentionally impersonates another registered voter and attempts to vote for that person would be committing “voter fraud.” Similarly, a person

who knowingly provides false information to a voter about the location of the voter’s polling place commits fraud on the voter.

The phrase “voter fraud” does not capture a myriad of other criminal acts that are related to elections which are not perpetrated by the voter and/or do not involve an act of deception. For example, “voter fraud” does not capture actions or willful inaction by candidates and election workers. When an election official willfully and knowingly refuses to register to vote an otherwise legally eligible person it is a crime. This is a crime that involves neither the voter nor an act of deception.

To further complicate matters, the phrases “voter fraud” and “voter intimidation” are used to refer to actions or inactions that are criminal as well as those that are potentially civil wrongs and even those that are legal. Obviously, criminal acts and civil wrongs are pursued in a very different manner. Criminal acts are prosecuted by the local, state or federal government. Generally, civil wrongs are prosecuted by the individual who believes that they were harmed. In some cases, when civil rights are involved, the civil division of the Department of Justice may become involved.

The goal of this study was to develop a common definition of what is generically referred to as “voter fraud” and “voter intimidation” that would serve as the basis ~~of~~ for a future, comprehensive study of the existence of these problems. In order to meet that goal, we recognize that the current terminology does not accurately represent the spectrum of activities that we desire to study. Furthermore, we recognize that the resources, both financial and human capital, needed to study allegations and prosecutions of criminal acts, suits involving civil torts, and allegations of potential voter suppression through the use legal election processes are well beyond the resources available to EAC. As such, EAC has defined “election crimes,” a phrase that captures all crimes related to the voter registration and voting processes.

**What is an Election Crime for Purposes of this Study**

**Comment [M5]:** So this means that we will not look at civil actions involving Voting Rights Act violations, right?

Election crimes are intentional acts or willful failures to act, prohibited by state or federal law, that are designed to cause ineligible persons to participate in the election process, eligible persons to be excluded from the election process, ineligible votes to be cast in an election, eligible votes not to be cast or counted, or other interference with or invalidation of election results. Election crimes generally fall into one of four categories: acts of deception; acts of coercion; acts of damage or destruction; and failures or refusals to act.

Generally speaking, election crimes can be committed by voters, candidates, election officials, or any other members of the public that desire to criminally impact the result of an election. However, crimes that are based upon knowing or willful failure to act assume that a duty to act exists. Election officials have affirmative duties to act with regard to elections. By and large, other groups and individuals do not have such duties.

The victim of an election crime can be a voter, a group of voters, or the public, in general. Election crimes can occur during any stage of the election process, including but not limited to qualification of candidates; voter registration; campaigning; voting system preparation and programming; voting either early, absentee, or election day; vote tabulation; recounts; and recalls.

The following are examples of activities that may constitute election crimes. This list is not intended to be exhaustive, but is representative of what states and or the federal government consider criminal activity related to elections.

***Acts of Deception***

- Knowingly causing to be mailed or distributed, or knowingly mailing or distributing, literature that includes false information about the voter's precinct or polling place, regarding the date and time of the election or regarding a candidate;
- Possessing an official ballot outside the voting location, unless the person is an election official or other person authorized by law or local ordinance possess a ballot outside of the polling location;
- Making, or knowingly possessing, a counterfeit of an official election ballot;
- Signing a name other than his/her own to a petition proposing an initiative, referendum, recall, or nomination of a candidate for office;
- Knowingly signing more than once for the proposition, question, or candidate at one election;
- Signing a petition proposing an initiative or referendum when the signer is not a qualified voter.
- Voting or attempting to vote in the name of another person;
- Voting or attempting to vote more than once at the same election;
- Intentionally making a false affidavit, swearing falsely, or falsely affirming under an oath required by a statute regarding their voting status, including when registering to vote, requesting an absentee ballot or presenting to vote in person;
- Registering to vote without being entitled to register;
- Knowingly making a material false statement on an application for voter registration or re-registration; and
- Voting or attempting to vote in an election after being disqualified or when the person knows that he/she is not eligible to vote.

***Acts of Coercion***

- Using, threatening to use, or causing to be used force, coercion, violence, restraint, or inflicting, threatening to inflict, or causing to be inflicted damage harm, or loss, upon or against another person to induce or compel that person to vote or refrain from voting or to register or refrain from registering to vote;
- Knowingly paying, offering to pay, or causing to be paid money or other valuable thing to a person to vote or refrain from voting for a candidate or for or against an election proposition or question;

- Knowingly soliciting or encouraging a person who is not qualified to vote in an election;
- Knowingly challenging a person's right to vote without probable cause or on fraudulent grounds, or engaging in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voter from voting or delay the process of voting;
- As an employer, attempting by coercion, intimidation, threats to discharge or to lessen the remuneration of an employee, to influence his vote in any election, or who requires or demands an examination or inspection by himself or another of an employee's ballot;
- Soliciting, accepting, or agreeing to accept money or other valuable thing in exchange for signing or refraining from signing a petition proposing an initiative;
- Inducing or attempting to induce an election official to fail in the official's duty by force, threat, intimidation, or offers of reward;
- Directly or through any other person advancing, paying, soliciting, or receiving or causing to be advanced, paid, solicited, or received, any money or other valuable consideration to or for the use of any person in order to induce a person not to become or to withdraw as a candidate for public office; and
- Soliciting, accepting, or agreeing to accept money or other valuable thing in exchange for registering to vote.

***Acts of Damage or Destruction***

- Destroying completed voter registration applications that are necessary for the applicants to exercise their right to vote;
- Removing or destroying any of the supplies or other conveniences placed in the voting booths or compartments for the purpose of enabling the voter to vote his or her ballot;
- Removing, tearing down, or defacing election materials, instructions or ballots;
- Fraudulently altering or changing the vote of any elector, by which such elector is prevented from voting as he intended;
- Knowingly removing, altering, defacing or covering any political sign of any candidate for public office for a prescribed period prior to and following the election;
- Intentionally changing, attempting to change, or causing to be changed an official election document including ballots, tallies, and returns; and
- Intentionally delaying, attempting to delay, or causing to be delayed the sending of certificate, register, ballots, or other materials whether original or duplicate, required to be sent by jurisdictional law.

Formatted: Bullets and Numbering

***Failure or Refusal to Act***

- Intentionally failing to perform an election duty, or knowingly committing an unauthorized act with the intent to effect the election;
- Knowingly permitting, making, or attempting to make a false count of election returns;

- o Intentionally concealing, withholding, or destroying election returns or attempts to do so;
- o Marking a ballot by folding or physically altering the ballot so as to recognize the ballot at a later time;
- o Attempting to learn or actually and unlawfully learning how a voter marked a ballot;
- o Distributing or attempting to distribute election material knowing it to be fraudulent;
- o Knowingly refusing to register a person who is entitled to register under the rules of that jurisdiction; and
- o Knowingly refusing to allow an eligible voter to cast his/her ballot.

**What is not an Election Crime for Purposes of this Study**

There are some actions or inactions that may constitute crimes or civil wrongs that we do not include in our definition of “election crimes.” All criminal es-or civil violations related to campaign finance contribution limitations and prohibitions, as well as reporting either at the state or federal level are not “election crimes” for purposes of this study and any future study conducted by EAC. The federal agency responsible for administering federal campaign finance law and monitoring the status of state campaign finance law is the Federal Election Commission (FEC).

**Comment [M6]:** Do we want to restrict our study to election crimes that affect federal elections only? HAVA §241(b)(6) specifically refers to “Nationwide statutes and methods of identifying, deterring, and investigating voting fraud in elections for Federal office.” [Emphasis added]. That would mean we would also stay away from election crimes affecting ballot issues and elections with no federal candidate on the ballot.

Similarly, criminal acts that are unrelated to elections, voting, or voter registration are not “election crimes,” even when those offenses occur in a polling place, voter registration office, or a candidate’s office or appearance. For example, an assault or battery that results from a fight in a polling place or at a candidate’s office is not an election crime. Similarly, violations of ethical provisions such as the Hatch Act are not “election crimes.” Last, actions that do not rise to the level of criminal activity, that is a misdemeanor, relative felony or felony, are not “election crimes.”

**RECOMMENDATIONS ON HOW TO STUDY ELECTION CRIMES**

As a part of its study, EAC sought recommendations on ways that EAC can study the existence of election crimes. EAC consultants developed recommendations. In addition, the working group and some of the persons interviewed as a part of this study provided recommendations.

***Recommendation 1: Conduct More Interviews***

Future activity in this area should include conducting additional interviews. In particular, more election officials from all levels of government, parts of the country, and political parties should be interviewed. It would also be especially beneficial to talk to people in law enforcement, specifically federal District Election Officers (“DEOs”) and local district attorneys, as well as civil and criminal defense attorneys.

***Recommendation 2: Follow Up on Media Research***

The media search conducted for this phase of the research was based on a list of search terms agreed upon by EAC consultants. Thousands of articles were reviewed and hundreds analyzed. Many of the articles contain allegations of fraud or intimidation. Similarly, many of the articles contain information about investigations into such activities or even charges brought. Additional media research should be conducted to determine what, if any, resolutions or further activity there was in each case.

***Recommendation 3: Follow Up on Allegations Found in Literature Review***

Many of the allegations made in the reports and books that were analyzed and summarized by EAC consultants were not substantiated and were certainly limited by the date of publication of those pieces. Despite this, such reports and books are frequently cited by various interested parties as evidence of fraud or intimidation. Further research should include follow up on the allegations discovered in the literature review.

***Recommendation 4: Review Complaints Filed With “MyVote1” Voter Hotline***

During the 2004 election and the statewide elections of 2005, the University of Pennsylvania led a consortium of groups and researchers in conducting the MyVote1 Project. This project involved using a 1-800 voter hotline where voters could call for poll location, be transferred to a local hotline, or leave a recorded message with a complaint. In 2004, this resulted in over 200,000 calls received and over 56,000 recorded complaints.

Further research should be conducted using the MyVote1 data with the cooperation of the project leaders. While perhaps not a fully scientific survey given the self-selection of the callers, the information regarding 200,000 complaints may provide a good deal of insight into the problems voters experienced, especially those in the nature of intimidation or suppression.

***Recommendation 5: Further Review of Complaints Filed With U.S. Department of Justice***

Although according to a recent GAO report the Voting Section of the Civil Rights Division of the Department of Justice has a variety ~~in~~ of ways it tracks complaints of voter intimidation. Attempts should be made to obtain relevant data, including the telephone logs of complaints and information from the Interactive Case Management (ICM) system. Further research should also include a review and analysis of the DOJ/OPM observer and monitor field reports from Election Day.

***Recommendation 6: Review Reports Filed By District Election Officers***

Further research should include a review of the reports that must be filed by every District Election Officer to the Public Integrity Section of the Criminal Division of the Department of Justice. The DEOs play a central role in receiving reports of voter fraud

and investigating and pursuing them. Their reports back to the Department would likely provide tremendous insight into what actually transpired during the last several elections. Where necessary, information could be redacted or made confidential.

***Recommendation 7: Attend Ballot Access and Voting Integrity Symposium***

Further activity in this area should include attending the next Ballot Access and Voting Integrity Symposium. At this conference, prosecutors serving as District Election Officers in the 94 U.S. Attorneys' Offices obtain annual training on fighting election fraud and voting rights abuses. These conferences are sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, and feature presentations by Civil Rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. By attending the symposium researchers could learn more about the following how District Election Officers are trained; how information about previous election and voting issues is presented; and how the Voting Rights Act, the criminal laws governing election fraud and intimidation, the National Voter Registration Act, and the Help America Vote Act are described and explained to participants

***Recommendation 8: Conduct Statistical Research***

EAC should measure voter fraud and intimidation using interviews, focus groups, and a survey and statistical analysis of the results of these efforts. The sample should be based on the following factors:

- o Ten locations that are geographically and demographically diverse where there have historically been many reports of fraud and/or intimidation;
- o Ten locations (geographically and demographically diverse) that have not had many reports of fraud and/or intimidation;

EAC should also conduct a survey of elections officials, district attorneys, and district election officers. The survey sample should be large in order to be able to get the necessary subsets. The sample must include a random set of counties where there have and have not been a large number of allegations

***Recommendation 9: Explore Improvements to Federal Law***

Future researchers should review federal law to explore ways to make it easier to impose either civil or criminal penalties for acts of intimidation that do not necessarily involve racial animus and/or a physical or economic threat.

***Recommendation 10: Use Observers to Collect Data on Election Day***

Use observers to collect data regarding fraud and intimidation at the polls in on Election Day. There may be some limitations to the ability to conduct this type of research, including difficulty gaining access to polling places for the purposes of observation, and

concerns regarding how the observers themselves may inadvertently or deliberately influence the occurrence of election crimes.

***Recommendation 11: Study Absentee Ballot Fraud***

Because absentee ballot fraud constitutes a large portion of election crimes, a stand-alone study of absentee ballot fraud should be conducted. Researchers should look at actual cases to see how absentee ballot fraud schemes are conducted in an effort to provide recommendations on more effective measures for preventing them.

***Recommendation 12: Use Risk Analysis Methodology to Study Fraud***

Conduct an analysis of what types of fraud people are most likely to commit. Researchers can use that risk analysis to rank the types of fraud based on the ease of commission and the impact of the fraud.

***Recommendation 13: Conduct Research Using Database Comparisons***

Researchers should compare information on databases to determine whether the voter rolls contain deceased persons and felons. In addition, the voter rolls can then be compared with the list of persons who voted to determine whether deceased voters or felons are noted as having actually-voted.

***Recommendation 14: Conduct a Study of Deceptive Practices***

The working group discussed the increasing use of deceptive practices, such as flyers with false and/or intimidating information, to suppress voter participation. A number of groups, such as the Department of Justice, the EAC, and organizations such as the Lawyers Committee for Civil Rights, keep phone logs regarding complaints of such practices. These logs should be reviewed and analyzed to see how such practices are being conducted and what can be done about them.

***Recommendation 15: Study Use of HAVA Administrative Complaint Procedure as Vehicle for Measuring Fraud and Intimidation***

EAC should study the extent to which states are actually utilizing the administrative complaint procedure mandated by HAVA. In addition, the EAC should study whether data collected through the administrative complaint procedure can be used as another source of information for measuring fraud and intimidation.

***Recommendation 16: Examine the Use of Special Election Courts***

Given that many state and local judges are elected, it may be worth exploring whether special election courts should be established to handle fraud and intimidation complaints before, during and after Election Day. Pennsylvania employs such a system and could investigate how well that system is working.



### Accepted Recommendations

There has never been a comprehensive national study that gathered data regarding all claims, charges and prosecutions of voting crimes. EAC feels that a comprehensive study is the most important research that it can offer the election community and the public. As such, EAC has adopted all or a part of six of the 16 recommendations made by EAC consultants and working group.

While several of the other recommendations could be used to obtain more anecdotal information regarding election crimes, EAC believes that what is needed is a comprehensive survey and study of the information available from investigatory agencies, prosecutorial bodies and courts on the number and types of complaints, charges and prosecutions of election crimes. Additional media reviews, additional interviews and the use of observers to collect information from voters on Election Day will only serve to continue the use of anecdotal data to report on election crimes. Hard data on complaints, charges and prosecutions exists and we should gather and use that data, rather than rely on the perceptions of the media or the members of the public as to what might be fraud or intimidation.

Some of the recommendations are beyond the scope of the current study. While election courts may be a reasonable conclusion to reach after we determine what volume and type of election crimes are being reported, charged or prosecuted, it is premature to embark on an analysis of that solution without more information. Last, some of the recommendations do not support a comprehensive study of election crimes. While a risk analysis might be appropriate in a smaller scale study, EAC desires to conduct a broader survey to avoid the existing problem of anecdotal and limited scope of information.

In order to further its goal of developing a comprehensive data set regarding election crimes and the laws and procedures used to identify and prosecute them, EAC intends to engage in the following research activities in studying the existence and enforcement of election crimes:

#### *Survey Chief Election Officers Regarding Administrative Complaints*

Likely sources of complaints concerning voting crimes are the administrative complaint processes that states were required to establish to as a part of complying with HAVA §402. These complaint procedures were required to be in place prior to a state receiving any funds under HAVA. Citizens are permitted to file complaints alleging violations of HAVA Title III provisions under these procedures with the state's chief election official and these complaints must be resolved within 60 days. The procedures also allow for alternative dispute resolution of claims. Some states have expanded this process to include complaints of other violations, such as election crimes.

In order to determine how many of these complaints allege the commission of election crimes, EAC will survey the states' chief election officers regarding complaints that have

been filed, investigated and resolved since January 1, 2004. EAC will use the definition of election crimes provided above in this report in its survey so that data regarding a uniform set of offenses can be collected.

*Survey State Election Crime Investigation Units Regarding Complaints Filed and Referred*

**Comment [M7]:** Need to include survey of laws and procedures used to ID and prosecute election crime.

Several chief state election officials have developed investigation units focused on receiving, investigating and referring complaints of election crimes. These units were established to bolster the abilities of state and local law enforcement to investigate allegations of election crimes. California, New York and Florida are just three examples of states that have these types of units.

EAC will use a survey instrument to gather information on the numbers and types of complaints that have been received by, investigated and ultimately referred to local or state law enforcement by election crime investigation units since January 1, 2004. This data will help us understand the pervasiveness of perceived fraud, as well as the number of claims that state election officials felt were meritorious of being referred to local and state law enforcement or prosecutorial agencies for further action.

*Survey Law Enforcement and Prosecutorial Agencies Regarding Complaints and Charge of Voting Crimes*

**Comment [M8]:** Need to include survey of laws and procedures used to ID and prosecute election crime.

While voters, candidates and citizens may call national hotlines or the news media to report allegations of election crimes, it is those complaints that are made to law enforcement that can be investigated and ultimately prosecuted. Thus, it is critical to the study of election crimes to obtain statistics regarding the number and types of complaints that are made to law enforcement, how many of those complaints result in the perpetrator being charged or indicted, and how many of those charges or indictments result in pleas or convictions.

Thus, EAC will survey law enforcement and prosecutorial agencies at the local, state and federal level to determine the number and types of complaints, charges or indictments, and pleas or convictions of election crimes since January 1, 2004. In addition, EAC will seek to obtain an understanding of why some complaints are not charged or indicted and why some charges or indictments are not prosecuted.

*Analyze Survey Data in Light of State Laws and Procedures*

**Comment [M9]:** Would this include the verification of information about current federal and state laws and procedures that may be used to pursue violations? We would need this information in order to better understand the data we collect.

Once a reliable data set concerning the existence and enforcement of election crimes is assembled, a real analysis of the effectiveness of fraud prevention measures can be conducted. For example, data can be analyzed to determine if criminal activities related to elections are isolated to certain areas or regions of the country. Data collected from the election official surveys can be compared to the data regarding complaints, charges and prosecutions gathered from the respective law enforcement and prosecutorial agencies in each jurisdiction. The effect and/or effectiveness of provisions such as voter

identification laws and challenger provisions can be assessed based on hard data from areas where these laws exist. Last, analyses such as the effectiveness of enforcement can be conducted in light of the resources available to the effort.

### CONCLUSION

Election crimes are nothing new to our election process. The pervasiveness of these crimes and the fervor with which they have been enforced has created a great deal of debate among academics, election officials, and political pundits. Past studies of these issues have been limited in scope and some have been riddled with bias. These are issues that deserve comprehensive and nonpartisan review. EAC through its clearinghouse role will collect and analyze data on election crimes throughout the country. These data not only will tell us what types of election crimes are committed and where fraud exists, but also inform us of what factors impact the existence, prevention and prosecution of election crimes.

Margaret Sims /EAC/GOV  
11/15/2006 04:02 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc

Subject Re: Draft Voter Fraud/Voter Intimidation 

History  This message has been replied to

Got it, and will get back to you by Friday AM. --- Peggy

**Deliberative Process  
Privilege**

Margaret Sims /EAC/GOV  
10/19/2006 07:04 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Tamar  
Nedzar/EAC/GOV@EAC  
cc twilkey@eac.gov, Gavin S. Gilmour/EAC/GOV@EAC  
bcc

Subject Voter Fraud-Voter Intimidation Draft Report

Attached is a copy of the draft voter fraud-voter intimidation report that combines all of the pieces provided to me by the consultants, except for the voluminous Nexis research and case law charts. Tom wants to get this before the Commissioners ASAP, but I need some other eyes to look it over before we do. Although I've made some formatting changes to provide some consistency in presentation, and corrected a couple of glaring errors, I remain concerned about a number of issues:

- As you know, references to DOJ actions/responses have caused some concern at DOJ. But both consultants are adamantly opposed to EAC making substantive changes to their report. Perhaps using footnotes clearly labeled as EAC footnotes would be a method of addressing this issue?
- There are some recommendations regarding DOJ that we (the consultants and I) were told would not be supported by DOJ, and other references to DOJ, none of which have been reviewed by the department. I think we ought to give Craig Donsanto and John Tanner a chance to provide feedback on each of these sections.
- I am a little concerned about the naming of names, particularly in the section that addresses working group concerns. If we publish it as is, it might end up as fodder for some very negative newspaper articles.
- The report currently uses three different voices: third person, first person singular, first person plural. I think this looks really clumsy. If we are not actually making substantive changes, perhaps we could get away with making the presentation consistent in this regard.
- Because the consultants submitted the report in pieces, they did not include proper sequeways. I don't know if we should leave it as is, or insert them where needed.

Please let me know what you think. If it would help, we can schedule a teleconference. --- Peggy



VF-VI Final Rept-draft 10-19-06.doc

007877

**Voting Fraud and Voter Intimidation**

**Report to the  
U.S. Election Assistance Commission  
on  
Preliminary Research & Recommendations**

**By**

**Job Serebrov and Tova Wang**

## **Table of Contents**

- 1. Introduction**
    - a. Charge Under HAVA**
    - b. Scope of the Project**
  - 2. Working Definition of Fraud and Intimidation**
  - 3. Summaries of Research Conducted**
    - a. Interviews**
    - b. Nexis Research**
    - c. Existing Literature**
    - d. Cases**
    - e. Methodology**
  - 4. Recommendations for Further EAC Action**
    - a. Consultants' Recommendations**
    - b. Working Group Recommendations**
  - 5. Key Working Group Observations and Concerns**
  - 6. Nexis Charts**
  - 7. Case Charts**
- Appendix 1: List of Individuals Interviewed**
- Appendix 2: List of Literature Reviewed**
- Appendix 3: Excerpt from "Machinery of Democracy," a Brennan Center Report**
- Appendix 4: Members of the Working Group**

## **Introduction**

### **Charge Under HAVA**

Under the Help America Vote Act, Pub. L. No. 107-252, 116 Stat. 1666 (2002) (“HAVA”), the United States Election Assistance Commission is charged with developing national statistics on voter fraud and developing methods of deterring and investigating voter fraud. Also, the Commission is charged with developing methods of identifying, deterring, and investigating methods of voter intimidation.

### **Scope of Project**

The Commission employed a bipartisan team of legal consultants, Tova Wang and Job Serebrov to develop a preliminary overview work product to determine the quantity and quality of vote fraud and voter intimidation that is present on a national scale. The consultants’ work is neither comprehensive nor conclusive. This first phase of an envisioned two-phase project was constrained by both time and funding. The consultants’ conclusions and recommendations for phase II will be contained in this report.

The consultants, working without the aid of a support staff, divided most of the work. However, the final work product was mutually checked and approved. They agreed upon the steps that were taken needed and the method employed. For all of the documentary sources, the consultants limited the time period under review from January 1, 2001 to January 1, 2006. The research performed by the consultants included interviews, an extensive Nexis search, a review of existing literature, and case research.

**Interviews:** The consultants chose the interviewees by first coming up with a list of the categories of types of people they wanted to interview. Then the consultants separately, equally filled those categories with a certain number of people. Due to time and resource constraints, the consultants had to pare down this list substantially – for instance, they had to rule out interviewing prosecutors altogether – but still got a good range of people to talk to. The ultimate categories were academics, advocates, elections officials, lawyers and judges. Although the consultants were able to talk to most of the people they wanted to, some were unavailable and a few were not comfortable speaking to them, particularly judges. The consultants together conducted all of the interviews, either by phone or in person. Then the consultants split up drafting the summaries. All summaries were reviewed and mutually approved. Most of the interviews were extremely informative and the consultants found the interviewees to be extremely knowledgeable and insightful for the most part.

**Nexis:** Initially, the consultants developed an enormous list of possible Nexis search terms. It soon became obvious that it would be impossible to conduct the research that way. As a result, consultant Wang performed the Nexis search by finding search term combinations that would yield virtually every article on a particular subject from the last



five years. Consultant Serebrov approved the search terms. Then Wang created an excel spreadsheet in order to break down the articles in way in which they could be effectively analyzed for patterns. Each type of fraud is broken down in a separate chart according to where it took place, the date, the type of election it occurred in, what the allegation was, the publication it came from. Where there was a follow up article, any information that that suggested there had been some further action taken or some resolution to the allegation was also included. For four very complicated and long drawn out situations – Washington State, Wisconsin, South Dakota in 2004, and the vote buying cases in a couple of particular jurisdictions over the last several years –written summaries with news citations are provided.

***Existing Literature:*** Part of the selections made by the consultants resulted from consultant Wang's long-term familiarity with the material while part was the result of a joint web search for articles and books on vote fraud and voter intimidation and suggestions from those interviewed by the consultants. The consultants reviewed a wide range of materials from government reports and investigations, to academic literature, to reports published by advocacy groups. The consultants believe that they covered the landscape of available sources.

***Cases:*** In order to properly identify all applicable cases, the consultants first developed an extensive word search term list. A WestLaw search was performed and the first one hundred cases under each word search term were then gathered in individual files. This resulted in a total of approximately 44,000 cases. Most of these cases were federal as opposed to state and appellate as opposed to trial. Consultant Serebrov analyzed the cases in each file to determine if they were on point. If he found that the first twenty cases were inapplicable, Serebrov would sample forty to fifty other file cases at random to determine applicability. If the entire file did not yield any cases, the file would be discarded. All discarded word search terms were recorded in a separate file. Likewise, if the file only yielded a few applicable cases, it would also be discarded. However, if a small but significant number of cases were on point, the file was later charted. The results of the case search were stark because relatively few applicable cases were found.

## **Working Definition of Fraud and Intimidation**

*Note: The definition provided below is for the purposes of this EAC project. Most of the acts described come within the federal criminal definition of fraud, but some may not.*

Election fraud is any intentional action, or intentional failure to act when there is a duty to do so, that corrupts the election process in a manner that can impact on election outcomes. This includes interfering in the process by which persons register to vote; the way in which ballots are obtained, marked, or tabulated; and the process by which election results are canvassed and certified.

Examples include the following:

- falsifying voter registration information pertinent to eligibility to cast a vote, (e.g. residence, criminal status, etc).;
- altering completed voter registration applications by entering false information;
- knowingly destroying completed voter registration applications (other than spoiled applications) before they can be submitted to the proper election authority;
- knowingly removing eligible voters from voter registration lists, in violation of HAVA, NVRA, or state election laws;
- intentional destruction by election officials of voter registration records or balloting records, in violation of records retention laws, to remove evidence of election fraud;
- vote buying;
- voting in the name of another;
- voting more than once;
- coercing a voter's choice on an absentee ballot;
- using a false name and/or signature on an absentee ballot;
- destroying or misappropriating an absentee ballot;
- felons, or in some states ex-felons, who vote when they know they are ineligible to do so;
- misleading an ex-felon about his or her right to vote;
- voting by non-citizens who know they are ineligible to do so;
- intimidating practices aimed at vote suppression or deterrence, including the abuse of challenge laws;
- deceiving voters with false information (e.g.; deliberately directing voters to the wrong polling place or providing false information on polling hours and dates);
- knowingly failing to accept voter registration applications, to provide ballots, or to accept and count voted ballots in accordance with the Uniformed and Overseas Citizens Absentee Voting Act;
- intentional miscounting of ballots by election officials;
- intentional misrepresentation of vote tallies by election officials;
- acting in any other manner with the intention of suppressing voter registration or voting, or interfering with vote counting and the certification of the vote.

Voting fraud does not include mistakes made in the course of voter registration, balloting, or tabulating ballots and certifying results. For purposes of the EAC study, it also does not include violations of campaign finance laws.

DRAFT

## Summaries of Research Conducted

### Interviews

#### *Common Themes*

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, “dead” voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.
- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate – including representatives from DOJ -- that for various reasons, the Department of Justice is bringing fewer voter intimidation and suppression cases now and is focusing on matters such as noncitizen voting, double voting and felon voting. While the civil rights section continues to focus on systemic patterns of malfeasance, the public integrity section is focusing now on individuals, on isolated instances of fraud.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full

implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

***Common Recommendations:***

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.
  - With respect to the civil rights section, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one’s definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and the section has not pursued any such cases.
  - Craig Donsanto of the public integrity section says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases the department is investigating and the number of indictments the section is pursuing are both up dramatically. Since 2002, the department has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so it can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud. Of particular note, Sarah Ball Johnson, Executive Director of Elections for Kentucky, emphasized that having had an effective statewide voter registration database for more than thirty years has helped that state avoid most of the fraud problems that have been alleged elsewhere, such as double voting and felon voting.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment

- Several people advocate passage of Senator Barak Obama’s “deceptive practices” bill
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected nonpartisanly they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas is a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states’ office; increasing transparency in the process; and enacting conflict of interest rules.
- A few recommend returning to allowing use of absentee ballots “for cause” only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the scheme contemplated in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

## **Nexis Research**

### ***Absentee Ballot Fraud***

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

### ***Voter Registration Fraud***

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people
- Fake names and other information on voter registration forms
- Illegitimate addresses used on voter registration forms
- Voters being tricked into registering for a particular party under false pretenses
- Destruction of voter registration forms depending on the party the voter registered with

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported on included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota and Wisconsin.

### *Voter Intimidation and Suppression*

This is the area which had the most articles in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places.
- Improper demands for identification
- Poll watchers harassing voters
- Poll workers being hostile to or aggressively challenging voters
- Disproportionate police presence
- Poll watchers wearing clothes with messages that seemed intended to intimidate
- Insufficient voting machines and unmanageably long lines

Although the incidents reported on occurred everywhere, not surprisingly, many came from “battleground” states. There were several such reports out of Florida, Ohio and Pennsylvania.

### ***“Dead Voters and Multiple Voting”***

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking of voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person taking criminal advantage of that. In total, the San Francisco Chronicle found 5 such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### ***Vote Buying***

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations in three particular jurisdictions as detailed in the vote buying summary. There were more official investigations, indictments and convictions/pleas in this area. All of these cases are concentrated in the Midwest and South.

### ***Deceptive Practices***



In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of voter registration forms. There were no reports of prosecutions or any other legal proceeding.

### ***Non-citizen Voting***

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case charges were filed against ten individuals. In one case a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this nexis search, remained just allegations of noncitizen voting.

### ***Felon Voting***

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem has been the large number of ineligible felons that remained on the voting list.

### ***Election Official Fraud***

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### **Existing Research**

There are many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. There is little research that is truly systematic or scientific. The most systematic look at fraud is the report written by Lori Minnite. The most systematic look at voter intimidation is the report by Laughlin McDonald. Books

written about this subject seem to all have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists. It is hoped that this gap will be filled in the “second phase” of this EAC project.

Moreover, reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund’s frequently cited book. Again, this is something that it is hoped will be addressed in the “second phase” of this EAC project by doing follow up research on allegations made in reports, books and newspaper articles.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate, but some reports say it is a major problem, albeit hard to identify.
- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

## Cases

After reviewing over 40,000 cases, the majority of which came from appeals courts, I have found comparatively very few which are applicable to this study. Of those that are applicable, no apparent thematic pattern emerges. However, it seems that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility. But because so few cases provided a picture of these current problems, I suggest that case research for the second phase of this project concentrate on state trial-level decisions.

## Methodology

The following is a summary of interviews conducted with a number of political scientists and experts in the field as to how one might undertake a comprehensive examination of voter fraud and intimidation. A list of the individuals interviewed and their ideas are available, and all of the individuals welcome any further questions or explanations of their recommended procedures.

- In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that ask whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. (Stephen Ansolobhere, MIT)
- Several political scientists with expertise in these types of studies recommended a methodology that includes interviews, focus groups, and a limited survey. In determining who to interview and where the focus groups should be drawn from, they recommend the following procedure:
  - Pick a number of places that have historically had many reports of fraud and/or intimidation; from that pool pick 10 that are geographically and demographically diverse, and have had a diversity of problems
  - Pick a number of places that have not had many reports of fraud and/or intimidation; from that pool pick 10 places that match the geographic and demographic make-up of the previous ten above (and, if possible, have comparable elections practices)

- Assess the resulting overall reports and impressions resulting from these interviews and focus groups, and examine comparisons and differences among the states and what may give rise to them.

In conducting a survey of elections officials, district attorneys, district election officers, they recommend that:

- The survey sample be large in order to be able to get the necessary subsets
- The survey must include a random set of counties where there have and have not been a large number of allegations

(Allan Lichtman, American University; Thad Hall, University of Utah; Bernard Grofman, UC – Irvine)

- Another political scientist recommended employing a methodology that relies on qualitative data drawn from in-depth interviews with key critics and experts on all sides of the debate on fraud; quantitative data collected through a survey of state and local elections and law enforcement officials; and case studies. Case studies should focus on the five or ten states, regions or cities where there has been a history of election fraud to examine past and present problems. The survey should be mailed to each state's attorney general and secretary of state, each county district attorney's office and each county board of elections in the 50 states. (Lorraine Minnite, Barnard College)
- The research should be a two-step process. Using LexisNexis and other research tools, a search should be conducted of news media accounts over the past decade. Second, interviews with a systematic sample of election officials nationwide and in selected states should be conducted. (Chandler Davidson, Rice University)
- One expert in the field posits that we can never come up with a number that accurately represents either the incidence of fraud or the incidence of voter intimidation. Therefore, the better approach is to do an assessment of what is most likely to happen, what election violations are most likely to be committed – in other words, a risk analysis. This would include an analysis of what it would actually take to commit various acts, e.g. the cost/benefit of each kind of violation. From there we could rank the likely prevalence of each type of activity and examine what measures are or could be effective in combating them. (Wendy Weiser, Brennan Center of New York University)
- Replicate a study in the United States done abroad by Susan Hyde of the University of California- San Diego examining the impact of impartial poll site observers on the incidence of election fraud. Doing this retrospectively would require the following steps:
  - Find out where there were federal observers
  - Get precinct level voting information for those places

- Analyze whether there was any difference in election outcomes in those places with and without observers, and whether any of these results seem anomalous.

Despite the tremendous differences in the political landscapes of the countries examined by Hyde in previous studies and the U.S., Hyde believes this study could be effectively replicated in this country by sending observers to a random sample of precincts. Rather than compare the incumbent's vote share, such factors such as voter complaints, voter turnout, number of provisional ballots used, composition of the electorate, as well as any anomalous voting results could be compared between sites with and without monitors.

For example, if intimidation is occurring, and if reputable monitors make intimidation less likely or voters more confident, then turnout should be higher on average in monitored precincts than in unmonitored precincts. If polling station officials are intentionally refusing to issue provisional ballots, and the polling station officials are more likely to adhere to regulations while being monitored, the average number of provisional ballots should be higher in monitored precincts than in unmonitored precincts. If monitors cause polling station officials to adhere more closely to regulations, then there should be fewer complaints (in general) about monitored than unmonitored precincts (this could also be reversed if monitors made voters more likely to complain).

Again, random assignment controls for all of the other factors that otherwise influence these variables.

One of the downsides of this approach is it does not get at some forms of fraud, e.g. absentee ballot fraud; those would have to be analyzed separately.

- Another political scientist recommends conducting an analysis of vote fraud claims and purging of registration rolls by list matching. Allegations of illegal voting often are based on matching of names and birth dates. Alleged instances of double voting are based on matching the names and birth dates of persons found on voting records. Allegations of ineligible felon (depending on state law), deceased, and of non-citizen voting are based on matching lists of names, birth dates, and sometimes addresses of such people against a voting records. Anyone with basic relational database skills can perform such matching in a matter of minutes.

However, there are a number of pitfalls for the unwary that can lead to grossly over-estimating the number of fraudulent votes, such as missing or ignored middle names and suffixes or matching on missing birth dates. Furthermore, there is a surprising statistical fact that a group of about three hundred people with the same first and last name are almost assured to share the exact same birth date, including year. In a large state, it is not uncommon for hundreds of Robert Smiths (and other common names) to have voted. Thus, allegations of vote fraud

or purging of voter registration rolls by list matching almost assuredly will find a large proportion of false positives: people who voted legally or are registered to vote legally.

Statistics can be rigorously applied to determine how many names would be expected to be matched by chance. A simulation approach is best applied here: randomly assign a birth date to an arbitrary number of people and observe how many match within the list or across lists. The simulation is repeated many times to average out the variation due to chance. The results can then be matched back to actual voting records and purge lists, for example, in the hotly contested states of Ohio or Florida, or in states with Election Day registration where there are concerns that easy access to voting permits double voting. This analysis will rigorously identify the magnitude alleged voter fraud, and may very well find instances of alleged fraud that exceed what might have otherwise happened by chance.

This same political scientist also recommends another way to examine the problem: look at statistics on provisional voting: the number cast might provide indications of intimidation (people being challenged at the polls) and the number of those not counted would be indications of "vote fraud." One could look at those jurisdictions in the Election Day Survey with a disproportionate number of provisional ballots cast and cross-reference it with demographics and number of provisional ballots discarded. (Michael McDonald, George Mason University)

- Spencer Overton, in a forthcoming law review article entitled *Voter Identification*, suggests a methodology that employs three approaches—investigations of voter fraud, random surveys of voters who purported to vote, and an examination of death rolls provide a better understanding of the frequency of fraud. He says all three approaches have strengths and weaknesses, and thus the best studies would employ all three to assess the extent of voter fraud. An excerpt follows:

#### *1. Investigations and Prosecutions of Voter Fraud*

Policymakers should develop databases that record all investigations, allegations, charges, trials, convictions, acquittals, and plea bargains regarding voter fraud. Existing studies are incomplete but provide some insight. For example, a statewide survey of each of Ohio's 88 county boards of elections found only four instances of ineligible persons attempting to vote out of a total of 9,078,728 votes cast in the state's 2002 and 2004 general elections. This is a fraud rate of 0.00000045 percent. The Carter-Baker Commission's Report noted that since October 2002, federal officials had charged 89 individuals with casting multiple votes, providing false information about their felon status, buying votes, submitting false voter registration information, and voting improperly as a non-citizen. Examined in the context of the 196,139,871 ballots cast between October 2002 and

August 2005, this represents a fraud rate of 0.0000005 percent (note also that not all of the activities charged would have been prevented by a photo identification requirement).

A more comprehensive study should distinguish voter fraud that could be prevented by a photo identification requirement from other types of fraud — such as absentee voting and stuffing ballot boxes — and obtain statistics on the factors that led law enforcement to prosecute fraud. The study would demand significant resources because it would require that researchers interview and pour over the records of local district attorneys and election boards.

Hard data on investigations, allegations, charges, pleas, and prosecutions is important because it quantifies the amount of fraud officials detect. Even if prosecutors vigorously pursue voter fraud, however, the number of fraud cases charged probably does not capture the total amount of voter fraud. Information on official investigations, charges, and prosecutions should be supplemented by surveys of voters and a comparison of voting rolls to death rolls.

## 2. *Random Surveys of Voters*

Random surveys could give insight about the percentage of votes cast fraudulently. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted at the polls in the last election, ask them if they actually voted, and confirm the percentage who are valid voters. Researchers should conduct the survey soon after an election to locate as many legitimate voters as possible with fresh memories.

Because many respondents would perceive voting as a social good, some who did not vote might claim that they did, which may underestimate the extent of fraud. A surveyor might mitigate this skew through the framing of the question (“I’ve got a record that you voted. Is that true?”).

Further, some voters will not be located by researchers and others will refuse to talk to researchers. Photo identification proponents might construe these non-respondents as improper registrations that were used to commit voter fraud.

Instead of surveying all voters to determine the amount of fraud, researchers might reduce the margin of error by focusing on a random sampling of voters who signed affidavits in the three states that request photo identification but also allow voters to establish their identity through affidavit—Florida, Louisiana, and South Dakota. In

South Dakota, for example, only two percent of voters signed affidavits to establish their identity. If the survey indicates that 95 percent of those who signed affidavits are legitimate voters (and the other 5 percent were shown to be either fraudulent or were non-responsive), this suggests that voter fraud accounts for, at the maximum, 0.1 percent of ballots cast.

The affidavit study, however, is limited to three states, and it is unclear whether this sample is representative of other states (the difficulty may be magnified in Louisiana in the aftermath of Hurricane Katrina's displacement of hundreds of thousands of voters). Further, the affidavit study reveals information about the amount of fraud in a photo identification state with an affidavit exception—more voter fraud may exist in a state that does not request photo identification.

### 3. *Examining Death Rolls*

A comparison of death rolls to voting rolls might also provide an estimate of fraud.

Imagine that one million people live in state A, which has no documentary identification requirement. Death records show that 20,000 people passed away in state A in 2003. A cross-referencing of this list to the voter rolls shows that 10,000 of those who died were registered voters, and these names remained on the voter rolls during the November 2004 election. Researchers would look at what percentage of the 10,000 dead-but-registered people who "voted" in the November 2004 election. A researcher should distinguish the votes cast in the name of the dead at the polls from those cast absentee (which a photo identification requirement would not prevent). This number would be extrapolated to the electorate as a whole.

This methodology also has its strengths and weaknesses. If fraudulent voters target the dead, the study might overestimate the fraud that exists among living voters (although a low incidence of fraud among deceased voters might suggest that fraud among all voters is low). The appearance of fraud also might be inflated by false positives produced by a computer match of different people with the same name. Photo identification advocates would likely assert that the rate of voter fraud could be higher among fictitious names registered, and that the death record survey would not capture that type of fraud because fictitious names registered would not show up in the death records. Nevertheless, this study, combined with the other two, would provide important insight into the magnitude of fraud likely to exist in the absence of a photo identification requirement.



**Recommendations for Further EAC Activity  
on Voting Fraud and Voter Intimidation**

**Consultants' Recommendations**

***Recommendation 1: Conduct More Interviews***

Time and resource constraints prevented the consultants from interviewing the full range of participants in the process. As a result, we recommend that any future activity in this area include conducting further interviews.

In particular, we recommend that more election officials from all levels of government, parts of the country, and parties be interviewed. These individuals have the most direct inside information on how the system works -- and at times does not work. They are often the first people voters go to when something goes wrong and are often responsible for fixing it. They are the ones who must carry out the measures that are designed to both prevent fraud and voter intimidation and suppression. They will most likely know what, therefore, is and is not working.

It would also be especially beneficial to talk to people in law enforcement, specifically federal District Election Officers ("DEOs") and local district attorneys, as well as civil and criminal defense attorneys.

The Public Integrity Section of the Criminal Division of the Department of Justice has all of the 93 U.S. Attorneys appoint Assistant U.S. Attorneys to serve as DEOs for two years. DEOs are required to

- screen and conduct preliminary investigations of complaints, in conjunction with the FBI and PIN, to determine whether they constitute potential election crimes and should become matters for investigation;
- oversee the investigation and prosecution of election fraud and other election crimes in their districts;
- coordinate their district's (investigative and prosecutorial) efforts with DOJ headquarters prosecutors;
- coordinate election matters with state and local election and law enforcement officials and make them aware of their availability to assist with election-related matters;
- issue press releases to the public announcing the names and telephone numbers of DOJ and FBI officials to contact on election day with complaints about voting or election irregularities and answer telephones on election day to receive these complaints; and
- supervise a team of Assistant U.S. Attorneys and FBI special agents who are appointed to handle election-related allegations while the polls are open on election day.<sup>1</sup>

Given the great responsibilities of the DEOs, and the breadth of issues they must deal with, they undoubtedly are great resources for information and insight as to what types of fraud and intimidation/suppression are occurring in their districts.

In many situations, however, it is the local district attorneys who will investigate election fraud and suppression tactics, especially in local elections. They will be able to provide information on what has gone on in their jurisdictions, as well as which matters get pursued and why.

Finally, those who defend people accused of election related crimes would also be useful to speak to. They may have a different perspective on how well the system is working to detect, prevent, and prosecute election fraud.

***Recommendation 2: Follow Up on Nexis Research***

The Nexis search conducted for this phase of the research was based on a list of search terms agreed upon by both consultants. Thousands of articles were reviewed and hundreds analyzed. Many of the articles contain allegations of fraud or intimidation. Similarly, many of the articles contain information about investigations into such activities or even charges brought. However, without being able to go beyond the agreed search terms, it could not be determined whether there was any later determination regarding the allegations, investigation or charges brought. This leaves a gaping hole: it is impossible to know if the article is just reporting on “talk” or what turns out to be a serious affront to the system.

As a result, we recommend that follow up Nexis research be conducted to determine what, if any, resolutions or further activity there was in each case. This would provide a much more accurate picture of what types of activities are actually taking place.

***Recommendation 3: Follow Up on Allegations Found in Literature Review***

Similarly, many allegations are made in the reports and books that we analyzed and summarized. Those allegations are often not substantiated in any way and are inherently time limited by the date of the writing. Despite this, such reports and books are frequently cited by various interested parties as evidence of fraud or intimidation.

Therefore, we recommend follow up to the literature review: for those reports and books that make or cite specific instances of fraud or intimidation, a research effort should be made to follow up on those references to see if and how they were resolved.

***Recommendation 4: Review Complaints File With MyVote1 Project Voter Hotline***

During the 2004 election and the statewide elections of 2005, the University of Pennsylvania led a consortium of groups and researchers in conducting the MyVote1 Project. This project involved using a 1-800 voter hotline where voters could call for poll location, be transferred to a local hotline, or leave a recorded message with a complaint.

In 2004, this resulted in over 200,000 calls received and over 56,000 recorded complaints.<sup>ii</sup> The researchers in charge of this project have done a great deal of work to parse and analyze the data collected through this process, including going through the audio messages and categorizing them by the nature of the complaint. These categories include registration, absentee ballot, poll access, ballot/screen, coercion/intimidation, identification, mechanical, provisional (ballot).

We recommend that further research include making full use of this data with the cooperation of the project leaders. While perhaps not a fully scientific survey given the self-selection of the callers, the information regarding 200,000 complaints should provide a good deal of insight into the problems voters experienced, especially those in the nature of intimidation or suppression.

***Recommendation 5: Further Review of Complaints Filed With U.S. Department of Justice***

Although according to a recent GAO report the Voting Section of the Civil Rights Division of the Department of Justice has a variety in ways it tracks complaints of voter intimidation,<sup>iii</sup> the Section was extremely reluctant to provide the consultants with useful information. Further attempts should be made to obtain relevant data. This includes the telephone logs of complaints the Section keeps and information from the database – the Interactive Case Management (ICM) system – the Section maintains on complaints received and the corresponding action taken. We also recommend that further research include a review and analysis of the observer and monitor field reports from Election Day that must be filed with the Section.

***Recommendation 6: Review Reports Filed By District Election Officers***

Similarly, the consultants believe it would be useful for any further research to include a review of the reports that must be filed by every District Election Officer to the Public Integrity Section of the Criminal Division of the Department of Justice. As noted above, the DEOs play a central role in receiving reports of voter fraud and investigating and pursuing them. Their reports back to the Department would likely provide tremendous insight into what actually transpired during the last several elections. Where necessary, information could be redacted or made confidential.

***Recommendation 7: Attend Ballot Access and Voting Integrity Symposium***

The consultants also believe it would be useful for any further activity in this area to include attendance at the next Ballot Access and Voting Integrity Symposium. According to the Department,<sup>iv</sup>

Prosecutors serving as District Election Officers in the 94 U.S. Attorneys' Offices are required to attend annual training conferences on fighting election fraud and voting rights abuses... These conferences are sponsored by the Voting Section of the Civil Rights Division and the Public Integrity

Section of the Criminal Division, and feature presentations by Civil Rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there is a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

By attending the symposium researchers could learn more about the following:

- How District Election Officers are trained, e.g. what they are taught to focus their resources on, how they are instructed to respond to various types of complaints
- How information about previous election and voting issues is presented
- How the Voting Rights Act, the criminal laws governing election fraud and intimidation, the National Voter Registration Act, and the Help America Vote Act are described and explained to participants

***Recommendation 8: Employ Academic or Individual to Conduct Statistical Research***

Included in this report is a summary of various methodologies political scientists and others suggested to measure voter fraud and intimidation. While we note the skepticism of the Working Group in this regard, we nonetheless recommend that in order to further the mission of providing unbiased data, further activity in this area include an academic institution and/or individual that focuses on sound, statistical methods for political science research.

***Recommendation 9: Explore Improvements to Federal Law***

Finally, consultant Tova Wang recommends that future researchers review federal law to explore ways to make it easier to impose either civil or criminal penalties for acts of intimidation that do not necessarily involve racial animus and/or a physical or economic threat.

According to Craig Donsanto, long-time Director of the Election Crimes Branch, Public Integrity Section, Criminal Division of the U.S. Department of Justice:

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

Mr. Donsanto reiterated these points to us on several occasions, including at the working group meeting.

As a result, researchers should examine if there is some way in which current law might be revised or new laws passed that would reach voter intimidation that does not threaten the voter physically or financially, but rather threatens the voter's right to vote as a tangible value in itself. Such an amendment or law would reach all forms of voter intimidation, no matter if it is motivated by race, party, ethnicity or any other criteria. The law would then *potentially* cover, for example, letters and postcards with language meant to deter voters from voting and both pre-election and Election Day challengers that are clearly mounting challenges solely on illegitimate bases.

In the alternative to finding a way to criminalize such behavior, researchers might examine ways to invigorate measures to deter and punish voter intimidation under the civil law. For example, there might be a private right of action created for voters or groups who have been subjected to intimidation tactics in the voting process. Such an action could be brought against individual offenders; any state or local actor where there is a pattern of repeated abuse in the jurisdiction that such officials did not take sufficient action against; and organizations that intentionally engage in intimidating practices. As a penalty upon finding liability, civil damages could be available plus perhaps attorney's fees.

Another, more modest measure would be, as has been suggested by Ana Henderson and Christopher Edley,<sup>vi</sup> to bring parity to fines for violations under the Voting Rights Act. Currently the penalty for fraud is \$10,000 while the penalty for acts to deprive the right to vote is \$5,000.

### **Working Group Recommendations**

#### ***Recommendation 1: Employ Observers To Collect Data in the 2006 and/or 2008 Elections***

At the working group meeting, there was much discussion about using observers to collect data regarding fraud and intimidation at the polls in the upcoming elections. Mr. Ginsberg recommended using representatives of both parties for the task. Mr. Bauer and others objected to this, believing that using partisans as observers would be unworkable and would not be credible to the public.

There was even greater concern about the difficulties in getting access to poll sites for the purposes of observation. Most states strictly limit who can be in the polling place. In addition, there are already so many groups doing observation and monitoring at the polls, administrators might object. There was further concern that observers would introduce a variable into the process that would impact the outcome. The very fact that observers were present would influence behavior and skew the results.

Moreover, it was pointed out, many of the problems we see now with respect to fraud and intimidation does not take place at the polling place, e.g. absentee ballot fraud and deceptive practices. Poll site monitoring would not capture this activity. Moreover, with

increased use of early voting, poll site monitoring might have to go on for weeks to be effective, which would require tremendous resources.

Mr. Weinberg suggested using observers in the way they are utilized in international elections. Such observers come into a jurisdiction prior to the election, and use standardized forms at the polling sites to collect data.

***Recommendation 2: Do a Study on Absentee Ballot Fraud***

The working group agreed that since absentee ballot fraud is the main form of fraud occurring, and is a practice that is great expanding throughout the country, it would make sense to do a stand-alone study of absentee ballot fraud. Such a study would be facilitated by the fact that there already is a great deal of information on how, when, where and why such practices are carried out based on cases successfully prosecuted. Researchers could look at actual cases to see how absentee ballot fraud schemes are conducted in an effort to provide recommendations on more effective measures for preventing them.

***Recommendation 3: Use Risk Analysis Methodology to Study Fraud<sup>1</sup>***

Working group members were supportive of one of the methodologies recommended for studying this issue, risk analysis. As Mr. Bauer put it, based on the assumption that people act rationally, do an examination of what types of fraud people are most likely to commit, given the relative costs and benefits. In that way, researchers can rank the types of fraud that are the easiest to commit at the least cost with the greatest effect, from most to least likely to occur. This might prove a more practical way of measuring the problems than trying to actually get a number of acts of fraud and/or intimidation occurring. Mr. Greenbaum added that one would want to examine what conditions surrounding an election would be most likely to lead to an increase in fraud. Mr. Rokita objected based on his belief that the passions of partisanship lead people to not act rationally in an election.

***Recommendation 4: Conduct Research Using Database Comparisons***

Picking up on a suggestion made by Spencer Overton and explained in the suggested methodology section, Mr. Hearne recommended studying the issue using statistical database matching. Researchers should compare the voter roll and the list of people who actually voted to see if there are “dead” and felon voters. Because of the inconsistent quality of the databases, however, a political scientist would need to work in an appropriate margin of error when using such a methodology.

***Recommendation 5: Conduct a Study of Deceptive Practices***

The working group discussed the increasing use of deceptive practices, such as flyers with false and/or intimidating information, to suppress voter participation. A number of

---

<sup>1</sup> See Appendix C, and section on methodology

groups, including the Department of Justice, the EAC, and organizations such as the Lawyers Committee for Civil Rights, keep phone logs regarding complaints of such practices, which may be available for review and analysis. This is also an area in which there is often tangible evidence, such as copies of the flyers and postcards themselves. All of this information should be reviewed and analyzed to see how such practices are being conducted and what can be done about them.

***Recommendation 6: Study Use of HAVA Administrative Complaint Procedure As Vehicle for Measuring Fraud and Intimidation***

The EAC should study the extent to which states are actually utilizing the administrative complaint procedure mandated by HAVA. In addition, the EAC should study whether data collected through the administrative complaint procedure can be used as another source of information for measuring fraud and intimidation.

***Recommendation 7: Examine the Use of Special Election Courts***

Given that many state and local judges are elected, it may be worth exploring whether special election courts that are running before, during and after election day would be an effective means of disposing with complaints and violations in an expeditious manner. Pennsylvania employs such a system, and the EAC should consider investigating how well it is working to deal with fraud and intimidation problems.

DRAFT

## Key Working Group Observations and Concerns

### Working Group Observations

1. ***The main problems today are structural barriers to voting and administrative error.*** Mr. Perez observed that, in accordance with the research, the biggest issues today are structural barriers to voting, not stealing votes. Election administrators share this view. Election fraud is negligible, and to the extent it occurs, it needs to be prosecuted with stronger criminal laws. The biggest problem is properly preparing people, which is the responsibility of election administrators.
2. ***Most fraud and intimidation is happening outside of the polling place.*** Mr. Greenbaum observed that with respect to both voter fraud and voter suppression, such as deceptive practices and tearing up voter registration forms, most of that is taking place outside of the polling place.
3. ***This issue cannot be addressed through one study or one methodology alone.*** Mr. Weinberg observed that since there is such a variety in types of fraud and intimidation, one solution will not fit all. It will be impossible to obtain data or resolve any of these problems through a single method.
4. ***The preliminary research conducted for this project is extremely valuable.*** Several of the working group members complimented the quality of the research done and although it is only preliminary, thought it would be useful and informative in the immediate future.
5. ***The Department of Justice is exploring expanding its reach over voter suppression activities.*** In the context of the conversation about defining voter intimidation, Mr. Donsanto pointed out that while voter intimidation was strictly defined by the criminal law, his section is beginning to explore the slightly different concept of vote suppression, and how to pursue it. He mentioned the phone-jamming case in New Hampshire as an initial success in this effort. He noted that he believes that vote suppression in the form of deceptive practices ought to be a crime and the section is exploring ways to go after it within the existing statutory construct. Mr. Bauer raised the example of a party sending people dressed in paramilitary outfits to yell at people as they go to the polls, telling them they have to show identification. Mr. Donsanto said that under the laws he has to work with today, such activity is not considered corrupt. He said that his lawyers are trying to “bend” the current laws to address aggravated cases of vote suppression, and the phone-jamming case is an example of that. Mr. Donsanto said that within the Department, the term vote “suppression” and translating it into a crime is a “work in progress.”



6. **Registration fraud does not translate into vote fraud.** Ms. Rogers, Mr. Donsanto and others stated that although phony voter registration applications turned in by people being paid by the form was a problem, it has not been found in their experience to lead to fraudulent voters at the polls. Ms. Rogers said such people were motivated by money, not defrauding the election.
7. **Handling of voter fraud and intimidation complaints varies widely across states and localities.** Ms. Rogers and others observed that every state has its own process for intake and review of complaints of fraud and intimidation, and that procedures often vary within states. The amount of authority secretaries of state have to address such problems also is different in every state. Mr. Weinberg stated he believed that most secretaries of state did not have authority to do anything about these matters. Participants discussed whether secretaries ought to be given greater authority so as to centralize the process, as HAVA has mandated in other areas.

### Working Group Concerns

1. Mr. Rokita questioned whether the purpose of the present project ought to be on assessing the level of fraud and where it is, rather than on developing methods for making such measurements. He believed that methodology should be the focus, “rather than opinions of interviewees.” He was concerned that the EAC would be in a position of “adding to the universe of opinions.”
2. Mr. Rokita questioned whether the “opinions” accumulated in the research “is a fair sampling of what’s out there.” Ms. Wang responded that one of the purposes of the research was to explore whether there is a method available to actually quantify in some way how much fraud there is and where it is occurring in the electoral process. Mr. Rokita replied that “Maybe at the end of the day we stop spending taxpayer money or it’s going to be too much to spend to find that kind of data. Otherwise, we will stop it here and recognize there is a huge difference of opinion on that issue of fraud, when it occurs is obtainable, and that would possibly be a conclusion of the EAC.” Ms. Sims responded that she thought it would be possible to get better statistics on fraud and there might be a way of “identifying at this point certain parts in the election process that are more vulnerable, that we should be addressing.”
3. Mr. Rokita stated that, “We’re not sure that fraud at the polling place doesn’t exist. We can’t conclude that.”
4. Mr. Rokita expressed concern about working with a political scientist. He believes that the “EAC needs to be very careful in who they select, because all the time and effort and money that’s been spent up to date and would be spent in the future could be invalidated by a wrong selection in the eyes of some group.”

NEXIS Charts

DRAFT

Case Charts

DRAFT

**Appendix 1**  
**List of Individuals Interviewed**

Wade Henderson, Executive Director, Leadership Conference for Civil Rights

Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

William Groth, attorney for the plaintiffs in the Indiana voter identification litigation

Lori Minnite, Barnard College, Columbia University

Neil Bradley, ACLU Voting Rights Project

Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

Pat Rogers, attorney, New Mexico

Rebecca Vigil-Giron, Secretary of State, New Mexico

Sarah Ball Johnson, Executive Director of the State Board of Elections, Kentucky

Stephen Ansolobehere, Massachusetts Institute of Technology

Chandler Davidson, Rice University

Tracey Campbell, author, *Deliver the Vote*

Douglas Webber, Assistant Attorney General, Indiana, (defendant in the Indiana voter identification litigation)

Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

Jason Torchinsky, Assistant General Counsel, American Center for Voting Rights

Robin DeJarnette, Executive Director, American Center for Voting Rights

Joseph Rich, former Director of the Voting Section, Civil Rights Division, U.S. Department of Justice

Joseph Sandler, Counsel to the Democratic National Committee

John Ravitz, Executive Director, New York City Board of Elections

John Tanner, Director, Voting Section, Civil Rights Division, U.S. Department of Justice

Kevin Kennedy, Executive Director of the State Board of Elections, Wisconsin  
Evelyn Stratton, Justice, Supreme Court of Ohio

Tony Sirvello, Executive Director, International Association of  
Clerks, Recorders, Election Officials and Treasurers

Harry Van Sickle, Commissioner of Elections, Pennsylvania

Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice

Sharon Priest, former Secretary of State, Arkansas

DRAFT

**Appendix 2**  
**List of Literature Reviewed**

**Reports**

People for the American Way and the NAACP, "The Long Shadow of Jim Crow," December 6, 2004.

Laughlin McDonald, "The New Poll Tax," *The American Prospect* vol. 13 no. 23, December 30, 2002.

Wisconsin Legislative Audit Bureau, "An Evaluation: Voter Registration Elections Board" Report 05-12, September, 2005.

Milwaukee Police Department, Milwaukee County District Attorney's Office, Federal Bureau of Investigation, United States Attorney's Office "Preliminary Findings of Joint Task Force Investigating Possible Election Fraud," May 10, 2005.

National Commission on Federal Election Reform, "Building Confidence in U.S. Elections," Center for Democracy and Election Management, American University, September 2005.

The Brennan Center for Justice at NYU School of Law and Spencer Overton, Commissioner and Law Professor at George Washington University School of Law "Response to the Report of the 2005 Commission on Federal Election Reform," September 19, 2005.

Chandler Davidson, Tanya Dunlap, Gale Kenny, and Benjamin Wise, "Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – or Both?" A Report to the Center for Voting Rights & Protection, September, 2004.

Alec Ewald, "A Crazy Quilt of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law," The Sentencing Project, November 2005.

American Center for Voting Rights "Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election," August 2, 2005.

The Advancement Project, "America's Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy" November 7, 2001

The Brennan Center and Professor Michael McDonald "Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General," The Brennan Center for Justice at NYU School of Law, December 2005.

Democratic National Committee, "Democracy at Risk: The November 2004 Election in Ohio," DNC Services Corporation, 2005

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2002."

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2003."

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2004."

Craig Donsanto, "The Federal Crime of Election Fraud," Public Integrity Section, Department of Justice, prepared for Democracy.Ru, n.d., at [http://www.democracy.ru/english/library/international/eng\\_1999-11.html](http://www.democracy.ru/english/library/international/eng_1999-11.html)

People for the American Way, Election Protection 2004, Election Protection Coalition, at <http://www.electionprotection2004.org/edaynews.htm>

Craig Donsanto, "Prosecution of Electoral Fraud Under United State Federal Law," *IFES Political Finance White Paper Series*, IFES, 2006.

General Accounting Office, "Elections: Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote," Report to Congressional Requesters, September 2005.

Lori Minnite and David Callahan, "Securing the Vote: An Analysis of Election Fraud," *Demos: A Network of Ideas and Action*, 2003.

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

### **Books**

John Fund, *Stealing Elections: How Voter Fraud Threatens Our Democracy*, Encounter Books, 2004.

Andrew Gumbel, *Steal this Vote: Dirty Elections and the Rotten History of Democracy in American*, Nation Books, 2005.

Tracy Campbell, *Deliver the Vote: A History of Election Fraud, An American Political Tradition – 1742-2004*, Carroll & Graf Publishers, 2005.

David E. Johnson and Jonny R. Johnson, *A Funny Thing Happened on the Way to the White House: Foolhardiness, Folly, and Fraud in the Presidential Elections, from Andrew Jackson to George W. Bush*, Taylor Trade Publishing, 2004.

Mark Crispin Miller, *Fooled Again*, Basic Books, 2005.

**Legal**

*Indiana Democratic Party vs. Rokita*, U.S. District Court Southern District of Indiana (Indianapolis) 1:05-cv-00634, U.S. Court of Appeals, 7<sup>th</sup> Circuit 06-2218

*Common Cause of Georgia vs. Billups*, U.S. District Court, Northern District of Georgia (Rome) 4:05-cv-00201-HLM U.S. Court of Appeals, 11<sup>th</sup> Circuit 05-15784

U.S. Department of Justice Section 5 Recommendation Memorandum (regarding HB 244), August 25, 2005 at

<http://www.votingrights.org/news/downloads/Section%205%20Recommendation%20Memorandum.pdf>

DRAFT



**Appendix 3**  
**Excerpt from “Machinery of Democracy,” a Brennan Center Report**

**APPENDIX C**

**BRENNAN CENTER TASK FORCE ON VOTING SYSTEM SECURITY,  
LAWRENCE NORDEN, CHAIR**

**Excerpted from pp. 8-19**

**METHODOLOGY**

The Task Force concluded, and the peer review team at NIST agreed, that the best approach for comprehensively evaluating voting system threats was to: (1) identify and categorize the potential threats against voting systems, (2) prioritize these threats based upon an agreed upon metric (which would tell us how difficult each threat is to accomplish from the attacker's point of view), and (3) determine, utilizing the same metric employed to prioritize threats, how much more difficult each of the catalogued attacks would become after various sets of countermeasures are implemented.

This model allows us to identify the attacks we should be most concerned about (*i.e.*, the most practical and least difficult attacks). Furthermore, it allows us to quantify the potential effectiveness of various sets of countermeasures (*i.e.*, how difficult the least difficult attack is after the countermeasure has been implemented). Other potential models considered, but ultimately rejected by the Task Force, are detailed in Appendix B.

**IDENTIFICATION OF THREATS**

The first step in creating a threat model for voting systems was to identify as many potential attacks as possible. To that end, the Task Force, together with the participating election officials, spent several months identifying voting system vulnerabilities. Following this work, NIST held a Voting Systems Threat Analysis Workshop on October 7, 2005. Members of the public were invited to write up and post additional potential attacks. Taken together, this work produced over 120 potential attacks on the three voting systems. They are detailed in the catalogs annexed.<sup>20</sup> Many of the attacks are described in more detail at <http://vote.nist.gov/threats/papers.htm>.

The types of threats detailed in the catalogs can be broken down into nine categories: (1) the insertion of corrupt software into machines prior to Election Day; (2) wireless and other remote control attacks on voting machines on Election Day; (3) attacks on tally servers; (4) miscalibration of voting machines; (5) shut off of voting machine features intended to assist voters; (6) denial of service attacks; (7) actions by corrupt poll workers or others at the polling place to affect votes cast; (8) vote buying schemes; (9) attacks on ballots or VVPT. Often, the actual attacks

involve some combination of these categories. We provide a discussion of each type of attack in “Categories of Attacks,” *infra* at pp. 24–27.

## **PRIORITIZING THREATS: NUMBER OF INFORMED PARTICIPANTS AS METRIC**

Without some form of prioritization, a compilation of the threats is of limited value. Only by prioritizing these various threats could we help election officials identify which attacks they should be most concerned about, and what steps could be taken to make such attacks as difficult as possible. As discussed below, we have determined the level of difficulty for each attack where the attacker is attempting to affect the outcome of a close statewide election.

There is no perfect way to determine which attacks are the least difficult, because each attack requires a different mix of resources – well-placed insiders, money, programming skills, security expertise, *etc.* Different attackers would find certain resources easier to acquire than others. For example, election fraud committed by local election officials would always involve well-placed insiders and a thorough understanding of election procedures; at the same time, there is no reason to expect such officials to have highly skilled hackers or first-rate programmers working with them. By contrast, election fraud carried out by a foreign government would likely start with plenty of money and technically skilled attackers, but probably without many conveniently placed insiders or detailed knowledge of election procedures.

Ultimately, we decided to use the “number of informed participants” as the metric for determining attack difficulty. An attack which uses fewer participants is deemed the easier attack.

We have defined “informed participant” as someone whose participation is needed to make the attack work, and who knows enough about the attack to foil or expose it. This is to be distinguished from a participant who unknowingly assists the attack by performing a task that is integral to the attack’s successful execution without understanding that the task is part of an attack on voting systems.

The reason for using the security metric “number of informed participants” is relatively straightforward: the larger a conspiracy is, the more difficult it would be to keep it secret. Where an attacker can carry out an attack by herself, she need only trust herself. On the other hand, a conspiracy that requires thousands of people to take part (like a vote-buying scheme) also requires thousands of people to keep quiet. The larger the number of people involved, the greater the likelihood that one of them (or one who was approached, but declined to take part) would either inform the public or authorities about the attack, or commit some kind of error that causes the attack to fail or become known.

Moreover, recruiting a large number of people who are willing to undermine the integrity of a statewide election is also presumably difficult. It is not hard to imagine two or three people agreeing to work to change the outcome of an election. It seems far less likely that an attacker could identify and employ hundreds or thousands of similarly corrupt people without being discovered.

We can get an idea of how this metric works by looking at one of the threats listed in our catalogs: the vote-buying threat, where an attacker or attackers pay individuals to vote for a particular candidate. This is Attack Number 26 in the PCOS Attack Catalog<sup>22</sup> (though this attack would not be substantially different against DREs or DREs w/ VVPT).<sup>23</sup> In order to work under our current types of voting systems, this attack requires (1) at least one person to purchase votes, (2) many people to agree to sell their votes, and (3) some way for the purchaser to confirm that the voters she pays actually voted for the candidate she supported. Ultimately, we determined that, while practical in smaller contests, a vote-buying attack would be an exceptionally difficult way to affect the outcome of a statewide election. This is because, even in a typically close statewide election, an attacker would need to involve thousands of voters to ensure that she could affect the outcome of a statewide race.<sup>24</sup>

For a discussion of other metrics we considered, but ultimately rejected, see Appendix C.

## **DETERMINING NUMBER OF INFORMED PARTICIPANTS**

### **DETERMINING THE STEPS AND VALUES FOR EACH ATTACK**

The Task Force members broke down each of the catalogued attacks into its necessary steps. For instance, Attack 12 in the PCOS Attack Catalog is “Stuffing Ballot Box with Additional Marked Ballots.”<sup>25</sup> We determined that, at a minimum, there were three component parts to this attack: (1) stealing or creating the ballots and then marking them, (2) scanning marked ballots through the PCOS scanners, probably before the polls opened, and (3) modifying the poll books in each location to ensure that the total number of votes in the ballot boxes was not greater than the number of voters who signed in at the polling place.

Task Force members then assigned a value representing the minimum number of persons they believed would be necessary to accomplish each goal. For PCOS Attack 12, the following values were assigned:<sup>26</sup>

**Minimum number required to steal or create ballots: 5 persons total.**<sup>27</sup>

**Minimum number required to scan marked ballots: 1 per polling place attacked.**

**Minimum number required to modify poll books: 1 per polling place attacked.**<sup>28</sup>

After these values were assigned, the Brennan Center interviewed several election officials to see whether they agreed with the steps and values assigned to each attack.<sup>29</sup> When necessary, the values and steps were modified. The new catalogs, including attack steps and values, were then reviewed by Task Force members. The purpose of this review was to ensure, among other things, that the steps and values were sound.

These steps and values tell us how difficult it would be to accomplish a *single attack in a single polling place*. They do not tell us how many people it would take to change the outcome of an election successfully – that depends, of course, on specific facts about the jurisdiction: how many votes are generally recorded in each polling

place, how many polling places are there in the jurisdiction, and how close is the race? For this reason, we determined that it was necessary to construct a hypothetical jurisdiction, to which we now turn.

#### **NUMBER OF INFORMED PARTICIPANTS NEEDED TO CHANGE STATEWIDE ELECTION**

We have decided to examine the difficulty of each attack in the context of changing the outcome of a reasonably close statewide election. While we are concerned by potential attacks on voting systems in any type of election, we are most troubled by attacks that have the potential to affect large numbers of votes. These are the attacks that could actually change the outcome of a statewide election with just a handful of attack participants.

We are less troubled by attacks on voting systems that can only affect a small number of votes (and might therefore be more useful in local elections). This is because there are many non-system attacks that can also affect a small number of votes (*i.e.*, sending out misleading information about polling places, physically intimidating voters, submitting multiple absentee ballots, *etc.*). Given the fact that these non-system attacks are likely to be less difficult in terms of number of participants, financial cost, risk of detection, and time commitment, we are uncertain that an attacker would target *voting machines* to alter a small number of votes.

In order to evaluate how difficult it would be for an attacker to change the outcome of a statewide election, we created a composite jurisdiction. The composite jurisdiction was created to be representative of a relatively close statewide election. We did not want to examine a statewide election where results were so skewed toward one candidate (for instance, the re-election of Senator Edward M. Kennedy in 2000, where he won 73% of the vote<sup>30</sup>), that reversing the election results would be impossible without causing extreme public suspicion. Nor did we want to look at races where changing only a relative handful of votes (for instance, the Governor's race in Washington State in 2004, which was decided by a mere 129 votes<sup>31</sup>) could affect the outcome of an election; under this scenario, many of the potential attacks would involve few people, and therefore look equally difficult.

We have named our composite jurisdiction "the State of Pennasota." The State of Pennasota is a composite of ten states: Colorado, Florida, Iowa, Ohio, New Mexico, Pennsylvania, Michigan, Nevada, Wisconsin and Minnesota. These states were chosen because they were the ten "battleground" states that Zogby International consistently polled in the spring, summer, and fall 2004.<sup>32</sup> These are statewide elections that an attacker would have expected, ahead of time, to be fairly close.

We have also created a composite election, which we label the "Governor's Race" in Pennasota. The results of this election are a composite of the actual results in the same ten states in the 2004 Presidential Election.

We have used these composites as the framework by which to evaluate the difficulty of the various catalogued attacks.<sup>33</sup> For instance, we know a ballot-box stuffing attack would require roughly five people to create and mark fake ballots, as

well as one person per polling place to stuff the boxes, and one person per polling place to modify the poll books. But, in order to determine how many informed participants would be needed to affect a statewide race, we need to know how many polling places would need to be attacked.

The composite jurisdiction and composite election provide us with information needed to answer these questions: *i.e.*, how many extra votes our attackers would need to add to their favored candidate's total for him to win, how many ballots our attackers can stuff into a particular polling place's ballot box without arousing suspicion (and related to this, how many votes are generally cast in the average polling place), how many polling places are there in the state, *etc.* We provide details about both the composite jurisdiction and election in the section entitled "Governor's Race, State of Pennasota, 2007," *infra* at pp 20–27.

### LIMITS OF INFORMED PARTICIPANTS AS METRIC

Of the possible metrics we considered, we believe that measuring the number of people who know they are involved in an attack (and thus could provide evidence of the attack to the authorities and/or the media), is the best single measure of attack difficulty; as already discussed, we have concluded that the more people an attacker is forced to involve in his attack, the more likely it is that one of the participants would reveal the attack's existence and foil the attack, perhaps sending attackers to jail. However, we are aware of a number of places where the methodology could provide us with questionable results.

By deciding to concentrate on size of attack team, we mostly ignore the need for other resources when planning an attack. Thus, a software attack on DREs which makes use of steganography<sup>34</sup> to hide attack instruction files (*see* "DRE w/ VVPT Attack No. 1a", discussed in greater detail, *infra* at pp. 62–65) is considered easier than an attack program delivered over a wireless network at the polling place (*see* discussion of wireless networks, *infra* at pp. 85–91). However, the former attack probably requires a much more technologically sophisticated attacker.

Another imperfection with this metric is that we do not have an easy way to represent how much choice the attacker has in finding members of his attack team.

Thus, with PCOS voting, we conclude that the cost of subverting a routine audit of ballots is roughly equal to the cost of intercepting ballot boxes in transit and substituting altered ballots (*see* discussion of PCOS attacks, *infra* at pp. 77–83). However, subverting the audit team requires getting a specific set of trusted people to cooperate with the attacker. By contrast, the attacker may be able to decide which precincts to tamper with based on which people he has already recruited for his attack.

In an attempt to address this concern, we considered looking at the number of "insiders" necessary to take part in each attack. Under this theory, getting five people to take part in a conspiracy to attack a voting system might not be particularly difficult. But getting five well-placed county election officials to take part in the attack would be (and should be labeled) the more difficult of the two attacks. Because, for the most part, the low-cost attacks we have identified do not necessarily involve well placed insiders (but could, for instance, involve one of many people with access to commercial off the shelf software ("COTS") during development

or at the vendor), we do not believe that using this metric would have substantially changed our analysis.<sup>35</sup>

Finally, these attack team sizes do not always capture the logistical complexity of an attack. For example, an attack on VVPT machines involving tampering with the voting machine software and also replacing the paper records in transit requires the attacker to determine what votes were falsely produced by the voting machine and print replacement records in time to substitute them. While this is clearly possible, it raises a lot of operational difficulties – a single failed substitution leaves the possibility that the attack would be detected during the audit of ballots.

We have tried to keep these imperfections in mind when analyzing and discussing our least difficult attacks.

We suspect that much of the disagreement between voting officials and computer security experts in the last several years stems from a difference of opinion in prioritizing the difficulty of attacks. Election officials, with extensive experience in the logistics of handling tons of paper ballots, have little faith in paper and understand the kind of breakdowns in procedures that lead to traditional attacks like ballot box stuffing; in contrast, sophisticated attacks on computer voting systems appear very difficult to many of them. Computer security experts understand sophisticated attacks on computer systems, and recognize the availability of tools and expertise that makes these attacks practical to launch, but have no clear idea how they would manage the logistics of attacking a paper-based system. Looking at attack team size is one way to bridge this difference in perspective.

## **EFFECTS OF IMPLEMENTING COUNTERMEASURE SETS**

The final step of our threat analysis is to measure the effect of certain countermeasures against the catalogued attacks. How much more difficult would the attacks become once the countermeasures are put into effect? How many more informed participants (if any) would be needed to counter or defeat these countermeasures?

Our process for examining the effectiveness of a countermeasure mirrors the process for determining the difficulty of an attack: we first asked whether the countermeasure would allow us to detect an attack with near certainty. If we agreed that the countermeasure would expose the attack, we identified the steps that would be necessary to circumvent or defeat the countermeasure. For each step to defeat the countermeasure, we determined the number of additional informed participants (if any) that an attacker would need to add to his team. As with the process for determining attack difficulty, the Brennan Center interviewed numerous election officials to see whether they agreed with the steps and values assigned. When necessary, the values and steps for defeating the countermeasures were altered to reflect the input of election officials.

## **COUNTERMEASURES EXAMINED**

### **BASIC SET OF COUNTERMEASURES**

The first set of countermeasures we looked at is the “Basic Set” of countermeasures. This Basic Set was derived from security survey responses<sup>36</sup> we received

from county election officials around the country, as well as additional interviews with more than a dozen current and former election officials. Within the Basic Set of countermeasures are the following procedures:

### **Inspection**

The jurisdiction is not knowingly using any uncertified software that is subject to inspection by the Independent Testing Authority (often referred to as the “ITA”).<sup>37</sup>

### **Physical Security for Machines**

- Ballot boxes (to the extent they exist) are examined (to ensure they are empty) and locked by poll workers immediately before the polls are opened.
- Before and after being brought to the polls for Election Day, voting systems for each county are locked in a single room in a county warehouse.
- The warehouse has perimeter alarms, secure locks, video surveillance and regular visits by security guards.
- Access to the warehouse is controlled by sign-in, possibly with card keys or similar automatic logging of entry and exit for regular staff.
- Some form of “tamper evident” seals are placed on machines before and after each election.
- The machines are transported to polling locations five to fifteen days before Election Day.

### **Chain of Custody/Physical Security of Election Day Records**

- At close of the polls, vote tallies for each machine are totaled and compared with number of persons that have signed the poll books.
- A copy of totals for each machine is posted at each polling place on Election Night and taken home by poll workers to check against what is posted publicly at election headquarters, on the web, in the papers, or elsewhere.<sup>38</sup>
- All audit information (*i.e.*, Event Logs, VVPT records, paper ballots, machine printouts of totals) that is not electronically transmitted as part of the unofficial upload to the central election office, is delivered in official, sealed and hand-delivered information packets or boxes. All seals are numbered and tamper-evident.
- Transportation of information packets is completed by two election officials representing opposing parties who have been instructed to remain in joint custody of the information packets or boxes from the moment it leaves the precinct to the moment it arrives at the county election center.

- Each polling place sends its information packets or boxes to the county election center separately, rather than having one truck or person pick up this data from multiple polling locations.
- Once the sealed information packets or boxes have reached the county election center, they are logged. Numbers on the seals are checked to ensure that they have not been replaced. Any broken or replaced seals are logged. Intact seals are left intact.
- After the packets and/or boxes have been logged, they are provided with physical security precautions at least as great as those listed for voting machines, above. Specifically, for Pennasota, we have assumed the room in which the packets are stored have perimeter alarms, secure locks, video surveillance and regular visits by security guards and county police officers; and access to the room is controlled by sign-in, possibly with card keys or similar automatic logging of entry and exit for regular staff.

### Testing<sup>39</sup>

- An Independent Testing Authority has certified the model of voting machine used in the polling place.
- Acceptance Testing<sup>40</sup> is performed on machines at time, or soon after they are received by County.
- Pre-election Logic and Accuracy<sup>41</sup> testing is performed by the relevant election official.
- Prior to opening the polls, every voting machine and vote tabulation system is checked to see that it is still configured for the correct election, including the correct precinct, ballot style, and other applicable details.

### REGIMEN FOR AUTOMATIC ROUTINE AUDIT PLUS BASIC SET OF COUNTERMEASURES.

The second set of countermeasures is the Regimen for an Automatic Routine Audit Plus Basic Set of Countermeasures.

Some form of routine auditing of voter-verified paper records occurs in 12 states, to test the accuracy of electronic voting machines. They generally require between 1 and 10% of all precinct voting machines to be audited after each election. <sup>42</sup>

Jurisdictions can implement this set of countermeasures only if their voting systems produce some sort of voter-verified paper record of each vote. This could be in the form of a paper ballot, in the case of PCOS, or a voter-verified paper trail (“VVPT”), in the case of DREs.

We have assumed that jurisdictions take the following steps when conducting an Automatic Routine Audit (when referring to this set of assumptions “Regimen for an Automatic Routine Audit”):



### **The Audit**

- Leaders of the major parties in each county are responsible for selecting a sufficient number of audit-team members to be used in that county.<sup>43</sup>
- Using a highly transparent random selection mechanism (*see* point ii, below), the voter-verified paper records for between a small percentage of all voting machines in the State are selected for auditing.
- Using a transparent random selection method, auditors are assigned to the selected machines (two or three people, with representatives of each major political party, would comprise each audit team).
- The selection of voting machines, and the assignment of auditors to machines, occurs immediately before the audits take place. The audits take place as soon after polls close as possible – for example, at 9 a.m. the morning after polls close.
- Using a transparent random selection method, county police officers, security personnel and the video monitor assigned to guard the voter-verified records are chosen from a large pool of on-duty officers and employees on election night.
- The auditors are provided the machine tallies and are able to see that the county tally reflects the sums of the machine tallies before the start of the inspection of the paper.
- The audit would include a tally of spoiled ballots (in the case of VVPT, the number of cancellations recorded), overvotes, and undervotes.

### **Transparent Random Selection Process**

In this report, we have assumed that random auditing procedures are in place for both the Regimen for an Automatic Routine Audit and Regimen for Parallel Testing. We have further assumed procedures to prevent a single, corrupt person from being able to fix the results. This implies a kind of transparent and public random procedure.

For the Regimen for an Automatic Routine Audit there are at least two places where transparent, random selection processes are important: in the selection of precincts to audit, and in the assignment of auditors to the precincts they will be auditing.

Good election security can employ Transparent Random Selection in other places with good effect:

- the selection of parallel testers from a pool of qualified individuals.
- the assignment of police and other security professionals from on-duty lists, to monitor key materials, for example, the VVPT records between the time that they arrive at election central and the time of the completion of the ARA.

If a selection process for auditing is to be trustworthy and trusted, ideally:

- The whole process will be publicly observable or videotaped;<sup>44</sup>
- The random selection will be publicly verifiable, *i.e.*, anyone observing will be able to verify that the sample was chosen randomly (or at least that the number selected is not under the control of any small number of people); and
- The process will be simple and practical within the context of current election practice so as to avoid imposing unnecessary burdens on election officials.

There are a number of ways that election officials can ensure some kind of transparent randomness. One way would be to use a state lottery machine to select precincts or polling places for auditing. We have included two potential examples of transparent random selection processes in Appendix F. These apply to the Regimen for Parallel Testing as well.

#### **REGIMEN FOR PARALLEL TESTING PLUS BASIC SET OF COUNTERMEASURES**

The final set of countermeasures we have examined is “Parallel Testing” plus the Basic Set of countermeasures. Parallel Testing, also known as election-day testing, involves selecting voting machines at random and testing them as realistically as possible during the period that votes are being cast.

#### **Parallel Testing**

In developing our set of assumptions for Parallel Testing, we relied heavily upon interviews with Jocelyn Whitney, Project Manager for Parallel Testing in the State of California, and conclusions drawn from this Report.<sup>45</sup> In our analysis, we assume that the following procedures would be included in the Parallel Testing regimen (when referring to this regimen “Regimen for Parallel Testing”) that we evaluate:

- At least two of each DRE model (meaning both vendor and model) would be selected for Parallel Testing;
- At least two DREs from each of the three largest counties would be parallel tested;
- Counties to be parallel tested would be chosen by the Secretary of State in a transparent and random manner.
- Counties would be notified as late as possible that machines from one of their precincts would be selected for Parallel Testing;<sup>46</sup>
- Precincts would be selected through a transparent random mechanism;
- A video camera would record testing;
- For each test, there would be one tester and one observer;

- Parallel Testing would occur at the polling place;
- The script for Parallel Testing would be generated in a way that mimics voter behavior and voting patterns for the polling place;
- At the end of the Parallel Testing, the tester and observer would reconcile vote totals in the script with vote totals reported on the machine.

#### **Transparent Random Selection Process**

We further assume that the same type of transparent random selection process that would be used for the Regimen for Automatic Routine Audit would also be employed for the Regimen for Parallel Testing to determine which machines would be subjected to testing on Election Day.

### **APPENDIX C**

#### **ALTERNATIVE SECURITY METRICS CONSIDERED**

##### **Dollars Spent**

The decision to use the number of informed participants as the metric for attack level difficulty came after considering several other potential metrics. One of the first metrics we considered was the dollar cost of attacks. This metric makes sense when looking at attacks that seek financial gain – for instance, misappropriating corporate funds. It is not rational to spend \$100,000 on the misappropriation of corporate funds if the total value of those funds is \$90,000. Ultimately, we rejected this metric as the basis for our analysis because the dollar cost of the attacks we considered were dwarfed by both (1) current federal and state budgets, and (2) the amounts currently spent legally in state and federal political campaigns.

##### **Time of Attack**

The relative security of safes and other safety measures are often rated in terms of “time to defeat.” This was rejected as metric of difficulty because it did not seem relevant to voting systems. Attackers breaking into a house are concerned with the amount of time it might take to complete their robbery because the homeowners or police might show up. With regard to election fraud, many attackers may be willing to start months or years before an election if they believe they can control the outcome. As discussed *supra* at pp. 35–48, attackers may be confident that they can circumvent the independent testing authorities and other measures meant to identify attacks, so that the amount of time an attack takes becomes less relevant.

**Appendix 4**  
**Voting Fraud-Voter Intimidation Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, Texas

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, District of Columbia

National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, Missouri

National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S. Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice

<sup>i</sup> Department of Justice's Activities to Address Past Election-Related Voting Irregularities, General Accounting Office, October 14, 2004, GAO-04-1041R

<sup>ii</sup> The MyVote1 Project Final Report, Fels Institute of Government, University of Pennsylvania, November 1, 2005, Pg. 12

<sup>iii</sup> Department of Justice's Activities to Address Past Election-Related Voting Irregularities, General Accounting Office, October 14, 2004, GAO-04-1041R, p. 4. This same report criticizes some of the procedures the Section used for these systems and urged the Department to improve upon them in time for the 2004 presidential election. No follow-up report has been done since that time to the best of our knowledge.

<sup>iv</sup> "Department Of Justice To Hold Ballot Access and Voting Integrity Symposium," U.S. Department of Justice press release, August 2, 2005

<sup>v</sup> Craig C. Donsanto, Prosecution of Electoral Fraud Under United States Federal Law," IFES Political Finance White Paper Series, 2006, p. 29

<sup>vi</sup> Ana Henderson and Christopher Edley, Jr., Voting Rights Act Reauthorization: Research-Based Recommendations to Improve Voting Access, Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, University of California at Berkeley, School of Law, 2006, p. 29

DRAFT

Raymundo  
Martinez/EAC/GOV  
06/22/2005 08:30 AM

To: Karen Lynn-Dyson/EAC/GOV@EAC  
cc: Thomas R. Wilkey/EAC/GOV@EAC, Juliet E.  
Thompson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Paul  
bcc  
Subject: Voter Fraud

Karen:

Per our discussion, I should have some names later today of possible academic researchers for the voter fraud/voter intimidation study. I assume you are collecting names from the other commissioners as well. Additionally, I ran across the article below in today's Seattle Times...

Wednesday, June 22, 2005, 12:00 A.M. Pacific

## **6 accused of casting multiple votes**

**By Keith Ervin**  
*Seattle Times staff reporter*

Criminal charges have been filed against six more King County voters for allegedly casting more than one ballot under a variety of circumstances in last November's election, prosecutors said yesterday.

Two defendants, William A. Davis of Federal Way and Grace E. Martin of Enumclaw, were accused of casting absentee ballots in the names of their recently deceased spouses, Sonoko Davis and Lawrence Martin, respectively.

A mother and daughter were also charged with casting a ballot in the name of the mother's dead husband. The mother, Harline H.L. Ng, and her daughter, Winnie W.Y. Ng, both of Seattle, signed their names as witnesses to the "X" marked on the ballot of Jacob Ng, who had died in February 2004.

Jared R. Hoadley of Seattle was accused of casting a ballot in the name of Hans Pitzen, who had lived at the same Seattle address as Hoadley and who died last May.

Dustin S. Collings, identified as a homeless Seattle resident, was charged with casting two ballots, both using the alias of Dustin Ocoilain, a name that was listed twice on the voter-registration rolls.

The defendants are charged with repeat voting, a gross misdemeanor that carries possible jail time of up to one year and a fine of up to \$5,000.

007926

Election officials asked prosecutors to investigate the voters after news reporters and a blogger reported that they may have voted twice. The voters will be arraigned July 5 in King County District Court.

Two other voters previously received deferred sentences — and avoided jail time — after they pleaded guilty to charges of repeat voting.

The King County Sheriff's Office is investigating several other cases, prosecutors reported yesterday. The investigations resulted from the intense scrutiny surrounding the governor's election in which Democrat Christine Gregoire defeated Republican Dino Rossi by 129 votes after he narrowly won two earlier vote counts.

After the November election, prosecutors also successfully challenged the voter registrations of 648 felons whose right to vote had not been restored.

*Keith Ervin: 206-464-2105 or [kervin@seattletimes.com](mailto:kervin@seattletimes.com)*

Copyright © 2005 The Seattle Times Company

RAY MARTINEZ III  
Commissioner  
U.S. Election Assistance Commission  
1225 New York Avenue, N.W., Suite 1100  
Washington, D.C. 20005

(202) 566-3100 (W)  
(202) 566-3127 (FAX)  
[www.eac.gov](http://www.eac.gov)

CONFIDENTIALITY NOTICE: This email message and all attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this message and please delete it from your computer.

007927



**U.S. ELECTION ASSISTANCE COMMISSION**

**Status Report on the  
Voting Fraud-Voter Intimidation Research  
Project**

**May 17, 2006**

007928



## INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

## FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

## DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

## LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.

- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

### **Recommendations**

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

### **INTERVIEWS**

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

### **Common Themes**

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,

although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

#### **Common Recommendations:**

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots "for cause" only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the proposal in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

### NEWS ARTICLES

Consultants conducted a Nexis search of related news articles published between January 1, 2001 and January 1, 2006. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview of these articles provided by the consultants.

#### **Absentee Ballots**

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

### **Voter Registration Fraud**

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota, and Wisconsin.

### **Voter Intimidation and Suppression**

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;

- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from "battleground" states. There were several such reports out of Florida, Ohio, and Pennsylvania.

#### **"Dead Voters and Multiple Voting"**

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found five such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.



As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### **Vote Buying**

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia). There were more official investigations, indictments and convictions/pleas in this area.

### **Deceptive Practices**

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of completed voter registration applications. There were no reports of prosecutions or any other legal proceeding.

### **Non-citizen Voting**

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case, charges were filed against ten individuals. In another case, a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

### **Felon Voting**

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem was the large number of ineligible felons that remained on the voting list.

### **Election Official Fraud**

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one

instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### **Recommendation**

The consultants recommend that subsequent EAC research should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

## **CASE LAW RESEARCH**

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, the consultants found comparatively few applicable to this study. Of those that were applicable, the consultants found that no apparent thematic pattern emerges. However, it appears to them that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

### **Recommendation**

Because so few cases provided a picture of these current problems, consultants suggest that subsequent EAC research include a review of state trial-level decisions.

## **PROJECT WORKING GROUP**

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.) The working group is scheduled to convene at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

## **FINAL REPORT**

After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations. This report will include recommendations for future EAC research related to this subject matter. The draft report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment. Following this, a final report will be prepared.

**Attachment A**

**Voting Fraud-Voter Intimidation Project Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, TX

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

*(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)*

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.

Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice

Thomas R. Wilkey/EAC/GOV  
04/20/2007 12:13 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Caroline C.  
cc Gavin S. Gilmour/EAC/GOV@EAC

bcc

Subject Re: Fraud Report

I discussed this with Julie last evening and again this morning and agree with her comments. I believe both the IG review and our responses to Senator Finesteins letter covers a great deal of what we were asking them to do.

-----  
Sent from my BlackBerry Wireless Handheld

Juliet E. Hodgkins

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

**From:** Juliet E. Hodgkins  
**Sent:** 04/20/2007 12:14 PM EDT  
**To:** Donetta Davidson; Gracia Hillman; Caroline Hunter; Rosemary Rodriguez;  
Thomas Wilkey; Margaret Sims; Jeannie Layson  
**Cc:** Gavin Gilmour  
**Subject:** Fw: Fraud Report

Commissioners & Tom,

After having received this request, reviewed it and discussed it with the Inspector General and Gavin, I believe that it is ill-advised to continue such a request in light of the pending investigation of this matter by the Inspector General. While I am certain that this was not the intent of this request, the inevitable appearance of this request would suggest that the Commission is seeking to influence an ongoing investigation of the IG. This appearance of inappropriate influence would arise because two employees, who will undoubtedly be contacted by and interviewed as a part of the ongoing IG investigation, are being asked to provide a statement to their supervisors prior to interviews of those persons by the IG. Furthermore, this situation could appear as an attempt by employees and/or the agency to collude on a statement prior to making a formal statement in the investigation of the IG.

This IG's investigation was requested to address issues of public perception. Thus, it is critical that this investigation proceed in a manner that leaves no room for question. As such, I believe that it is inappropriate to proceed with this request.

Juliet T. 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 04/20/2007 11:54 AM -----

Thomas R. Wilkey/EAC/GOV  
04/19/2007 05:03 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Margaret  
Sims/EAC/GOV@EAC  
cc "Jeannie Layson" <jlayson@eac.gov>

Subject Fraud Report

After much discussion today among the Commissioners would like you both to prepare an in depth

007940

overview of the work you did on this report.

This would include all of the details of your work on the both the draft report and the final report adopted by the Commissioners, Jeannie has offered to help you in any way.

I will discuss this further with each of you between now and tomorrow.

I have been at the damn conference all day and have not been able to go to a single session or spend time with people.

Thanks

Tom

-----  
Sent from my BlackBerry Wireless Handheld

007941

Margaret Sims /EAC/GOV  
04/17/2007 01:27 PM

To Jeannie Layson/EAC/GOV@EAC  
cc Juliet E. Hodgkins/EAC/GOV@EAC  
bcc  
Subject Re: Vote fraud report

As far as I know, you are absolutely correct! Julie did the bulk of the rewrite and used my analyses of the preliminary info submitted by our contractors. I know that I had no contact with the administration regarding this study. --- Peggy

Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV  
04/17/2007 01:16 PM

To psims@eac.gov, Thomas R. Wilkey/EAC/GOV@EAC,  
jthompson@eac.gov  
cc  
Subject Vote fraud report

The St. Louis Post Dispatch wrote an editorial that said the administration edited our report. I am almost absolutely sure that is not true, but I wanted to confirm that with you before I request a correction. Thanks.

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

007942

Jeannie Layson /EAC/GOV  
04/17/2007 01:16 PM

To psims@eac.gov, Thomas R. Wilkey/EAC/GOV@EAC,  
jthompson@eac.gov

cc

bcc

Subject Vote fraud report

History  This message has been replied to

The St. Louis Post Dispatch wrote an editorial that said the administration edited our report. I am almost absolutely sure that is not true, but I wanted to confirm that with you before I request a correction. Thanks.

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

007943

Jeannie Layson /EAC/GOV  
04/27/2007 04:54 PM

To EAC Personnel  
cc  
bcc  
Subject Voter ID and Vote Fraud and Voter Intimidation IG Review  
Update

Hello everyone,

The chair wanted to distribute the attached memo from the IG, which contains guidance about how we proceed during the review of the voter ID and the vote fraud and voter intimidation research projects. She will continue to keep staff informed as this review moves forward, and she thanks everyone for their continued cooperation and hard work.



IG Memo to Chair on Review of Studies ( 4-27-07 ).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](http://www.eac.gov)

007944





U.S. ELECTION ASSISTANCE COMMISSION  
OFFICE OF INSPECTOR GENERAL  
1225 New York Ave. NW - Suite 1100  
Washington, DC 20005

April 27, 2007

Memorandum

To: Donetta Davidson  
Chair, U.S. Elections Commission

From: Curtis Crider *Curtis Crider*  
Inspector General

Subject: U.S. Election Assistance Commission Activities Pending the Office of Inspector  
General Investigation of the Voting Fraud and Voter Intimidation Report

In your letter of April 23, 2007, you requested my comments concerning several activities that the Election Assistance Commission (EAC) was considering to undertake pending our review of the Voting Fraud and Voter Intimidation Study and on related questions. My responses to your proposed activities and questions follow:

1. The EAC would like to prepare a summary of the differences between the draft report prepared by the consultants and the final report adopted by the EAC.

Answer: We believe that such a summary will be helpful to our investigation. Please provide us with a copy of the summary of differences upon it is completion.

2. Would there be any prohibition against the Director of Communications speaking with EAC employees, consultants or working group members when questions arise from members of the press or under the Freedom of Information Act?

Answer: We are not aware of any prohibition. However, we suggest that EAC not comment or limit its comments on this matter because of the ongoing investigation. Any FOIA requests should be promptly responded to stating that the matter is under investigation. Once the investigation is completed, appropriate information should be made available to the FOIA requester.

3. Would there be any prohibition against EAC briefing members of the EAC Standards Board and the EAC Board of Advisors.

Answer: We are not aware of any prohibition. Our preference, however, would be that EAC allow the investigation to be completed before conducting any briefings.

4. Would there be any prohibition against gathering information related to this project in order to respond to inquiries that have been made by members of Congress?

007345

Answer: We are not aware of any prohibition. As previously stated, our preference is that there are no public comments while the investigation is in process or that comments be limited. However, we appreciate the sensitivity of Congressional requests, EAC must decide how best to proceed in this matter. We ask that you share any proposed responses with us prior to their release and that you provide us with a copy of final responses and any attachments.

5. Would there be any prohibition against responding to an inquiry that the Commission has received from an attorney engaged by one of the consultants?

Answer: It is the EAC's decision whether to respond to the attorney for the consultant. We prefer that the consultants not be released from the confidentiality clause of their contracts until the OIG has completed its investigations.

We understand that EAC will want to respond to criticism of its handling of the Voter Fraud and Intimidation Study, and that management must ultimately decide how best to proceed. Our preference would be that you attempt to defer commenting until we have finished our investigation.

I appreciate you raising these matters to me before acting. Please feel free to contact me if you have any questions about this memorandum.



"John Weingart"  
<john.weingart@rutgers.edu>

03/20/2007 05:32 PM

To klynndyson@eac.gov

cc jhodgkins@eac.gov, [REDACTED],  
twilkey@eac.gov, "Tim Vercellotti"  
<tim.vercellotti@rutgers.edu>

bcc

Subject Re: Review of Voter ID Statement

Karen - To further my earlier email, I want to make clear that only respondents who identified themselves as U.S. citizens were asked whether they were registered to vote for the November 2004 election. And only those who said they were registered to vote were asked whether they voted in the election.

John

klynndyson@eac.gov wrote:

>  
> 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

--

-- John Weingart, Associate Director  
Eagleton Institute of Politics  
(732)932-9384, x.290

007947



"John Weingart"  
<john.weingart@rutgers.edu>

03/20/2007 02:44 PM

To klynndyson@eac.gov

cc jhodgkins@eac.gov, [REDACTED]  
twilkey@eac.gov, "Tim Vercellotti"  
<tim.vercellotti@rutgers.edu>

bcc

Subject Re: Review of Voter ID Statement

Karen:

The estimate of citizens of voting-age population controls for the percentage of the voting-age population that might have been non-citizens in 2004. We calculated the citizens of voting-age population using the following approach (this is a direct quote from Appendix C to our final Voter Identification report to the EAC):

"In the aggregate data, determining the percentage of the voting-age population that has U.S. citizenship posed a methodological challenge. The Census Bureau gathers information on the citizenship status of adults ages 18 and older only during the decennial census. While the Census Bureau provides annual estimates of the population to account for changes between decennial censuses, the bureau does not offer estimates for the proportion of the adult population who are citizens as part of the annual estimates. To address this issue I estimated the 2004 citizen voting-age population for each county using a method reported in the analysis of the 2004 Election Day Survey conducted for the U.S. Election Assistance Commission (U.S. Election Assistance Commission, 2005). I calculated the percentage of the 2000 voting-age population who were citizens in 2000, and applied that percentage to the July 1, 2004 estimates for voting-age population in each county. In other words, I assumed that the percentage of the voting-age population that had U.S. citizenship in 2004 was similar to the percentage of the voting-age population who were citizens in 2000."

I hope this addresses the issue. If it doesn't, let us know and Tim Vercellotti or I will be happy to elaborate.

Thanks,

John

klynndyson@eac.gov wrote:


>  
> 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

007948

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

--  
-- John Weingart, Associate Director  
Eagleton Institute of Politics  
(732)932-9384, x.290

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

007950


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

007951

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

007952



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](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](http://www.eac.gov)

007953

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

007954

**Deliberative Process  
Privilege**

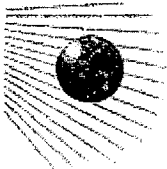
Juliet E. Hodgkins/EAC/GOV  
10/23/2006 09:22 AM

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

007955

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](http://www.eac.gov)

007956

October 20, 2006

Gerald A Reynolds  
Chairman, United States Commission on Civil Rights  
624 9<sup>th</sup> 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

007957

Juliet E.  
Thompson-Hodgkins/EAC/G  
OV

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

007958

Juliet E.  
Thompson-Hodgkins/EAC/G  
OV

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

007959

(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!

007960



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

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

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

007961

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

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

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

007962

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

To "Job Serebrov"  
<[REDACTED]@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]@net>



"Job Serebrov"  
<[REDACTED]@net>  
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

007963

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]>



"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  
>  
>  
>

007964

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

007965

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

007966

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

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

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  
>  
>

007967

>  
> "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:  
>

007968



> > 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  
>  
>  
>

007970

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

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

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]@[REDACTED].net>



"Job Serebrov"  
<[REDACTED]@[REDACTED].net>  
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

007971

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

007972

- > 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

007974

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](http://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

007975

will have a copy available for you immediately 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

jthompson@eac.gov

To

cc

"Job Serebrov"

<[REDACTED]>

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

007976



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 that's 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 Septbmer invoice in October, and October's work in November).

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

007977

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:** ~~psims@eac.gov~~; 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

007978

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

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

**From:** psims@eac.gov [mailto:psims@eac.gov]  
**Sent:** Thursday, November 10, 2005 3:28 PM  
**To:** ~~psims@eac.gov~~; 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

007979

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](mailto: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](http://www.eac.gov)

007981



"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  
>

007982



"Job Serebrov"

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

007983



"Job Serebrov"

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

> 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

007984



> 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](http://www.tcf.org), for the latest  
> news, analysis, opinions,  
> and events.  
>  
>  
> -----Original Message-----  
> From: [jhodgkins@eac.gov](mailto:jhodgkins@eac.gov) [mailto:[jhodgkins@eac.gov](mailto:jhodgkins@eac.gov)]  
> Sent: Monday, December 04, 2006 4:57 PM  
> To: [wang@tcf.org](mailto: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 immediately  
> 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

007985

> 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

007985

> 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"

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](http://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 immediately following their consideration

007988

- 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,

007989

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

007991



"Job Serebrov"  
[Redacted]  
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"

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

007993



"Job Serebrov"

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

007994

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



"Job Serebrov"

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

007996



"Job Serebrov"

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

007997



"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 Americas\_Modern\_Poll\_Tax\_JS\_.doc
- >    
- > Brennan\_Analysis\_Voter\_Fraud\_Report\_FINAL.doc cb\_summary.doc Chandler\_Davidson\_summary\_official.doc Crazy\_Quilt.doc
- >    
- > Deliver\_the\_Vote\_Review.doc dnc\_ohio.doc DOJ\_Public\_Integrity\_Reports\_JS\_.doc Donsanto\_IFES\_FINAL.doc
- >    
- > Election\_Protection\_stories.doc Existing\_Literature\_Reviewed.doc fooled\_again\_review.doc GA\_litigation\_summary2.doc

## **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.



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.

## 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.<sup>1</sup>

A month before the election, several counties reported irregularities in some of the voter registration documents they'd received. In response to these reports, South Dakota Attorney General, Mark Barnett, with the state US Attorney and the FBI, launched an investigation.<sup>2</sup> 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.<sup>3</sup> The following allegations were also picked up by out-of-state newssources, including Fox News and the Wall Street Journal:

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

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

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

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

---

<sup>1</sup> Kafka, Joe. "More people registered to vote." *Associated Press State and Local Wire*. October 29, 2002.

<sup>2</sup> Kafka, Joe. "Voter registration fraud being investigated." *Associated Press State and Local Wire*. October 11, 2002.

<sup>3</sup> "Barnett: No evidence that fraud affected vote." *Associated Press State and Local Wire*. Sioux Falls, South Dakota. November 21, 2002.

<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

- 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.<sup>7</sup>

## 2004

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

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.<sup>9</sup> 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.<sup>10</sup>

**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

---

<sup>5</sup> Kafka, Joe. "Woman charged in voter-fraud case, other claims false." *Associated Press State and Local Wire*. Pierre, South Dakota. December 14, 2002.

<sup>6</sup> Walker, Carson. "Charges dropped against woman accused of voter fraud." *Associated Press State and Local Wire*. Sioux Falls, South Dakota. January 28, 2004.

<sup>7</sup> "Rapid City man arrested for voter fraud." *Associated Press State and Local Wire*. Rapid City, South Dakota. October 18, 2002.

<sup>8</sup> Melmer, David. "Voting problems resurface in South Dakota." *Indian Country Today*. October 27, 2004.

<sup>9</sup> Melmer, David. "Election Day goes smoothly on Pine Ridge, S.D., reservation." *Indian Country Today*. November 10, 2004.

<sup>10</sup> 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.<sup>11</sup>

---

<sup>11</sup> 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 indicated 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 than non-minorities to have a photo ID, a photo ID is expensive to obtain and all the alternatives to photo ID present similar obstacles to minority voters. He also argues that there is no evidence that photo ID will combat voter



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

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

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

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

## 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.<sup>1</sup>
- 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.<sup>2</sup>
- 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.<sup>3</sup>
- The system for verifying the eligibility of voters who had cast provisional ballots was found to be questionable.<sup>4</sup>
- 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.<sup>5</sup>

The trial also revealed that most of these problems were the result of understaffing and human error.<sup>6</sup> 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.<sup>7</sup> Further, despite the scrutiny that the election

---

<sup>1</sup> 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.

<sup>2</sup> Ervin, Keith. "Voters irked by uncounted ballots." *The Seattle Times*. June 17, 2005.

<sup>3</sup> Postman, David. "Judge left to mull vote-fraud claim." *The Seattle Times*. June 5, 2005.

<sup>4</sup> 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.

<sup>5</sup> Ervin, Keith. "Prosecutors to challenge 110 voters; They are said to be felons – 2 counties discover uncounted ballots." *The Seattle Times*. April 29, 2005.

<sup>6</sup> 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.

<sup>7</sup> *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.<sup>8</sup>
- 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.<sup>9</sup>

---

<sup>8</sup> Johnson, Gene. "Two plead guilty to voting twice in 2004 general election." *Associated Press*. June 2, 2005.

<sup>9</sup> 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)<sup>1</sup>

1 has been acquitted<sup>2</sup>

1 has been found guilty in trial (Kimberly Prude)<sup>2</sup>

3 have reached plea agreements (Milo Ocasio<sup>3</sup>)

[names: Ethel M. Anderson, Correan F. Edwards, Jiyto L. Cox, Joseph J. Gooden<sup>4</sup>]

4 were instances of double voting:

1 produced a hung jury (Enrique Sanders)<sup>2</sup>

1 was found incompetent to stand trial and his case was dismissed

1 initially pleaded guilty but now wants a trial.<sup>5</sup>

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.<sup>6</sup>

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.<sup>7</sup>

### *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

---

<sup>1</sup> Barton, Gina. "Man acquitted in voter fraud trial; Felon had been under supervision at time." *Milwaukee Journal-Sentinel*. October 6, 2005.

<sup>2</sup> Schultze, Steve. "No vote fraud plot found. Inquiry leads to isolated cases, Biskupic says." *Milwaukee Journal-Sentinel*. December 5, 2005.

<sup>3</sup> "Felon says he voted illegally." *Milwaukee Journal-Sentinel*. September 17, 2005.

<sup>4</sup> Barton, Gina. "4 charged with voting illegally in November." *Milwaukee Journal-Sentinel*. August 17, 2005.

<sup>5</sup> Milwaukee J-S. December 5, 2005.

<sup>6</sup> Milwaukee J-S. December 5, 2005.

<sup>7</sup> 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.<sup>8</sup>

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.<sup>9</sup>

### *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.<sup>10</sup> 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*

---

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

<sup>9</sup> "An Evaluation: Voter Registration." *Legislative Audit Bureau*. Madison, Wisconsin. September 2005. Pg. 50-52.

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



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

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

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

---

<sup>11</sup> 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 places that are not wheelchair accessible.

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

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

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

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



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

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

General

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

prosecutors in the investigation and prosecution of election crimes; and the coordination of election-related initiatives and other law enforcement activities between Headquarters and the field. In addition, the DEO Program is a crucial feature of the Department's nationwide Election Day Program, which occurs in connection with the federal general elections held in November of even-numbered years. The Election Day Program ensures that federal prosecutors and investigators are available both at the Department's Headquarters in Washington and in each district to receive and handle complaints of election irregularities from the public while the polls are open and that the public is aware of how these individuals can be contacted on election day. In 2002 the Department enhanced the DEO Program by establishing a Ballot Integrity Initiative.

Ballot Integrity Initiative-Beginning in September of 2002, the Public Integrity Section, acting at the request of the Attorney General, assisted in the implementation of a Ballot Integrity Initiative for the 2002 general election and subsequent elections. This initiative included increasing the law enforcement priority the Department gives to election crimes; holding a special day-long training event in Washington, DC for representatives of the 93 United States Attorneys' Offices; publicizing the identities and telephone numbers of the DEOs through press releases issued shortly before the November elections; and requiring the 93 U.S. Attorneys to communicate the enhanced federal prioritization of election crime matters to state and local election and law enforcement authorities. As part of Ballot Integrity Initiative, on October 8, 2002, the Public Integrity Section and the Voting Rights Section of the Department's Civil Rights Division co-sponsored a Voting Integrity Symposium for District Election Officers representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes used to prosecute such cases. Attorney General John Ashcroft delivered the keynote address on the importance of election crime and ballot integrity enforcement. Assistant Attorney General of the Civil Rights Division Ralph Boyd and Assistant Attorney General of the Criminal Division Michael Chertoff also spoke to attendees on the protection of voting rights and the prosecution of election cases.

As part of Ballot Access and Voting Integrity Initiative, on September 23 and 24, 2003, the Public Integrity Section and the Voting Rights Section of the Department's Civil Rights Division co-sponsored a two-day Symposium for DEOs representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes used to prosecute such cases. Assistant Attorney General of the Civil Rights Division Alexander Acosta and Assistant Attorney General of the Criminal Division Christopher A. Wray delivered the keynote addresses on the importance of protecting voting rights and the prosecution of election cases.

On July 20 and 21, 2004, the Public Integrity Section and the Voting Section of the Department's Civil Rights Division co-sponsored a two-day symposium for DEOs representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes available to prosecute such cases, and the handling of civil rights matters involving

voting. Attorney General John Ashcroft delivered the keynote address on the importance of protecting voting rights and the prosecution of election fraud. In addition, Assistant Attorney General Christopher A. Wray of the Criminal Division and Assistant Attorney General R. Alexander Acosta of the Civil Rights Division addressed conference attendees on voting rights and election fraud enforcement issues respectively.

### Federal Election Crimes

During 2002 the Public Integrity Section continued its nationwide oversight role regarding the handling of election crime allegations. As part of a general Department effort to increase its effectiveness in this important area, the Section assisted in the planning and execution of the Department's 2002 Ballot Integrity Initiative. The purpose of this ongoing Initiative is to increase the Department's ability to deter, detect, and prosecute election crimes and voting abuses by prioritizing election crime cases. As a result of the Initiative, during 2002 the number of election crime matters opened by federal prosecutors throughout the country increased significantly, as did the Section's active involvement in election crime matters stemming from the Initiative. At the end of 2002, the Section was supervising and providing advice on approximately 43 election crime matters nationwide. In addition, as of December 31, 2002, 11 matters involving possible election crimes were pending in the Section.

During 2002 the Section closed two election crime matters and continued its operational supervision of the following election crime case: *United States v. Woodward and Jordan*, Northern District of Alabama. Jimmy Woodward, the former Sheriff of Jefferson County, Alabama, and Albert Jordan, an attorney from Birmingham, were indicted in 2000 for conspiring to obtain criminal history records from the National Crime Information Center (NCIC) for use in an election contest, for converting NCIC records, and for accessing government computers without authority. The indictment charged that Woodward and Jordan conspired to use Sheriff's office personnel to access NCIC computers to run criminal history checks on hundreds of voters in Jefferson County who had voted by absentee ballot in the 1998 general election, in the hopes they would find criminal histories they could use to challenge the qualifications of voters who cast votes for Woodward's opponent. The charges were dismissed in 2000 on procedural grounds. The Department appealed the dismissal of the charges. In 2001 the case was argued before the Eleventh Circuit Court of Appeals by the Appellate Section of the Criminal Division. The Court of Appeals subsequently reversed the trial court's dismissal of the charges and remanded the case for retrial. The former United States Attorney for the Northern District of Alabama was recused from the case. The case is being prosecuted by an Assistant United States Attorney under the supervision of the Public Integrity Section.

The following cases are the result of an extensive federal investigation into vote-buying in the May 1998 primary election in Knott County, Kentucky, an Appalachian county in the Eastern District of Kentucky. The primary was contested by two slates of candidates. The ballot included the race for the position of Knott County Judge Executive, which controls local government hiring, contracting, and services. The ballot also included a primary contest for the office of United States Senator, conferring federal jurisdiction

over vote buying in the election even though the electoral corruption was directed at local races.

The following cases are being handled jointly by the Section and the United States Attorney's Office for the Eastern District of Kentucky:

*United States v. Calhoun.* On March 28, 2003, a federal grand jury indicted Jimmy Calhoun on two counts of vote-buying. On August 19, 2003, Calhoun pled guilty to two counts of vote-buying on behalf of a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive in the May 1998 Knott County, Kentucky primary election. Calhoun paid two persons to vote by absentee ballot. On April 7, 2004, Calhoun was sentenced to six months in prison and two years of supervised release. Calhoun pled guilty to two counts of vote-buying on behalf of a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive in the May 1998 Knott County, Kentucky primary election. Calhoun paid two persons to vote by absentee ballot.

*United States v. Conley.* On March 28, 2003, a federal grand jury indicted Jimmy Lee Conley on five counts of vote-buying and one count of making a false statement in a matter within federal jurisdiction. Conley was charged with paying five persons to vote by absentee ballot for a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive. During the investigation, Conley allegedly made false statements to an agent of the FBI. A jury acquitted Conley on June 19, 2003.

*United States v. Johnson.* On April 24, 2003, a federal grand jury indicted Newton Johnson on four counts of vote-buying, one count of making a false statement in a matter within federal jurisdiction, and two counts of obstructing justice. On June 2, 2003, Johnson pled guilty pursuant to a plea agreement to one count of vote-buying, and one count of obstructing justice. Johnson paid four persons to vote by absentee ballot in the May 1998 Knott County, Kentucky primary election. Johnson paid the voters to vote for a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive. During the investigation of this vote-buying, Johnson made a false statement to an agent of the FBI, and pressured grand jury witnesses to falsely deny that he bought their votes. Pursuant to his plea agreement, Johnson pled guilty to paying one of the voters for her vote, and to endeavoring to obstruct the grand jury investigation by urging her to lie under oath. Johnson agreed to cooperate with the government. On October 6, 2003, Johnson was sentenced to three years of probation. Johnson had previously testified at the trial of Donnie Newsome to the nature and extent of the broader conspiracy to approach and pay numerous impoverished, handicapped, illiterate, or otherwise impaired persons to vote for the slate of candidates headed by Newsome. Newsome offered Johnson a road improvement and a county job in exchange for participation in the conspiracy. Johnson, who is impoverished, illiterate, and unable to leave his remote mountain hollow without the road improvement, agreed and purchased the votes of four persons. A jury convicted Newsome on all counts.

*United States v. Madden.* On March 28, 2003, a federal grand jury indicted Patrick Wayne Madden on three counts of vote-buying and one count of making a false statement in a matter within federal jurisdiction. On October 6, 2003, Madden pled guilty to one count of vote-buying. Madden paid three persons to vote by absentee ballot for a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive in the May 1998 Knott County, Kentucky primary election. During the investigation of this vote-buying, Madden made a false statement to an agent of the FBI. On February 2, 2004, Madden was sentenced to 20 months in prison and two years of supervised release. Madden pled guilty to one count of vote-buying. Madden paid three persons to vote by absentee ballot for a slate of candidates headed by Newsome.

*United States v. Newsome, Pigman, and Smith.* On April 24, 2003, a federal grand jury indicted sitting County Judge Executive Donnie Newsome and two of his supporters, Willard Smith and Keith Pigman, on one count of conspiracy to commit vote-buying. The grand jury further charged five substantive counts of vote-buying, one count charging Newsome, two counts charging Smith, one count charging Smith and Pigman, and one count charging all three defendants. Newsome, Pigman, and Smith, working together and with other conspirators, approached and paid numerous impoverished, handicapped, illiterate, or otherwise impaired persons to vote for Newsome by absentee ballot, resulting in a large increase in the rate of absentee voting, and long lines at the County Clerk's Office. Newsome won the election to remain the County Judge Executive.

On July 8, 2003, Pigman pled guilty pursuant to a plea agreement to conspiracy to commit vote-buying, and one count of vote-buying. Pigman cooperated with the government following his plea, and provided substantial assistance by testifying against Newsome and Smith. Pigman explained the nature and extent of the broader conspiracy to approach and pay numerous impoverished, handicapped, illiterate, or otherwise impaired persons to vote for the slate of candidates headed by Newsome. Pigman further explained that such voters were purposefully chosen because they would present severe credibility problems for the government in any investigation and prosecution of their conspiracy. Newsome offered and ultimately gave Pigman a county job in exchange for Pigman's participation in the conspiracy. On October 30, 2003, Pigman was sentenced to four months of imprisonment, four months of community confinement, and two years of supervised release. On October 1, 2003, a jury convicted both Newsome and Smith on all counts. Newsome, while in office as a Kentucky State Representative, became a candidate for County Judge Executive. Newsome, Pigman, and Smith, working together and with other conspirators, approached and paid numerous persons to vote for Newsome and certain other candidates by absentee ballot, resulting in a large increase in the rate of absentee voting, and long lines at the County Clerk's Office. Newsome, who won the primary election and subsequent elections, was ordered detained pending sentencing, together with Smith, in light of threats to government witnesses during the trial.

On March 16, 2004, Newsome, the former County Judge Executive for Knott County, Kentucky, was sentenced to 26 months of in prison, a \$20,000 fine, and three years of supervised release. Smith was sentenced to 24 months in prison, a \$5,000 fine, and three

years of supervised release. A jury previously convicted Newsome and Smith on all counts of an indictment that charged them with conspiracy to buy votes and five counts of vote-buying. Pigman, previously pled guilty to the conspiracy charge, and was sentenced to four months in prison, four months of community service, and two years of supervised release.

*United States v. Ronnie Slone and Brady Slone.* On March 28, 2003, a federal grand jury indicted Ronnie Neal Slone and Brady Warren Slone (who are brothers) on three counts of vote-buying, and on one count each of making a false statement in a matter within federal jurisdiction. The Slones allegedly paid three persons to vote by absentee ballot for a slate of candidates headed by Donnie Newsome. During the investigation of this vote-buying, each of the Slones allegedly made a false statement to an agent of the FBI. On August 15, 2003, a jury acquitted both defendants.

*United States v. Phillip Slone.* On March 28, 2003, a federal grand jury indicted Phillip Slone (who is not directly related to Ronnie and Brady Slone) on seven counts of vote-buying and one count of making a false statement in a matter within federal jurisdiction. On June 4, 2003, Slone pled guilty pursuant to a plea agreement to one count of vote-buying. Slone paid seven persons to vote for a slate of candidates headed by Homer Sawyer, the unsuccessful incumbent candidate for County Judge Executive in the May 1998 Knott County, Kentucky primary election. During the investigation of this vote-buying, Slone made a false statement to an agent of the FBI. On October 15, 2003, Slone was sentenced to ten months in prison and two years supervised release. Slone appealed his sentence and the district court's jurisdiction, and that appeal is pending.

## Prosecution Of Electoral Fraud Under United States Federal Law

By Craig Donsanto

In Prosecution of Electoral Fraud, Donsanto discusses what sort of conduct is currently considered to be actionable as vote fraud, the historical background for the role of the criminal prosecutor in this area, and the various federal laws and juridical precedents governing the prosecution of vote fraud. It is a very useful document for understanding the current Department of Justice's view of its mission in this area, its interpretation of the federal laws governing its work, and how the Department has and has not been able to utilize applicable provisions.

Donsanto stresses that because electoral administration is primarily a state rather than a federal matter, the federal government usually only has authority over electoral issues where: federal candidates are standing for election; a corrupt act occurs; a federal instrumentality is employed in the fraud; the fraud involves the participation of public officials "acting under color of law" in such a manner that the constitutional right to Due Process and/or Equal Protection is violated; and/or the fraud is motivated by an intent to deprive a class of voters who's rights have been specifically guaranteed by the United States Constitution.

Donsanto defines election fraud as "a substantive irregularity relating to the voting act--- such as bribery, intimidation, or forgery---which has the potential to taint the election itself." Specifically, this includes:

- \* Preventing voters from participating in elections where a federal candidate is on the ballot, or when done "under color of law" in any election—18 U.S.C. sections 241 & 242.
- \* Vote buying, 42 U.S.C. section 1973i(c).
- \* Voting more than once, 42 U.S.C. section 1973i(e).
- \* Fraudulent voting, 42 U.S.C. sections 1973i(c), 1973i(e) & 1973gg-10.
- \* Intimidating voters through physical duress in any election, 18 U.S.C. section 245(b)(1)(A), or through physical or economic threats in connection with their registering to vote or their voting in federal elections, 42 U.S.C. section 1973gg-10, or to vote for a federal candidate, 18 U.S.C. section 594.
- \* Malfeasance by election officials acting "under color of law" for actions such as ballot-box stuffing, falsely tabulating votes, or preventing valid voter registrations or votes from being given effect in any election, 18 U.S.C. sections 241 & 242, as well as in elections where federal candidates are on the ballot, 42 U.S.C. sections 1973i(c), 1973i(e) & 1973gg-10.

\* Submitting fictitious names on voter registration roles, 42 U.S.C. sections 1973i(c) & 1973gg-10.

\* Knowingly procuring eligibility to vote for federal office by persons who are not entitled to vote under applicable state law, 42 U.S.C. sections 1973i(c) & 1973gg-10 (criminal voting—prohibited in approximately 40 states) and 42 U.S.C. sections 1973i(c), 1972gg-10, 18 U.S.C. 1015(f) & 611 (non-citizen voting).

\* Knowingly making a false claim of United States citizenship to register to vote in any election, 18 U.S.C. section 1015(f), or falsely claiming United States citizenship for registering or voting in any election, 18 U.S.C. section 911.

\* Providing false information concerning a person's name, address or period of residence in a district in order to establish that person's eligibility to register or to vote in a federal election, 42 U.S.C. sections 1973i(c) & 1973gg-10.

\* Causing the production of voter registrations that qualify alleged voters to vote for federal candidates, or the production of ballots in federal elections, that the actor knows are materially defective under applicable state law, 42 U.S.C. section 1973gg-10.

\* Using the United States mails, or interstate wire facilities, to obtain the salary and emoluments of an elected official through any of the activities mentioned above, 18 U.S.C. sections 1341 & 1343.

\* Ordering, keeping or having under one's authority or control any troops or armed men at any polling place in any election. The actor must be an active civilian or military officer or an employee of the United States government, 18 U.S.C. section 592.

\* Intimidating or coercing a federal employee to induce or discourage "any political activity" by that employee, 18 U.S.C. section 610.

#### Other Points of Interest

- Most election fraud is aimed at corrupting elections for local offices, which control or influence patronage positions. Election fraud occurs most frequently where there are fairly equal political factions, and where the stakes involved in who controls public offices are weighty -- as is often the case where patronage jobs are a major source of employment, or where illicit activities are being protected from law enforcement scrutiny
- Vote buying offenses have represented a sizable segment of the federal election crime docket in modern times.
- Voter intimidation requires proof of a difficult element: the existence of physical or economic intimidation that is intended by the defendant and felt by the victim. The crime of voter "intimidation" normally requires evidence of threats, duress, economic coercion, or some other aggravating factor which tends to improperly induce conduct on the part of the victim. If such evidence is lacking, an



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

- Section 1973gg-10(2) is a specific intent offense. This means that the offender must have been aware that citizenship is a requirement for voting and that the registrant did not possess United States citizenship. In most instances, proof of the first element is relatively easy because the citizenship requirement is stated on the voter registration form, and the form requires that the voter check a box indicating that he or she is a citizen. Proof of the second element, however, may be more problematic, since the technicalities of acquiring United States citizenship may not have existed in the culture of the registrant's country of birth, or otherwise been evident to him, and because the registrant may have received bad advice concerning the citizenship requirement. These issues can also usually be overcome by the fact that all voter registration forms now require a registrant to certify that he or she is a citizen. Section 611 is a relatively new statute that creates an additional crime for voting by persons who are not United States Citizens .It applies to voting by non-citizens in an election where a federal candidate is on the ballot, except when: (1) non-citizens are authorized to vote by state or local law on non-federal candidates or issues, and (2) the ballot is formatted in a way that the non-citizen has the opportunity to vote solely for the non-federal candidate or issues on which he is entitled to vote under state law. Unlike section 1015(f), section 611 is directed at the act of voting, rather than the act of lying. But unlike section 1015(f), Section 611 is a strict liability offense in the sense that the prosecution must only prove that the defendant was not a citizen when he registered or voted. Section 611 does not require proof that the offender be aware that citizenship is a prerequisite to voting.

## Election Protection 2004

By the Election Protection Coalition

### **Election Protection – the Program**

Election Protection 2004 was the nation's most far-reaching effort to protect voter rights before and on Election Day. The historic nonpartisan program included:

- A toll-free number, 1-866-OUR-VOTE, with free, immediate and multi-lingual assistance to help voters with questions about registration and voting, and assist voters who encounter barriers to the ballot box.
- Distribution of more than five million "Voters' Bills of Rights" with state-specific information
- 25,000 volunteers, including 6,000 lawyers and law students, who watched for problems and assisted voters on the spot at more than 3,500 predominantly African-American and Latino precincts with a history of disenfranchisement in at least 17 states.
- Civil rights lawyers and advocates represented voters in lawsuits, preserved access to the polls, exposed and prevented voter intimidation, worked with election officials to identify and solve problems with new voting machines, technology and ballot forms, and protected voter rights in advance and on Election Day.

### **Voter Intimidation and Suppression Stories (Abridged)**

- An Associated Press story noted Election Protection's exposure of reported voter suppression tactics in Colorado: Officials with the Election Protection Coalition, a voter-rights group, also said some voters in a predominantly black neighborhood north of Denver found papers on their doorsteps giving them the wrong address for their precinct
- Election Protection received a report from Florissant County, Missouri from a voter who lives in predominantly white neighborhood. While waiting in line to vote, a Republican challenger challenged the black voters by requesting more proof of identification, residence, and signature match, while asking nothing from white voters. Also, the same voter reportedly asked a few questions about voting but an election officials refused to provide any meaningful answer, insisting that "it's very simple", but provided white voters with information when requested. There was one other black voter in line who was also singled out for same treatment while white voters were not.
- Election Protection received a report from Boulder County, Colorado that a poll worker made racist comments to Asian American voter and then told her she was not on the list and turned her away. The voter saw others filling out provisional ballots and asked for one but was denied. Another Asian American woman behind

her in line was also given trouble by the same poll worker (he questioned her nationality and also turned her away).

- The Election Protection hotline received reports from Pinellas County, Florida that individuals purporting to be from the Kerry campaign are going door-to-door handing out absentee ballots, and asking voters to fill them out, and then taking the ballots from them, saying "Vote here for Kerry. Don't bother going to the polls."
- The Election Protection Coalition received a report from a woman whose sister lives in Milwaukee and is on government assistance. Her sister was reportedly told by her "case manager" that if she voted for Kerry, she would stop receiving her checks.
- An illiterate, older and disabled voter in Miami-Dade asked for assistance reading the ballot and reported that a poll worker yelled at him and refused to assist him and also refused to allow him to bring a friend into the booth in order to read the ballot to him.
- The Election Protection Coalition have gathered reports that flyers are circulating in a black community in Lexington, South Carolina claiming they those who are behind on child support payments will be arrested as the polls.
- Minority voters from Palm Beach County, Florida reported to the hotline that they received middle-of-the-night, live harassing phone calls warning them away from the polls.
- A volunteer for Rock the Vote reported that two illiterate voters in Michigan requested assistance with their ballots but were refused and reportedly mocked by poll workers.
- The hotline received a call from a radio DJ in Hillsborough County, Florida, who stated that he has received many calls (most of which were from African-Americans) claiming that poll workers were turning voters away and not "letting" them vote.
- The hotline received a call from Pima County, Arizona, indicating that Democratic voters received calls throughout Monday evening, providing incorrect information about the precinct location. Voters have had to be transported en masse in order to correct the problem.
- A caller from Alabama claims that he was told at his polling place that he could vote there for everything but the President and that he would have to go elsewhere in order to vote for a presidential candidate.

- Poll monitors in Philadelphia reports groups of lawyers, traveling in threes, who pull voters out of line and challenge them to provide ID, but when challenged themselves, they hop into waiting cars or vans and leave. Similar activity by Republican lawyers in Philadelphia was reported in the 2002 election.
- In Cuyahuga, Ohio, a caller reported that all black voters are being asked to show ID, while white voters are not. Caller report that he is black and had to show ID while his girlfriend is white and did not have to show ID.
- Two months ago, suspicious phone calls to newly registered Democrats —telling them they weren't, in fact, registered to vote — were traced to the Republican headquarters in the Eastern Panhandle. On Monday, Democrats there said the calls have started again, even after the Berkeley County Clerk — a Republican — sent the party a cease-and-desist letter. The Berkeley prosecutor, who also is county Democratic chairman, has called on the U.S. attorney to investigate.
- In Tuscon, Arizona a misleading call informing voters that they should vote on November 3 has been traced back to the state GOP headquarters. The FBI is investigating.
- A man driving around in a big van covered in American flags and a big picture of a policeman was reportedly parked in front of a polling place; he then got out and moved within the 75 ft limit, until he was asked to leave; he then was found inside the polling place and was again asked to leave. Election Protection volunteers contacted officials and the man was eventually removed.
- The Election Protection hotline has received a report from individuals who claim to have received recorded telephone message coming from Bill Clinton and ACT and reminding them to vote on Nov. 3rd.
- In Massachusetts, the EP Hotline has received a report that a radio station (WILD) is broadcasting that voters will be arrested on the spot if they have outstanding parking tickets.
- In Richland, South Carolina Election Protection has received a report of a poll manager turning away individuals who do not have photo ID issued to the county or a driver's license; an EP lawyer spoke with the Poll Manager at 8:20 am and told her that people with other forms of ID should be allowed to vote by provisional ballot.
- In Greenville, a caller reported that a white poll worker was asking Blacks for multiple form of I.D. Fortunately, the voter who reported the problem did have a second I.D. but reported that some others were turned away. Election Protection attorneys have alerted election officials.

- In Allegheny County, Pennsylvania, an official looking flyer advises Democratic voters to "create a peaceful voting environment" by voting on Wednesday, November 3
- The week before the election, flyers were circulated in Milwaukee under the heading "Milwaukee Black Voters League" with some "warnings for election time." The flyer listed false reasons for which you would be barred from voting (such as a traffic ticket) and then warned that "If you violate any of these laws you can get ten years in prison and your children will get taken away from you."
- There is a Jefferson County flyer which tells voters "See you at the Poles![sic]"... on November 4.

Existing Literature Reviewed

**Reports**

The Long Shadow of Jim Crow, People for the American Way and the NAACP

The New Poll Tax, Laughlin McDonald

Wisconsin Audit Report, Voter Registration Elections Board

Preliminary Findings, Milwaukee Joint Task Force Investigating Possible Election Fraud

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

Response to the Report of the 2005 Commission on Federal Election Reform (Carter/Baker Report), The Brennan Center and Professor Spencer Overton

Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – or Both?, Chandler Davidson

A Crazy Quilt of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law, Alec Ewald

Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election, American Center for Voting Rights

America's Modern Poll Tax, The Advancement Project

Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General, The Brennan Center and Professor Michael McDonald

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

Department of Justice Public Integrity Reports 2002, 2003, 2004

Prosecution of Election Fraud under United States Federal Law, Craig Donsanto

Election Protection 2004, Election Protection Coalition

The Federal Crime of Election Fraud, Craig Donsanto

Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote, General Accounting Office

Securing the Vote: An Analysis of Election Fraud, Lori Minnite

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

### **Books**

Stealing Elections, John Fund

Steal this Vote: Dirty Elections and the Rotten History of Democracy in American, Andrew Gumbel

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

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

Foiled Again, Mark Crispin Miller

### **Legal**

*Indiana Democratic Party vs. Rokita*

*Common Cause of Georgia vs. Billup*

U.S. Department of Justice Section 5 Recommendation Memorandum (Georgia voter identification)

Fooled Again, Mark Crispin Miller

Fooled Again sets out to show that the 2004 election was won by Bush through nefarious means, and indicts the news media for not taking anomalies, irregularities, and alleged malfeasance in the process seriously enough.

Miller identifies a number of statistical anomalies based on polling and turnout results that he alleges puts the validity of the 2004 election in doubt. He accuses Republicans of committing crimes and improprieties throughout the country. These include deliberate disparities in voting machine distribution and long lines in Democratic jurisdictions; misinterpretation of voting laws by elections officials to the detriment of Democratic voters; dirty tricks and deceptive practices to mislead Democratic and minority voters about voting times, places and conditions; machine irregularities in Democratic jurisdictions; relocating polling sites in Democratic and minority areas; suspicious mishandling of absentee ballots; refusing to dispense voter registration forms to certain voter registration groups; intimidation of students; suspicious ballot spoilage rates in certain jurisdictions; "strategic distribution of provisional ballots," and trashing of provisional ballots; harassment of Native American voters; a Republican backed organization engaging in voter registration efforts throughout the country that allegedly destroyed the voter registration forms of Democrats; illegitimate challenges at the polls by Republican poll watchers; improper demands for identification in certain areas; Republican challenges to the voter registration status of thousands of voters before the election, and the creation of lists of voters to challenge at the polls; wrongful purging of eligible voters from voting rolls; partisan harassment; the selective placement of early voting sites; and the failure to send out absentee ballots in time for people to vote.

Miller details what he says was the inappropriate use of the Federal Voter Assistance Program that made voting for the military easy while throwing up obstacles for civilians overseas in their efforts to vote by absentee ballot, leading many of them to be disenfranchised. Miller says that most of the military voters would be Republicans and most of the overseas civilians Kerry voters.

In this book, Miller clearly tries to prove the Republican Party won the 2004 through illegitimate means. This must be kept strongly in mind in making any use of this work. However, the book is well sourced, and individual instances of alleged malfeasance discussed may be worth looking at.



## Summary and Relevant Excerpts From Georgia Voter ID Litigation

### Complaint For Declaratory And Injunctive Relief

The Secretary of State, as the Chief Election Officer in Georgia, informed the General Assembly before the passage of Act 53 in a letter (attached hereto as Exhibit A), and also informed the Governor in a letter (attached hereto as Exhibit B) before he signed the bill into law, that there had been no documented cases of fraudulent voting by persons who obtained ballots unlawfully by misrepresenting their identities as registered voters to poll workers reported to her office during her nine years as Secretary of State .

Although the Secretary of State had informed the members of the General Assembly and the Governor prior to the enactment of Act 53, that her office had received many complaints of voter fraud involving absentee ballots and no documented complaints of fraud that involve ballots that were cast in person at the polls, the General Assembly ignored this information and arbitrarily chose instead to require only those registered voters who vote in person to present a Photo ID as a condition of voting, but deliberately refused to impose the same requirement on absentee voters

### The Stated Purpose Of The Photo ID Requirement Fraud Is A Pretext

According to a press release prepared by the Communications Office of the Georgia House of Representatives, the purpose of Act 53 is:

... to address the issue of voter fraud by placing tighter restrictions on voter identification procedures. Those casting ballots will now be required to bring a photo ID with them before they will be allowed to vote.

Al Marks, Vice Chairman for Public Affairs and Communication of the Hall County GOP told the Gainesville Times:

I don't think we need it for voting, because I don't think there's a voter fraud problem. Gainesville Times, "States Voters Must Present Picture IDs" (September 15, 2005) ([www.gainesvilletimes.com](http://www.gainesvilletimes.com)).

There is no evidence that the existing provisions of Georgia law have not been effective in deterring and preventing imposters from fraudulently obtaining and casting ballots at the polls by misrepresenting their true identities to election officials and passing themselves off as registered voters whose names appear on the official voter registration list.

The pretextual nature of the purported justification for the burden which the Photo ID requirement imposes on the right to vote is shown by the following facts:

(a) Fraudulent voting was already prohibited by existing Georgia law without unduly burdening the right of a citizen to vote.

(i) Fraudulent voting was already prohibited as a crime under O.C .G.A. §§ 21-2-561, 21-2-562, 21-2-566, 21-2-571, 21-2-572 and 21-2-600, punishable by a fine of up to \$10,000 or imprisonment for up to ten years, or both.

(ii) Voter registration records are updated periodically by the Secretary of State and local election officials to eliminate people who have died, have moved, or are no longer eligible to vote in Georgia for some other reason.

(iii) Existing Georgia law also required election officials in each precinct to maintain a list of names and addresses of registered voters residing in that precinct, and to check off the names of each person from that official list as they cast their ballots.

(iv) Registered voters were also required by existing Georgia law to present at least one of the seventeen forms of documentary identification to election officials who were required, before issuing the voter a ballot, to match the name and address shown on the document to the name and address on the official roll of registered voters residing in the particular precinct. O .C .G.A. § 21-2-417 .

(b) There is no evidence that the existing Georgia law has not been effective in deterring or preventing fraudulent in-person voting by impersonators - the only kind of fraudulent voting that might be prevented by the Photo ID requirement. To the contrary, the Secretary of State, who, as the Superintendent of Elections, is the highest election official in Georgia, informed both the General Assembly (Exhibit A) and the Governor (Exhibit B) in writing that there had been no documented cases of fraudulent in person voting by imposters reported to her during her nine years in office .

(c) If the true intention of the General Assembly had been to prevent fraudulent voting by imposters, the General Assembly would have imposed the same restrictions on the casting of absentee ballots - particularly after the Secretary of State had called to their attention the fact that there had been many documented instances of fraudulent casting of absentee ballots reported to her office.

(d) Fraudulent in-person voting is unlikely, would be easily detected if it had occurred in significant numbers, and would not be likely to have a substantial impact on the outcome of an election:

(i) Many people vote at a local neighborhood polling place where they are likely to be known to and recognized by neighbors or poll workers.

(ii) Voters were required by existing Georgia law (O .C.G.A. § 21-2-417), to provide one of the seventeen means of identification to election officials.

(iii) Election officials are required, before issuing the ballot to the voter, to check off the name of either voter from an up-to-date list of the names and addresses of every registered voter residing in the precinct. If an imposter arrived at a poll and was successful in fraudulently obtaining a ballot before the registered voter arrived at the poll, a registered voter, who having taken the time to go to the polls to vote, would undoubtedly complain to elections officials if he or she were refused a ballot and not allowed to vote because his or her name had already been checked off the list of registered voters as having voted. Likewise, if an imposter arrived at the polls after the registered voter had voted and attempted to pass himself off as someone he was not, the election official would instantly know of the attempted fraud, would not issue the imposter a ballot or allow him to vote, and presumably would have the imposter arrested or at least investigate the attempted fraud and report the attempt to the Secretary of State as Superintendent of Elections.

## EXHIBIT B

### Letter from Secretary of State Cathy Cox to Governor Sonny Purdue, April 8, 2005

One of the primary justifications given by the Legislature for the passage of the photo identification provisions of House Bill 244 - the elimination of voter ID fraud at the polls is an unfounded justification I cannot recall one documented case of voter fraud during my tenure as Secretary of State or Assistant Secretary of State that specifically related to the impersonation of a registered voter at voting polls. Our state currently has several practices and procedures in existence to ensure that such cases of voter fraud would have been detected if they in fact occurred, and at the very least, we would have complaints of voters who were unable to vote because someone had previously represented himself or herself as such person on that respective Election Day. As a practical matter, there is no possibility that vote fraud of this type would have gone undetected if it had in fact occurred because there is a list of registered voters at each polling place that is checked off as each person votes. If the impersonates voted first and the legitimate voter came to the polling place later in the day and tried to vote, he or she would be told that they had already voted and would not be allowed to vote a second time in the same day . It is reasonable to suspect that a voter who cared enough to show up at the polls to cast a ballot would almost certainly have complained - but there have been no such complaints. If the opposite occurred, and the legitimate person came to the polls first and cast his ballot, the impersonator who showed up later would not be allowed to vote for the same reason and the attempted fraud would have been prevented.

In addition, this slate has adopted severe criminal sanctions for the type of vote impersonation that is purportedly of concern and it is evident t hat such penalties have been a sufficient deterrent. In essence, there is no voter fraud problem currently in existence that House Bill 244 addresses.

In contrast to the lack of voter fraud relating to impersonation of voters at polls during my tenure the State Election Board has reviewed numerous cases of voter fraud relating to the use of absentee ballots.

### State Defendants' Initial Brief In Opposition To Plaintiffs' Motion For Preliminary Injunction

There are 159 counties and an even larger number of municipalities in Georgia that conduct elections. Neither the Secretary of State nor her staff can be physically present at the polling places for those elections and therefore could not possibly be aware of all in-person voter fraud that might occur. (Cox Decl. ¶ 6.)

Under the prior law before enactment of HB 244, it is beyond argument that in person voter fraud could have taken place. (Id. ¶ 5.) The Secretary of State's view of the scenario in which voter fraud would occur is when an imposter votes at the polling place and the actual voter shows up later and is unable to cast a ballot. (Id. ¶ 5.) However, the Secretary of State agrees that the scenario she describes is only one instance of potential voter

fraud, and both her scenario and others were possible under the law as it existed prior to the enactment of HB 244. (Id.) As stated by the Director of Elections for the Forsyth County Board of Elections, the typical case of in-person voter fraud would be committed by identifying persons who do not typically vote and then having other individuals vote as those persons. (Smith Decl. ¶ 4.)

The Executive Director of the Richmond County Board of Elections has been aware of such complaints, but has been unable to gather evidence to prove the violations because the nature of the conduct makes such evidence hard to develop. (Bailey Decl. ¶ 9.) Indeed, past incidents of fraudulent registrations in Forsyth County and Fulton County were reported to the District Attorneys' offices in those respective counties. (Smith Decl. ¶ 6; MacDougald Decl. ¶ 4.) In Fulton County, the fraudulent registrations were also reported to the United States Attorney for the Northern District of Georgia, and he has opened an investigation of the fraudulent registrations. (MacDougald Decl. ¶ 4.)

#### Order for a Preliminary Injunction

As part of the order, Judge Murphy describes the testimony of Harry MacDougald, a member of the Fulton County Board of Registration and Election. Mr. MacDougald had stated he had observed voter registration fraud, which he referred to the U.S. Attorney and the District Attorney. In addition, since some precinct cards the Board sent out in 2004 were returned as undeliverable, MacDougald believes they were not eligible voters, yet they were allowed to vote.

Although the Secretary of State said she knew of no incidents of impersonation at the polls, she and her staff are not physically present in every polling site. Secretary Cox stated local officials are in the best position to know of such incidents. The State Election Board has received a number of complaints of irregularities with respect to absentee ballots. Cox is also aware of a case of vote buying of absentee ballots. She is also aware of efforts to submit fraudulent registrations.

According to Secretary of State Cox, Georgia has procedures and practices in place to detect voter fraud. Those procedures include verifying the voter's correct address, as well as the voter's name, during the check-in process for in-person voters. Georgia also imposes criminal penalties for voter impersonation. Most violations of Georgia election laws are punishable as felonies. No evidence indicates that the criminal penalties do not sufficiently deter in-person voter fraud.

The integrity of the voter list also is extremely important in preventing voter fraud. The Atlanta Journal Constitution published an article indicating that Georgia had experienced 5,412 instances of voter fraud during a twenty-year period. Secretary of State Cox's office undertook an investigation in response to that article. The investigation revealed that the specific instance of voter fraud outlined in the Atlanta Journal-Constitution, involving a report that Alan J. Mandel had voted after his death, actually did not occur. Instead, an individual with a similar name, Alan J. Mandle, had voted at the polls, and the poll worker had marked Alan J. Mandel's name rather than marking Alan J. Mandle, the name of the individual who actually voted. Secretary of State Cox's office compared the

signature on the voter certificate to the voter registration card of the living individual, and concluded that the living individual, Alan J. Mandle, rather than the deceased Alan J. Mandel, had voted.

The Secretary of State's Office subsequently attempted to ensure that voter records were maintained and up to date. The Secretary of State's Office sends information concerning dead voters to local elections officials on a monthly basis, and now has the authority to remove the names of deceased voters from the voter rolls if the local elections officials fail to do so in a timely manner. Secretary of State Cox is not aware of any reports of dead individuals voting since her office received authority to remove the names of deceased individuals from the voter rolls.

There seems to be little doubt that the Photo ID requirement fails the strict scrutiny test: accepting that preventing voter fraud is a legitimate and important State concern, the statute is not narrowly drawn to prevent voter fraud. Indeed, Secretary of State Cox pointed out that, to her knowledge, the State had not experienced one complaint of in-person fraudulent voting during her tenure. In contrast, Secretary of State Cox indicated that the State Election Board had received numerous complaints of voter fraud in the area of absentee voting. Furthermore, the Secretary of State's Office removes deceased voters from the voting rolls monthly, eliminating the potential for voter fraud noted by the Atlanta Journal-Constitution article alleging that more than 5,000 deceased people voted during a twenty—year period.

Further, although Defendants have presented evidence from elections officials of fraud in the area of voting, all of that evidence addresses fraud in the area of voter registration, rather than in-person voting. The Photo ID requirement does not apply to voter registration, and any Georgia citizen of appropriate age may register to vote without showing a Photo ID. Indeed, individuals may register to vote by producing copies of bank statements or utility bills, or without even producing identification at all. The Photo ID law thus does nothing to address the voter fraud issues that conceivably exist in Georgia.



"Job Serebrov"  
[REDACTED]  
11/15/2005 07:23 PM

To jthompson@eac.gov  
cc  
bcc

Subject Re: Question

History This message has been replied to.

Hey Julie, go home---you just got out of bed from being sick! The other project mentioned was the creation of an RFP for some large organization to develop a solution to the problem. My feeling is that we can do that without the need to farm out an RFP.

Job

--- jthompson@eac.gov wrote:

> Job,  
>  
> I am afraid that I don't have an answer to this  
> question, as I am not sure  
> what the follow up contract would be for. I will  
> speak with Karen about  
> whatever follow up work there would be to this  
> project and get back with  
> you.  
>  
> 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]  
> 11/15/2005 05:02 PM  
>  
> To  
> jthompson@eac.gov  
> cc  
>  
> Subject  
> Question  
>  
>  
>  
>  
> Julie:  
>  
> With everything worked out, this may be too early to  
> ask but I need some idea as soon as  
> possible---everyone mentioned that there may be  
> another six month contract to follow this one. What

> do  
> you see as the chances of that?  
>  
> Job  
>  
>  
>



"Job Serebrov"

11/15/2005 05:02 PM

To jthompson@eac.gov

cc

bcc

Subject Question

History:

This message has been replied to and forwarded.

Julie:

With everything worked out, this may be too early to ask but I need some idea as soon as possible---everyone mentioned that there may be another six month contract to follow this one. What do you see as the chances of that?

Job

008072





"Job Serebrov"

11/10/2005 06:28 PM

To jthompson@eac.gov

cc wang@tcf.org

bcc

Subject Contract

History

This message has been forwarded

Julie:

I just read my contract and it is fine except for the termination clause. I have two issues with it. First, I am concerned with a short-term contract for personal services like this that can be terminated without cause. That really makes this no contract at all. Second, I am just as concerned with the two week notice provision. We are paid every thirty days. Termination should require thirty days. Of course, the second point is moot if termination is for cause only.

Please let me know what you think.

Job

008073



"Job Serebrov"

~~REDACTED~~  
10/31/2005 03:26 PM

To jthompson@eac.gov

cc psims@eac.gov

bcc

Subject Addition

Julie/Peggy:

In addition to my question about completion of our contracts---I am wondering whether you had a chance to address the working group issue and the law clerk issue?

Also, Peggy have you been able to get a response from DOJ?

Regards,

Job

008074



"Job Serebrov"  
 [Redacted]  
 10/19/2005 12:18 PM

To jthompson@eac.gov  
 cc  
 bcc  
 Subject Working Group List

Julie:








Here is my working group list. I still have not heard from two people but due to the size limitations I am sending what I have now:

- Cleta Mitchell (DC)
- Patrick Rogers (NM)
- Mark (Thor) Hearne II (MO)
- Mark Braden (DC)
- David Norcross (DC)
- Ben Ginsberg (DC)
- Todd Roketa, Sec of State, Indiana (IN)

I recommend that since we are limited to three Republicans and three Democrats that we pick Roketa, Rogers, and Hearne. We can use the rest for interviews.

Also, got an e-mail from Peggy but no info on what is needed for invoices. I assume our contracts will be signed in time to get us paid for this month.

Regards,

-  Job Cleta Mitchell Bio.doc
-  W0528922.DOC
-  Benjamin L Ginsberg.doc
-  E. Mark Braden.doc
-  TER.official.shortbio.7.15.05.doc
-  David A Norcross.doc
-  Thor\_Hearne\_Resume\_5\_05.pdf

Dear Job Serebrov

Some additional information: I have put together and run election day / ballot security programs in Oklahoma and North Carolina; I testified before the House Judiciary Committee on HAVA and also worked closely with Sen. Kit Bond's office & staff on the drafting of the Senate version of the legislation. I now serve as outside counsel to the National Republican Senatorial Committee and have been putting together the preliminary outline of the ballot security program for the 2006 election cycle, working with the Office of Public Integrity of the Dept of Justice on this very topic. Let me know if you want/need more information.

Thanks! Cleta

Cleta Mitchell

Washington, D.C.

[cmitchell@foley.com](mailto:cmitchell@foley.com)

P 202.295.4081

Cleta Mitchell

Partner

Cleta Mitchell is a partner in the Washington, D.C. office of Foley & Lardner LLP as a member of the firm's Public Affairs Practice Group. Ms. Mitchell has more than 30 years of experience in law, politics and public policy. She advises corporations, nonprofit organizations, candidates, campaigns, and individuals on state and federal election and campaign finance law, and compliance issues related to lobbying, ethics and financial disclosure. Ms. Mitchell practices before the Federal Election Commission and similar federal and state enforcement agencies.

Ms. Mitchell was a member of the Oklahoma House of Representatives from 1976-1984 where she chaired the House Appropriations and Budget Committee. She served on the executive committee of the National Conference of State Legislatures.

Ms. Mitchell was in private law practice in Oklahoma City in litigation and administrative law until 1991 when she became director and general counsel of the Term Limits Legal Institute in Washington, D.C. She litigated cases in state and federal courts nationwide on congressional term limits. She served as co-counsel with former U.S. Attorney General Griffin Bell in the U.S. Supreme Court case on

008076

term limits for members of Congress.

Ms. Mitchell represents numerous Republican candidates, campaigns and members of Congress, including Senator Elizabeth Dole (R-NC), Sen. Jim Inhofe (R-OK) Sen. David Vitter (R-LA), Rep. Roy Blunt (R-MO) and Rep. Tom Cole (R-OK), among others. She is legal counsel to the National Republican Senatorial Committee. Ms. Mitchell served as co-counsel for the National Rifle Association in the Supreme Court case involving the 2002 federal campaign finance law.

Ms. Mitchell has testified before Congress several times and is a frequent speaker and guest commentator on election law and politics. In 1999, she authored *The Rise of America's Two National Pastimes: Baseball and the Law*, published by the *University of Michigan Law Review*.

Ms. Mitchell received her B.A. (high honors, 1973) and J.D. (1975) from the University of Oklahoma. She is admitted to practice in the District of Columbia, the State of Oklahoma, the Supreme Court of the United States and federal district and appellate courts.

# **PATRICK J. ROGERS**

## **PROFESSIONAL EMPLOYMENT**

|              |   |
|--------------|---|
| 1988-Present | Partner/Shareholder, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico |
| 1993-1995    | Executive Committee, Modrall, Sperling, Roehl, Harris & Sisk, P.A., Albuquerque, New Mexico   |
| 1983-1988    | Associate Attorney, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico  |
| 1981-1983    | Legislative Assistant to U.S. Senator Harrison H. Schmitt                                     |
| 1976-1981    | Land Law Examiner, Bureau of Land Management, Santa Fe, New Mexico and Washington, D.C.       |

## **EDUCATION**

|      |  |
|------|--|
| J.D. | GEORGETOWN UNIVERSITY SCHOOL OF LAW,<br>Washington, D.C. - December, 1981<br>Dean's List, Law Fellow |
| B.A. | UNIVERSITY OF NEW MEXICO,<br>December, 1976 Magna Cum Laude<br>Major - Political Science/Economics   |

## **PROFESSIONAL ORGANIZATIONS/ACTIVITIES**

|              |  |
|--------------|--|
| 1997-2002    | Mountain States Legal Foundation, Litigation Board of Directors                |
| 1991-2003    | General Counsel to the New Mexico Republican Party, Executive Committee Member |
| 1993-2000    | Counsel to the Bernalillo County Republican Party, Executive Committee Member  |
| 1983-Present | Albuquerque Bar Association  |
| 1983-Present | New Mexico Bar Association   |
| 1983-Present | American Bar Association, Litigation and Trial Sections                        |
| 1988         | Law Day Chairman, State Bar of New Mexico                                      |

## **COMMUNITY ACTIVITIES**

|              |  |
|--------------|--|
| 2000-2003    | Dismas House Board of Directors                        |
| 1997-2000    | Economic Forum Board of Directors                      |
| 1990-1995    | Governor's Organized Crime Prevention Commission       |
| 1989-Present | Kiwanis  |
| 1985-1998    | YABL Basketball Coach; NWRG - Alameda Soccer Coach     |
| 1987-1991    | Special Assistant District Attorney, Bernalillo County |
| 1989-1991    | Metropolitan Court Judicial Selection Committee        |

## **PRACTICE AREAS (AV Rated Martindale-Hubbell)**

Commercial, Administrative and Constitutional Litigation  
Lobbying: (Representative clients: Newmont Mining Company, Duke Energy North America and Verizon Wireless)

## **PUBLICATIONS**

Survey of the New Mexico Privacy and Related Claims against the Media for the National Libel Research Defense Counsel

Reporters Committee for Freedom of the Press: New Mexico Open Records, Open Meetings and Related Constitutional Issues

New Mexico Reporter=s Handbook on Media Law

Reporters Committee for Freedom of the Press: ATapping Officials= Secrets@

**ELECTION LAW EXPERIENCE**

*The Coalition to Expose Ballot Deception, et al v. Judy N. Chavez, et al*; Second Judicial District Court of Bernalillo County, New Mexico (2005); represented plaintiffs challenging petition procedures.

*Miguel Gomez v. Ken Sanchez and Judy Chaves*; Second Judicial District Court of Bernalillo County, New Mexico (2005); residency challenge.

*Moises Griego, et al v. Rebecca Vigil-Giron v. Ralph Nader and Peter Miguel Camejo*, Supreme Court for the State of New Mexico (2004); represented Ralph Nader and Peter Camejo, ballot access issues.

*Larry Larrañaga, et al v. Mary E. Herrera and Rebecca Vigil-Giron*, Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues.

*Decker, et al v. Kunko, et al*; District Court of Chaves County, New Mexico (2004); voter identification and fraudulent registration issues.

*Kunko, et al v. Decker, et al*; Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues.

*In the Matter of the Security of Ballots Cast in Bernalillo County in the 2000 General Election*; Second Judicial District Court of Bernalillo County, New Mexico (2000); voting and counting irregularities and fraud.

*Larrogate v. Vigil-Giron and Archuletta*; First Judicial District Court of Santa Fe County, New Mexico (1990); petition challenge, U.S. House of Representatives

Benjamin L. Ginsberg represents numerous political parties, political campaigns, candidates, members of Congress and state legislatures, Governors, corporations, trade associations, vendors, donors and individuals participating in the political process.

In both the 2004 and 2000 election cycles, Mr. Ginsberg served as national counsel to the Bush-Cheney presidential campaign; he played a central role in the 2000 Florida recount. He also represents the campaigns and leadership PACs of numerous members of the Senate and House, as well as the Republican National Committee, National Republican Senatorial Committee and National Republican Congressional Committee. He serves as counsel to the Republican Governors Association and has wide experience on the state legislative level from directing Republican redistricting efforts nationwide following the 1990 Census and being actively engaged in the 2001—2002 round of redistricting.

In addition to advising on election law issues, particularly those involving federal and state campaign finance laws, ethics rules, redistricting, communications law, and election recounts and contests, Mr. Ginsberg represents clients before Congress and state legislatures.

Before entering law school, he spent five years as a newspaper reporter on The Boston Globe, Philadelphia Evening Bulletin, The Berkshire (Mass.) Eagle, and The Riverside (Calif.) Press-Enterprise. He has been adjunct professor of law at the Georgetown University Law Center lecturing on law and the political process.

**Education**

- Georgetown University Law Center, J.D., 1982
- University of Pennsylvania, A.B., 1974

**Bar Admissions**

- District of Columbia

[REDACTED]  
[REDACTED]

[REDACTED] F: 202-457-6315



**E. Mark Braden**  
Of Counsel  
mbraden@bakerlaw.com

**Education:**

J.D., Washington and Lee University School of Law, 1976

B.A., Washington and Lee University, 1973

**Bar Admissions:**

U.S. Supreme Court, 1983

U.S. District Court, District of Columbia, 2002

District of Columbia, 1989

Ohio, 1976

**Summary:**

E. Mark Braden concentrates his work principally on election law and governmental affairs. This field includes work with Congress, the Federal Election Commission, state campaign finance agencies, public integrity issues, political broadcast regulation, contests, recounts, the Voting Rights Act, initiatives, referendums and redistricting. Each is an area in which he has substantial knowledge and unusual experience.

Mr. Braden spent ten years as Chief Counsel to the Republican National Committee prior to joining Baker & Hostetler. He has worked intimately with many elected officials, the major national political consultants and pollsters providing successful, and often highly innovative, legal guidance. For example, in campaign finance, he can rightly claim to be the father of "soft money" as now used in national political campaigns. In redistricting, he has argued successfully at the U.S. Supreme Court and has been involved in litigation across the nation. In addition to his experience in the area of federal election law, Mr. Braden is widely recognized as an authority on state election laws, having served as Chief Counsel to the Ohio Elections Commission and Election Counsel for the Secretary of State in Ohio. He has been a principal lawyer in many of the largest recounts in our political history.

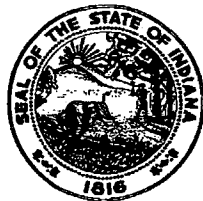
Mr. Braden was a key negotiator for the site city agreements and many of the other contracts for four Republican National Conventions and has been special counsel to the House Administration Committee. He has also worked with many nonprofit organizations on government affairs issues.

Mr. Braden has testified before congressional committees and the Federal

Election Commission on numerous occasions. His experience in these areas has been recognized by numerous invitations to be a guest lecturer at universities and institutes across the nation.

Mr. Braden is a member of the adjunct faculty of George Washington University and a former Captain of the United States Army Reserve.

Washington, D.C. Office  
202.861.1504 - phone  
202.861.1783 - fax



## SECRETARY OF STATE STATE OF INDIANA

**TODD ROKITA**  
SECRETARY OF STATE

### **Indiana Secretary of State Todd Rokita Biographical Information**

At the age of 35, Secretary Rokita is the second youngest Secretary of State in the country. First elected to the third highest office in state government in 2002, Secretary Rokita served for a year as the youngest Secretary of State in the nation.

As Indiana's chief election official, Secretary Rokita continues to work on reforming Indiana's election practices to ensure Indiana's elections are as fair, accurate and accessible as possible. By embracing technology and accountability, Secretary Rokita is leading the effort to make Indiana a 21<sup>st</sup> century election administration model. Rokita serves on the nine-member Executive Board of the Election Assistance Commission Standards Board, charged by federal law to address election reform issues. Secretary Rokita has testified about Indiana's voting reform efforts before the United States Congress.

Secretary Rokita also serves as Indiana's chief securities fraud investigator. Secretary Rokita's office has uncovered investor fraud scams and helped secure numerous felony convictions and thousands of dollars in restitution.

In his role as the head of Indiana's Business Services Division, Secretary Rokita has continued making Indiana a pioneer in e-government initiatives.

As Secretary of State, Rokita visits each of Indiana's 92 counties at least once each year. Rokita continues to serve as a precinct committeeman during each election, and was recently named as one of the "40 under 40" by the Indianapolis Business Journal.

A native of Munster, he holds a law degree from Indiana University School of Law-Indianapolis and a Bachelor of Arts degree from Wabash College. At Wabash, Rokita earned distinction as an Eli Lilly Fellow. After law school, Secretary Rokita worked as a practicing attorney.

Rokita began serving in the Secretary of State's office in 1997. As the Deputy Secretary of State and in other positions, Rokita helped implement user-friendly e-government services, provided tougher securities enforcement, and championed significant election reforms.

Secretary Rokita is active in the National Association of Secretaries of State, having served in 2004 as the Chair of the Voter Participation Committee and serving in 2005 as the Vice Chair of the organization's Securities Committee.

Secretary Rokita is a member of the Director's Circle of the Indiana Council for Economic Education, the state and local bar Associations, the Knights of Columbus, and the National Rifle Association. A commercial-rated pilot, Secretary Rokita volunteers his time by flying people in need of non-emergency medical care to hospitals and clinics throughout the Midwest for treatment.

Secretary Rokita lives in Indianapolis with his wife, Kathy and they are members of St. Thomas More Parish.

###

**David A. Norcross**

**Present:**

National Committeeman, New Jersey Republican State Committee  
elected March 14, 1992

Attorney at Law, Blank Rome LLP, Trenton NJ, Washington D.C.  
Senior Principal, Blank Rome Government Relations LLC

**Previous:**

Chairman, New Jersey Republican State Committee, 1977 – 1981

General Counsel, Republican National Committee, 1993 – 1997

General Counsel, International Republican Institute

Counsel, The Center for Democracy

Vice Chairman, Commission on Presidential Debates

Executive Director, New Jersey Election Law Enforcement Commission

Member, Twentieth Century Fund Task Force on the Presidential Debate Process

**RNC:**

RNC Northeastern State Chairmen's Association, 1977 – 1981;  
Chairman, 1980 – 1981

Counsel, RNC Chairman Frank Fahrenkopf, 1983 – 1989

Counsel, Republican National Convention, 1988

RNC Committee on Arrangements, Republican National Convention, 1996

RNC Special Task Force on Primaries and Caucuses, 1996

Chairman, RNC Campaign Finance Task Force, 1997

Delegate, Republican National Convention, 1980, 1992, 1996, 2000, 2004

RNC Committee on Rules and Order of Business, Republican National Convention,  
1992, 1996, 2000; 2004

Chairman, RNC Committee on Arrangements, Republican National Convention, 2004

RNC Committee on Rules and Order of Business, 1992 -  
Chairman, 2005 -

**Personal:**

Spouse: Laurie L. Michel

Children: Spencer, Victoria

Education: B.S., University of Delaware; L.L.B. University of Pennsylvania

Office: c/o Lathrop & Gage, L.C.  
10 South Broadway, 13<sup>th</sup> Floor  
Saint Louis, Missouri 63102

e-Mail - [REDACTED]  
Office Direct Dial - (314) 613-2522  
Office Facsimile - (314) 613-2550

Home: [REDACTED]  
[REDACTED]

Home - [REDACTED]  
Cell - [REDACTED]

## MARK F. (THOR) HEARNE, II

---

### Professional

1997 - Current Partner - Member Saint Louis, Missouri  
**Lathrop & Gage, L.C.**

- **General Counsel to Closely Held Businesses:** Clients concentrated in real estate and technology. As general counsel represented clients in negotiating complex commercial transactions, advised clients in general corporate matters including succession-planning, tax matters and litigation. Manage and supervise other counsel assisting in this representation. Counsel clients in public policy matters and the formation and management of private foundations, trusts, faith-based organizations and philanthropic enterprises. Lead litigation counsel in state and federal court (trial and appellate) and oversaw and managed litigation in state and federal court. Experienced in overseeing and managing significant state and federal litigation in Missouri, Michigan, Ohio, Florida, New Mexico, Wisconsin, Minnesota, Pennsylvania, Nevada, California, Georgia, Indiana, Iowa and other states.
- **Constitutional Law, Election Law and Government Relations:** General Counsel to various federal, state and local candidates, political parties and campaigns. State and national litigation counsel to candidates for state and federal office. Expertise in compliance with state and federal campaign finance regulation, matters concerning the conduct of an election and litigation concerning these issues. Advise businesses on compliance with state and federal campaign finance regulation and political activity. Representation of clients in matters concerning compliance with regulatory action by Federal Election Commission and the Missouri Ethics Commission. Village Attorney and Prosecutor, Town of Grantwood Village, Missouri (1995 - Present). Representation of clients in various municipal law matters and related litigation. Regional counsel to major national wireless-PCS telecommunications firm on matters of federal Telecommunications Act and state and local government litigation and regulation. Committee Member to Help America Vote Act committee appointed by Missouri Secretary of State Matt Blunt to advise on implementation of Help America Vote Act and related state legislation and rulemaking.
- **Real Estate, Banking and Property Rights:** Counsel to Federal and State financial institutions in complex real estate transactions and related financings involving governmental approvals, tax, environmental or other regulatory complexities. Successfully negotiated numerous multi-million dollar real estate transactions and represented clients in related real estate development, land use proceedings and litigation involving zoning and takings cases. Lead counsel to

## Mark F. (Thor) Hearne, II – cont.

---

class of property owners in landmark federal Rails-to-Trails takings cases in U.S. Court of Claims.

- **Recent Professional Accomplishments:** Counsel to Republican National Committee, National Council to American Center for Voting Rights, National election counsel to Bush-Cheney, '04. Testified before U.S. House Administration Committee hearings into conduct of Ohio presidential election. Academic Advisor to Commission on Federal Election Reform (Baker-Carter Commission), General Counsel to Missouri Governor Matt Blunt and Missourians for Matt Blunt, Congressman Kenny Hulshof and Congressman Todd Akin. Advice campaigns on various matters of campaign finance (state and federal), litigation before Missouri Ethics Commission and campaign communication and political advertising. Counsel for successful intervenors in *Hawkins v. Blunt* federal litigation concerning Missouri provisional ballot procedures and the Help America Vote Act. Counsel for Bush-Cheney-2000 in *Bush-Cheney, 2000, Inc. v. Baker* 34 S.W.3d 410 (Mo. App, 2000), successful emergency appeal quashing Circuit Court order holding polls open beyond legal closing hour. Counsel for Plaintiffs in *Corbett v. Sullivan*, St. Louis County redistricting litigation (federal civil rights action) in U.S. District Court. Successful redistricting on behalf of Republican plaintiffs and NAACP intervenors. Counsel for Missouri Senator Bill Alter in successfully defending victory in 2005 Missouri Senate Special Election recount, Counsel to U.S. Congressmen Todd Akin in *Akin v. McNary*, successful defense of Congressman Akin's primary election recount. Counsel for Town of Grantwood Village in successful Fifth Amendment takings case in U.S. Court of Claims, *Grantwood Village v. United States*, 45 Fed Cl. 771 (Cl. Ct. 2000), (consolidated for partial summary judgment sub nomina *Glosemeyer v. United States*). Counsel for plaintiff in *Lowe v. American Standard*, federal jury trial in February 2005. Jury returned verdict for Plaintiff in full amount of claim in excess of \$500,000.

### 1988–1997 Partner - Principal Saint Louis, Missouri Ziercher & Hocker, P.C.

- **General Counsel Closely Held Businesses** (*see description above*)  
Additionally, significant real estate related environmental experience including federal Clean Water Act – Wetlands issues.
- **Constitutional Law and Government Relations:** Village Attorney, Town of Grantwood Village (1995 –Present).

## Mark F. (Thor) Hearne, II – cont.

---

### Political Experience

- **2005:** National counsel to American Center for Voting Rights, Academic-Advisor to Commission on Federal Election Reform (Baker-Carter Commission), Counsel to Republican National Committee, counsel to Missouri Governor Matt Blunt and Missourians for Blunt. Campaign counsel to Congressman Kenny Hulshof, and Congressman Todd Akin. Testified before U.S. House Administration Committee in hearings into conduct of Ohio presidential election.
- **2004:** National election counsel to Bush-Cheney '04. Advised campaign on issues of national election law and litigation strategy and recruited and organized local counsel and oversaw election litigation in all battleground states. Delegate to Republican National Convention, Missouri State Republican Convention and Chairman of Missouri Republican Platform Committee and member of National Republican Platform Committee. General Counsel to Missouri Governor-elect Matt Blunt, Congressman Kenny Hulshof, and Congressman Todd Akin.
- **2003 - 2004:** Vice-President and Director of Election Operations for Republican National Lawyers Association, Chair of National Election Law School and Seminar, Orange County, California, August 2003 and Milwaukee, Wisconsin in July 2004. Advisor to California State Party counsel on Governor Arnold Schwarzenegger campaign and California recall election on Election Day operations and litigation.
- **2000 - 2002:** Republican National Lawyers Association, Vice-President-Director Election Operations, Counsel to Bush-Cheney – 2000, Inc., Coordinated Missouri Election Day Legal Team and counsel in *Bush-Cheney, 2000, Inc. v. Baker* (see above), Broward County, Florida Recount Team – Observer, Counsel to U.S. Congressman Todd Akin and Missouri Republican Party, Missouri State Republican Convention – Alternate – Clayton Township
- **1988:** Republican Candidate U.S. Congress, Missouri 3<sup>rd</sup> Cong. Dist – Successfully raised in excess of \$200,000 and received campaign fundraising support from former Secretary of Interior, Don Hodel, former U.S. Senator Bill Armstrong and former U.S. Congressman Tom Curtis, Chairman.
- **1986-1987 -** Reagan Administration – U.S. Department of Education, Office for Civil Rights, Attorney-Advisor-Law Clerk.
- **1984 -1980 -** Missouri Republican Convention, Alternate
- **1976 –** National & Missouri Republican Convention, Page

### Professional Memberships

Admitted to practice before: U.S. Supreme Court, Michigan Supreme Court, Missouri Supreme Court, U.S. Court of Appeals - 8<sup>th</sup> Circuit, U.S. Court of International Trade, U.S. Court of Claims, U.S. Court of Appeals for the Federal Circuit, U.S. Court of Appeals for the Second Circuit. Member: Michigan Bar Association (tax, aviation and real estate law committees), Missouri Bar Association, Bar Association of Metropolitan St. Louis, American Bar Association; Named as one "Up and Coming Young Attorneys," St. Louis Business Journal. Named on of top ten attorneys in 2004 by Missouri Lawyers Weekly. Member, Republican National Lawyers Association.



## Mark F. (Thor) Hearne, II - cont.

---

### **Education**

**Washington University, School of Law** - St. Louis, Missouri -- 1986, *Juris Doctorate*

**Washington University** - St. Louis, Missouri -- 1983, B.A. Biology - Psychology

**University of Tulsa** - Tulsa Oklahoma - 1979 - 1980, Biology - Psychology

### **Interests**

FAA Licensed Pilot, Sunshine Mission - former member Board of Directors (faith-based inner-city ministry) and current advisory board member, Member Philanthropy Roundtable, National Public Radio - Political Commentator St. Louis Affiliate KWMU, Republican National Lawyers Association, former vice-president and board member, Westminster Christian Academy - former member Board of Directors.



"Job Serebrov"  
<serebrov@sbcglobal.net>  
10/18/2005 05:37 PM

To jthompson@eac.gov  
cc  
bcc  
Subject Lists

Julie:

I just got an e-mail from Tova. She does expect me to add Republicans to the interview list. Tova and I are going to talk tomorrow. I think that making the final interview list will take some time as we need to see who is vetted off or removed from the working group list due to funding issues or other issues.

I do not intend to mention anything we discussed in my conversation with Tova. Please let me know how the Commissioner's discussion with the complaining party went.

Job

008090



"Job Serebrov"  
<serebrov@sbcglobal.net>  
10/18/2005 05:15 PM

To jthompson@eac.gov  
cc  
bcc  
Subject Add to Tova's Working Group List

Julie:

Tova added this name to her list a few days ago.

Donna Brazile

Donna Brazile is Founder and Managing Director of Brazile and Associates, LLC. Brazile, Chair of the Democratic National Committee's Voting Rights Institute (VRI) and an Adjunct Professor at Georgetown University, is a senior political strategist and former Campaign Manager for Gore-Lieberman 2000 - the first African American to lead a major presidential campaign.

Prior to joining the Gore campaign, Brazile was Chief of Staff and Press Secretary to Congresswoman Eleanor Holmes Norton of the District of Columbia where she helped guide the District's budget and local legislation on Capitol Hill.

Brazile is a weekly contributor and political commentator on CNN's Inside Politics and American Morning. In addition, she is a columnist for Roll Call Newspaper and a contributing writer for Ms. Magazine.

A veteran of numerous national and statewide campaigns, Brazile has worked on several presidential campaigns for Democratic candidates, including Carter-Mondale in 1976 and 1980, Rev. Jesse Jackson's first historic bid for the presidency in 1984, Mondale-Ferraro in 1984, U.S. Representative Dick Gephardt in 1988, Dukakis-Bentsen in 1988, and Clinton-Gore in 1992 and

008091

1996.

In addition to working on political campaigns, Brazile has served as a senior lecturer and adjunct professor at the University of Maryland and

a fellow at Harvard's Institute of Politics.

Brazile is the recipient of numerous awards and honors, including Washingtonian Magazine's 100 Most Powerful Women in Washington, D.C. and the Congressional Black Caucus Foundation's Award for Political Achievement.

Brazile, a native of New Orleans, Louisiana earned her undergraduate degree from Louisiana State University in Baton Rouge.



"Job Serebrov"  
<serebrov@sbcglobal.net>  
10/18/2005 05:12 PM

To jthompson@eac.gov  
cc  
bcc  
Subject Meeting

Julie:

As we just discussed, at this time and in light of the recent inquiry, I think it prudent to postpone our meeting in DC until the first or second week of November in order to:

1. Finalize the Working Group list (I am still waiting to hear from Kay James and Governor Barbour);
2. Finalize the Interview list;
3. Finish the search on existing voter fraud research;
4. Assure participation from the Department of Justice; and,
5. Get everyone on the same page and assure all outside parties that this will not be a radical venture

What do you think and can we get agreement on this with Peggy?

Regards,

Job

008093



"Job Serebrov"  
<serebrov@sbcglobal.net>  
10/18/2005 04:50 PM

To jthompson@eac.gov  
cc  
bcc  
Subject lists



Democrat Working Group List.doc interview\_list.doc

Bob Bauer, Perkins Coie, Democratic attorney  
Cathy Cox, Secretary of State, Georgia  
Barbara Arnwine, Lawyers Committee for Civil Rights under Law  
Daniel Tokaji, Moritz College of Law, The Ohio State University  
Wade Henderson, Leadership Conference for Civil Rights  
Laughlin McDonald, ACLU Voting Rights Project  
Wendy Weiser, Brennan Center

## **TW List of Experts to Interview**

Bob Bauer, Perkins Coie, Democratic attorney  
Cathy Cox, Secretary of State, Georgia  
Barbara Arnwine, Lawyers Committee for Civil Rights under Law  
Daniel Tokaji, Moritz College of Law, The Ohio State University  
Wade Henderson, Leadership Conference for Civil Rights  
Laughlin McDonald, ACLU Voting Rights Project  
Wendy Weiser, Brennan Center  
Donna Brazile, Brazile and Associates, LLC  
Christopher Edley, Dean, Boalt Hall School of Law  
Joseph Sandler, Sandler, Reif & Young  
Chandler Davidson, Rice University  
Jay Eads, Deputy Secretary of State, Mississippi  
Allan Lichtman, American University  
Miles Rapoport, Demos  
Jonah Goldman, Lawyers Committee  
Ralph Neas, PFAW  
David Orr, Clerk, Cook County (Chicago)  
Connie McCormick, Los Angeles County Registrar  
John Ravitz, Board of Elections, New York City  
Dan Seligson, Electionline  
Lorri Minnite, Barnard College  
Kevin Kennedy, Director of Elections, Wisconsin  
Lisa Artison, Milwaukee Director of Elections  
Barbara Burt, Common Cause  
Sam Reed, Secretary of State, Washington  
Alaina Beverly, NAACP  
Hilary Shelton, NAACP  
Glenda Hood, Secretary of State, Florida  
Ned Foley, Ohio State University  
Ellick Hsu, Deputy Secretary of State, Nevada  
Harry VanSickle, Commissioner of Elections, Pennsylvania  
Chris Nelson, Secretary of State, South Dakota  
Heather Dawn Thompson, Native American Bar Association  
Nina Perales, MALDEF  
Margaret Fung, AALDEF  
Pam Karlan, Stanford Law  
Bill Lann Lee, former head of the Civil Rights Division, DOJ  
Deval Patrick, former head of the Civil Rights Division, DOJ  
Joseph Rich, former head of the Voting Section, DOJ  
Jeffrey Toobin, The New Yorker  
Mike Alvarez, Caltech  
Steve Ansolobhere, MIT



Local prosecutors where there were serious allegations of voter fraud and/or intimidation/deceptive practices



"Job Serebrov"  
<serebrov@sbcglobal.net>  
09/06/2005 11:46 AM

To twilkey@eac.gov, klynndyson@eac.gov, sda@mit.edu,  
wang@tcf.org, jthompson@eac.gov

cc

bcc

Subject Once again

I neglected to send the last attachment as a .doc.  
Please ignore it.



Job Task Contractor Sch.doc

008098

| <b>Task</b> | <b>Contractor Deadline</b> | <b>EAC Response</b> | <b>Contractor Cure Time</b> |
|-------------|----------------------------|---------------------|-----------------------------|
|-------------|----------------------------|---------------------|-----------------------------|

|                     |                                       |                        |                        |
|---------------------|---------------------------------------|------------------------|------------------------|
| <b>Project Plan</b> | <b>10 days after contracts signed</b> | <b>5 business days</b> | <b>5 business days</b> |
|---------------------|---------------------------------------|------------------------|------------------------|

|   |                                      |  |  |
|---|--------------------------------------|--|--|
| <b>Case research<br/>Search terms<br/>For law clerk</b> | <b>1 week after contracts signed</b> |  |  |
|---|--------------------------------------|--|--|

|                      |  |  |  |
|----------------------|--|--|--|
| <b>First meeting</b> | <b>within 3 weeks of approved project plan</b> |  |  |
|----------------------|--|--|--|

|  |                                       |  |  |
|--|---------------------------------------|--|--|
| <b>Defining fraud<br/>expert testimony</b> | <b>30-60 days after first meeting</b> |  |  |
|--|---------------------------------------|--|--|

|   |                               |                        |                        |
|---|-------------------------------|------------------------|------------------------|
| <b>Defining fraud<br/>listing types</b> | <b>1 week after testimony</b> | <b>5 business days</b> | <b>5 business days</b> |
|---|-------------------------------|------------------------|------------------------|

|                                       |  |  |  |
|---------------------------------------|--|--|--|
| <b>Case research<br/>by law clerk</b> | <b>60 days: to begin when the project plan is approved</b> |  |  |
|---------------------------------------|--|--|--|

|                                       |                |  |  |
|---------------------------------------|----------------|--|--|
| <b>Case division<br/>and analysis</b> | <b>30 days</b> |  |  |
|---------------------------------------|----------------|--|--|

|                                   |   |                        |                         |
|-----------------------------------|---|------------------------|-------------------------|
| <b>Assemble working<br/>group</b> | <b>60 days after project plan is approved</b> | <b>5 business days</b> | <b>10 business days</b> |
|-----------------------------------|---|------------------------|-------------------------|

|                                    |  |  |  |
|------------------------------------|--|--|--|
| <b>Meet with<br/>working group</b> | <b>within 3 weeks after working group is assembled</b> |  |  |
|------------------------------------|--|--|--|

|                               |  |  |  |
|-------------------------------|--|--|--|
| <b>Set up secure<br/>blog</b> | <b>within 1 week after working group meets</b> |  |  |
|-------------------------------|--|--|--|

|                       |  |  |  |
|-----------------------|--|--|--|
| <b>Finalizing the</b> |  |  |  |
|-----------------------|--|--|--|

**issue**                      **30 days after meeting with the working group**

---

**Division of  
labor for  
summary report  
and drafting of  
report including  
possible solutions**

**within 45 days of  
meeting with the  
working group**

**10 business days 5 business days**

---



"Job Serebrov"  
<serebrov@sbcglobal.net>  
09/06/2005 11:42 AM

To twilkey@eac.gov, klynndyson@eac.gov, sda@mit.edu,  
wang@tcf.org, jthompson@eac.gov

cc

bcc

Subject Draft Schedule Proposal for Vote Fraud Group

I have attached a draft proposed schedule of events for our discussion today. Please keep in mind that this is only a proposal but I thought that we needed somewhere to start from.

Regards,



Job Task Contractor Deadline EAC

008101



"Job Serebrov"  
<serebrov@sbcglobal.net>  
08/26/2005 03:35 PM

To klynndyson@eac.gov, sda@mit.edu, wang@tcf.org  
cc twilkey@eac.gov, nmortellito@eac.gov, jthompson@eac.gov  
bcc  
Subject Re: Kick off activities for the EAC Voting fraud/voter  
intimidation project

Karen:

Either day is fine for me.

Job


--- klynndyson@eac.gov wrote:

> 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  
>

008102

**Deliberative Process  
Privilege**

Margaret Sims/EAC/GOV  
11/03/2006 07:38 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Job and Tova 

History  This message has been replied to

I can review them over the weekend and attempt to summarize what they tell us.— Peggy

-----  
Sent from my BlackBerry Wireless Handheld  
Juliet E. Hodgkins  
----- Original Message -----

**From:** Juliet E. Hodgkins  
**Sent:** 11/03/2006 06:14 PM  
**To:** Margaret Sims  
**Subject:** Re: Job and Tova

I think we should use the content of those articles or some summary of them as a background of what we know about VF and VI. I just didn't want to have to read all of those articles to be able to make some generalized statements about their contents.

-----  
Sent from my BlackBerry Wireless Handheld  
Margaret Sims  
----- Original Message -----

**From:** Margaret Sims  
**Sent:** 11/03/2006 06:11 PM  
**To:** Juliet Hodgkins  
**Subject:** Re: Job and Tova

Julie:

All of the summaries received are in the shared drawer under T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Research Summaries. There are too many of them to append to this message, or I would do it. The researchers did not propose to include these summaries in the report. Are you considering adding them?

If you want, I can cross reference each of these with the list of articles and ID any missing summaries. I could do that over the weekend. --- Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/03/2006 05:42 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Job and Tova

I spoke to Job about the documents that I need. He will send me his summary of the articles/books that he read. However, he said that Tova also summarized some of those articles/books. I don't have a contact number/email for Tova. Could you contact her and ask her to provide us with any summary of the

008103

articles/books that she read as they are listed in Appendix 2?

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



Margaret Sims /EAC/GOV  
11/03/2006 07:11 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Job and Tova

History This message has been replied to

Julie:

All of the summaries received are in the shared drawer under T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Research Summaries. There are too many of them to append to this message, or I would do it. The researchers did not propose to include these summaries in the report. Are you considering adding them?

If you want, I can cross reference each of these with the list of articles and ID any missing summaries. I could do that over the weekend. --- Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/03/2006 05:42 PM


To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Job and Tova

I spoke to Job about the documents that I need. He will send me his summary of the articles/books that he read. However, he said that Tova also summarized some of those articles/books. I don't have a contact number/email for Tova. Could you contact her and ask her to provide us with any summary of the articles/books that she read as they are listed in Appendix 2?

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

008105


Margaret Sims /EAC/GOV  
11/02/2006 01:45 PM

To: Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject: Re: did job and tova ever send us their working papers 

I'll have to send him an email to find out. I never heard from Tova on that subject. --- Peggy

Juliet E. Hodgkins/EAC/GOV


Juliet E. Hodgkins/EAC/GOV  
11/02/2006 12:37 PM

To: Margaret Sims/EAC/GOV@EAC  
cc  
Subject: Re: did job and tova ever send us their working papers 

I thought what he was talking about was pretty comprehensive, like all the cases they read, etc. It's been at least a month or more since we had that conversation, probably 2 months.

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

Margaret Sims /EAC/GOV  
11/02/2006 12:33 PM

To: Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
Subject: Re: did job and tova ever send us their working papers 

I'm not sure what he means by working papers. Job has already provided his spreadsheets on the case law reviewed and participated with Tova in drafting the pieces of the report they submitted. If he means his notes, and they were delivered during my absence, they might be in my in box. Job was moving from Arkansas to Nevada and may not have wanted to take them with him. How long ago did he ask about this? --- Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/01/2006 11:39 AM

To: Margaret Sims/EAC/GOV@EAC  
cc  
Subject: did job and tova ever send us their working papers


008106

Job called me once and asked me about how to send in the working papers. Did you receive those?

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

008107

Margaret Sims /EAC/GOV  
11/02/2006 01:33 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: did job and tova ever send us their working papers 

History  This message has been replied to

I'm not sure what he means by working papers. Job has already provided his spreadsheets on the case law reviewed and participated with Tova in drafting the pieces of the report they submitted. If he means his notes, and they were delivered during my absence, they might be in my in box. Job was moving from Arkansas to Nevada and may not have wanted to take them with him. How long ago did he ask about this? — Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/01/2006 11:39 AM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject did job and tova ever send us their working papers

Job called me once and asked me about how to send in the working papers. Did you receive those?

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

008108



"Tova Wang" <wang@tcf.org>

01/10/2007 12:06 PM

To jhodgkins@eac.gov

cc

bcc

Subject RE:

I believe I have everything I need already, but will let you know if I discover that's not the case. Thank you!

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](http://www.tcf.org), for the latest news, analysis, opinions, and events.

---

**From:** jhodgkins@eac.gov [mailto:jhodgkins@eac.gov]

**Sent:** Wednesday, January 10, 2007 12:03 PM

**To:** wang@tcf.org

**Subject:** RE:

Based on your answer, I assume then that you are not asking us for any documents. Please confirm that this is correct.

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>

01/10/2007 12:00 PM

To jhodgkins@eac.gov

cc twilkey@eac.gov, "Tova Wang" <wang@tcf.org>

Subject RE:

008109

Thanks Julie. Actually, I ended up doing all of the Nexis research myself on The Century Foundation's account. Using one of your interns to do it never worked out, as Job can also tell you. I assume that takes care of that issue. Thanks again. 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](http://www.tcf.org), for the latest news, analysis, opinions, and events.

---

**From:** [jhodgkins@eac.gov](mailto:jhodgkins@eac.gov) [mailto:[jhodgkins@eac.gov](mailto:jhodgkins@eac.gov)]  
**Sent:** Wednesday, January 10, 2007 11:50 AM  
**To:** [wang@tcf.org](mailto:wang@tcf.org)  
**Cc:** [twilkey@eac.gov](mailto:twilkey@eac.gov); 'Tova Wang'  
**Subject:** Re:

Tova,

I see no reason why we cannot allow you to have the research for your use. The one caveat to that is that this research was obtained on our Westlaw/Nexis accounts. Therefore, we would have to have an agreement from you that you would not reproduce or distribute those copyrighted materials. I will have one of my law clerks work on getting the information burned to a CD and drafting an agreement concerning the use of these documents.

I will be in touch with you next week to let you know when we will have these documents and agreement available.

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](mailto:wang@tcf.org)>

01/08/2007 09:24 AM

To [twilkey@eac.gov](mailto:twilkey@eac.gov), [jhodgkins@eac.gov](mailto:jhodgkins@eac.gov)  
Cc "Tova Wang" <[wang@tcf.org](mailto:wang@tcf.org)>  
Subject

008110

Dear Tom and Julie,

Happy New Year. I hope you both enjoyed the holidays.

As you know, I am well aware that the research Job and I produced belongs to the EAC. Nonetheless, I was wondering whether there might be some way I can use just the Nexis material solely for my own further research purposes. Anything I might publish using that underlying data as enhanced by my further research would be in my name and my name only, not that of the EAC. I put a tremendous amount of work into collecting and organizing that data and I would like the opportunity to continue this research on an ongoing basis. It would be a shame if it was not put to some further use.

Is there something we might arrange in this regard? Thanks so much.

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](http://www.tcf.org), for the latest news, analysis, opinions, and events.

008111



"Tova Wang" <wang@tcf.org>

To jhodgkins@eac.gov

01/10/2007 12:00 PM

cc twilkey@eac.gov, "Tova Wang" <wang@tcf.org>

bcc

Subject RE:

History

This message has been replied to and forwarded.

Thanks Julie. Actually, I ended up doing all of the Nexis research myself on The Century Foundation's account. Using one of your interns to do it never worked out, as Job can also tell you. I assume that takes care of that issue. Thanks again. 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](http://www.tcf.org), for the latest news, analysis, opinions, and events.

---

**From:** jhodgkins@eac.gov [mailto:jhodgkins@eac.gov]

**Sent:** Wednesday, January 10, 2007 11:50 AM

**To:** wang@tcf.org

**Cc:** twilkey@eac.gov; 'Tova Wang'

**Subject:** Re:

Tova,

I see no reason why we cannot allow you to have the research for your use. The one caveat to that is that this research was obtained on our Westlaw/Nexis accounts. Therefore, we would have to have an agreement from you that you would not reproduce or distribute those copyrighted materials. I will have one of my law clerks work on getting the information burned to a CD and drafting an agreement concerning the use of these documents.

I will be in touch with you next week to let you know when we will have these documents and agreement available.

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>

008112



01/08/2007 09:24 AM

To twilkey@eac.gov, jhodgkins@eac.gov

cc "Tova Wang" <wang@tcf.org>

Subject

Dear Tom and Julie,

Happy New Year. I hope you both enjoyed the holidays.

As you know, I am well aware that the research Job and I produced belongs to the EAC. Nonetheless, I was wondering whether there might be some way I can use just the Nexis material solely for my own further research purposes. Anything I might publish using that underlying data as enhanced by my further research would be in my name and my name only, not that of the EAC. I put a tremendous amount of work into collecting and organizing that data and I would like the opportunity to continue this research on an ongoing basis. It would be a shame if it was not put to some further use.

Is there something we might arrange in this regard? Thanks so much.

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](http://www.tcf.org), for the latest news, analysis, opinions, and events.

008113



"Tova Wang" <wang@tcf.org>

To twilkey@eac.gov, jhodgkins@eac.gov

01/08/2007 09:24 AM

cc "Tova Wang" <wang@tcf.org>

bcc

Subject

History:

✉ This message has been replied to.

Dear Tom and Julie,

Happy New Year. I hope you both enjoyed the holidays.

As you know, I am well aware that the research Job and I produced belongs to the EAC. Nonetheless, I was wondering whether there might be some way I can use just the Nexis material solely for my own further research purposes. Anything I might publish using that underlying data as enhanced by my further research would be in my name and my name only, not that of the EAC. I put a tremendous amount of work into collecting and organizing that data and I would like the opportunity to continue this research on an ongoing basis. It would be a shame if it was not put to some further use.

Is there something we might arrange in this regard? Thanks so much.

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](http://www.tcf.org), for the latest news, analysis, opinions, and events.

008114



"Tova Wang" <wang@tcf.org>

12/05/2006 09:09 AM

To jhodgkins@eac.gov

cc serebrov@sbcglobal.net

bcc

Subject RE: fraud and intimidation report

History

This message has been replied to

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](http://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: serebrov@sbcglobal.net  
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 immediately 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

008115

1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

wang@tcf.org

12/01/2006 02:07  
PM

jthompson@eac.gov

To

cc

"Job Serebrov"  
<serebrov@sbcglobal.net>

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 a [REDACTED], or office phone 202-741-6263. I hope to hear from you soon. Thanks.

Tova

008116



"Tova Wang" <wang@tcf.org>

11/09/2006 04:54 PM

To bbenavides@eac.gov, serebrov@sbcglobal.net

cc twilkey@eac.gov, jhodgkins@eac.gov

bcc

Subject RE: Conference call

Sounds good. I will come by the EAC since its literally a few feet from my office. I look forward to seeing you. Tova

Tova Andrea Wang, Democracy Fellow  
**The Century Foundation**  
1333 H Street, NW, Washington, D.C. 20005

Visit our Web site, [www.tcf.org](http://www.tcf.org), for the latest news, analysis, opinions, and events.

---

**From:** bbenavides@eac.gov [mailto:bbenavides@eac.gov]  
**Sent:** Thursday, November 09, 2006 4:21 PM  
**To:** wang@tcf.org; serebrov@sbcglobal.net  
**Cc:** twilkey@eac.gov; jhodgkins@eac.gov; bbenavides@eac.gov  
**Subject:** Conference call

Tova, Job -- I have scheduled 6:00 PM EST on Wednesday, November 15 for a conference call with Tom Wilkey and Julie Thompson-Hodgkins.

Conference call in # is 866-222-9044, Passcode 63114#

Bert A. Benavides  
Special Assistant to the Executive Director  
U. S. Elections Assistance Commission  
1225 New York Avenue, NW  
Suite 1100  
Washington, DC 20005  
202-566-3114

008117



"Tova Wang" <wang@tcf.org>

11/18/2005 09:45 AM

To jthompson@eac.gov

cc

bcc

Subject FW:

I understand Job asked you a question about including voting rights violations. This was my reply to his last email, just so you know where I'm coming from. Thanks.

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

**From:** Tova Wang

**Sent:** Friday, November 18, 2005 9:44 AM

**To:** Job Serebrov

**Subject:**

The name of our project is voter fraud and voter intimidation. When its intimidation practices, thats us. I agree that we're not going to get into stuff like not having sufficient language materials at the polls, but nasty treatment of minorities clearly qualifies as part of our mandate.

**Tova Andrea Wang**

Senior Program Officer and Democracy Fellow

**The Century Foundation**

41 East 70th Street - New York, NY 10021

phone: 212-452-7704 fax: 212-535-7534

Visit our Web site, [www.tcf.org](http://www.tcf.org), for the latest news, analysis, opinions, and events.

---

[Click here](#) to receive our weekly e-mail updates.

008118



"Tova Wang" <wang@tcf.org>

09/07/2005 05:14 PM

To klynndyson@eac.gov, twilkey@eac.gov

cc jthompson@eac.gov, nmortellito@eac.gov, sda@mit.edu,  
"Job Serebrov" <serebrov@sbcglobal.net>, wang@tcf.org

bcc

Subject work plan

Hi Karen and Tom,

As we discussed yesterday, attached is a preliminary work plan/division of labor for your review. Please let us know if this is sufficient for the present and if you have any comments or questions.

In terms of hours dedicated to the project, Job and Tova are able to commit to 15-20 hours per week assuming that includes reimbursed periodic travel. Steve can do approximately 2 hours per week. We have tentatively scheduled to meet at your offices in DC, if that is convenient for you, on September 20. We will be able to confirm that within the next day or so.

All of us are very eager to get started on this important work as soon as possible. However, because we also have other work related responsibilities, we are a bit reluctant to do so before having an opportunity to review our contracts. We look forward to receiving them so we can get going right away.

Thanks so much. Speak to you soon.

Tova, Job and Steve

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

**From:** klynndyson@eac.gov [mailto:klynndyson@eac.gov]

**Sent:** Friday, September 02, 2005 3:19 PM

**To:** klynndyson@eac.gov; nmortellito@eac.gov

**Cc:** jthompson@eac.gov; nmortellito@eac.gov; sda@mit.edu; Job Serebrov; twilkey@eac.gov; wang@tcf.org

**Subject:** Re: Kick off activities for the EAC Voting fraud/voter intimidation project

All-

In anticipation of our 45-minute conference call scheduled for Tuesday, September 6 at 4:00 PM, I would ask the three consultants ( Steve, Job and Tova) to come prepared to talk about the following:

The major topics and issues which you see as needing immediate attention, definition,delineation,etc.

Rough timelines and timeframes for addressing these major issues and topics

Your major roles and responsibilities and the timelines you envision for meeting your major deliverables

We all realize that this conversation is just a start; I look forward to this beginning and to framing the tasks that lie ahead of us between now and September 30.

Have a wonderful holiday!!

008119

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



tel:202-566-3123 tw plan 0907.doc



To: Karen Lynn-Dyson and Tom Wilkey  
From: Tova Wang, Job Serebrov, Stephen Ansolabehere  
Re: Preliminary Work Plan  
Date: September 7, 2005

The following is a preliminary work plan and division of labor for the project on voter fraud and voter intimidation:

MONTH ONE (beginning the date contracts are finalized):

- I. Defining Fraud/Intimidation
  - a. In person meeting and discussion among consultants to:
    - i. Determine what we believe the parameters of the terms fraud and intimidation should be for our research purposes. (All)
    - ii. Create a list of state and local officials, third party representatives, attorneys, scholars, etc. to interview and/or survey to assist in this process of definition (All)
  - b. Interviews of individuals identified as having expertise (Job and Tova)
  - c. Analysis of existing research (Job and Tova)
- II. Obtaining research assistance (e.g. interns, law clerks) (All)

MONTH TWO:

- III. Examining the Feasibility of Quantifying the Level of Incidence of Different Types of Fraud
  - a. Looking at how we can develop a statistically sound research instrument
    - i. Discussion with political and social scientists, legal scholars in the field (Tova and Steve)
  - b. Determination as to information that would be required for a potential survey; identification of potential survey states to ensure a fair representation of different systems (All)
  - c. Preliminary survey of case law of recent prosecutions for fraud/intimidation (Job)
  - d. Interviews with state and local officials, third party groups, election lawyers to assess what they believe are the most prevalent problems (All)

MONTH THREE:

- IV. Preliminary assessment of the federal, state and local legal capacity to handle fraud and intimidation cases
  - a. Case law research (Job)
  - b. Survey of current state election codes (Tova and Job)
  - c. Analysis of Department of Justice Civil Rights and Criminal Divisions work in this area (Tova)

008121

- d. Survey and assessment of who has enforcement responsibility and accountability in each state and the extent to which that entity exercises that authority (All)

MONTH FOUR:

- V. Report of Preliminary Findings (Tova and Job)
- VI. Assembling the Working Group
  - a. Developing a list of potential members (All)
  - b. Development of a work plan and set of issues for examination for the working group (All)

Potential Working Group Members – Initial Suggestions:

Lori Minnite, Barnard College  
Allan Lichtman, American University  
David Orr, Cook County Clerk (Chicago)  
Judith Browne, The Advancement Project  
Cathy Cox, Secretary of State, Georgia  
Jonah Goldman, Lawyers Committee for Civil Rights  
Christopher Edley, Dean, Berkeley School of Law  
Daniel Tokaji, Moritz College of Law, The Ohio State University  
Spencer Overton, George Washington School of Law



"Cameron.Quinn@usdoj.gov"  
<Cameron.Quinn@usdoj.gov  
>

07/20/2006 09:56 PM

To "jthompsonhodgkins@eac.gov"  
<jthompsonhodgkins@eac.gov>

cc

bcc

Subject FW: The EAC- Tova Wang piece on voter fraud and  
intimidation

History: This message has been replied to.

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

008123

Tova Wang/EAC

p 5. 2d bullet ..DOJ is bringing fewer intimidation and suppression cases now...

This clearly is a myth. The Department has brought two 11(b) cases, one of the two in this Administration. The focus of DOJ activity has shifted, in fact, to voter suppression as there are fewer cases over voter dilution (challenges to at-large election systems, etc.) being brought by anyone as the number of jurisdictions with at-large election systems has shrunk dramatically. This Administration has, in fact, brought far more voter-suppression cases in this Administration than ever in the past, including a majority of all cases under Sections 203 and 208 of the Act, and such key recent Section 2 cases as US v. City of Boston and US v. Long County, Georgia.

The Voting Section brings cases involving “systemic” discrimination because federal voting statutes focus on discriminatory action by local governments. It is criminal statutes that involve malfeasance by individuals. The difference is fundamental and key to understanding law enforcement

3d bullet.

The Voting Section of DOJ has taken action to address badly kept voter lists with recent lawsuits in Missouri and Indiana.

4<sup>th</sup> bullet

The Voting Section of DOJ has, by a large margin, included mandatory training of poll workers in avoiding discriminatory practices in more cases in this Administration than in its entire previous history.

Page 6 - first bullet

This is not true. Ms. Wang repeatedly declined to define intimidation, so that her questions were vague and unhelpful in defining or identifying problems. The facts:

The Voting Section is bringing more cases involving discrimination and violation of minority voters rights at the polls on election day than ever in its history - than in its entire history combined. That is indisputable.

The credibility of allegations depends on their specificity and corroboration. Questions as to intimidation and vote suppression are meaningless in the absence of a definition of discrimination.


Prior enforcement has indeed changed the landscape, especially in the Southeast; however, the fact that we are bringing record numbers of cases clearly shows that discrimination is not rare.

Challenges based on race and unequal implementation of ID rules are indeed actionable and we have brought lawsuits, such as in Boston and Long County; we have not identified instances of

such discrimination in which we have not taken action.


**Deliberative Process  
Privilege**

Donetta L.  
Davidson/EAC/GOV  
12/11/2006 04:14 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Fw: Draft response to Tova Wang 

I am also fine with the changes made to the letter.  
Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
12/11/2006 03:50 PM

To Paul DeGregorio/EAC/GOV@EAC  
cc "Davidson, Donetta" <ddavidson@eac.gov>, Gracia  
Hillman/EAC/GOV@EAC  
Subject Re: Fw: Draft response to Tova Wang 

Commissioners,

Consistent with the changes requested by both Commissioners DeGregorio and Hillman, I have revised the draft response. Please take one more look at the letter. If possible, it would be nice to get this out today.

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

Paul DeGregorio/EAC/GOV

12/11/2006 03:40 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC  
Subject Re: Fw: Draft response to Tova Wang [Link](#)

Julie,

I am ok with the edits Commissioner made to the letter; however, I do think that because of the tone of

008126

Tova's letter, which is likely to be supplied to others (as was their report to us). that we need a paragraph in the letter that makes it clear that the process used in producing this final report was consistent with the process we have used in all the reports and studies we have issued to date. What she needs to know (in writing) is that while we review the work of our researchers and consultants on a topic closely to draw various conclusions, our staff and the commissioners themselves have input into the final product that becomes the public report issued by a majority vote of the EAC. Since I've been on the EAC, we have consistently questioned statistics, statements and conclusions drawn by those doing work for the EAC. We have also drawn upon our collect resources and wisdom to produce the best report possible. I think that was true in this case as it has been with all the other reports we have issued. In the end, it is the EAC--and the commissioners in particular--who are held accountable for what we adopt and release; not our paid consultants or organizations we contract with to do studies.

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

Juliet E. Hodgkins/EAC/GOV

12/11/2006 11:40 AM

To "Davidson, Donetta" <ddavidson@eac.gov>, Paul DeGregorio/EAC/GOV@EAC

cc Gracia Hillman/EAC/GOV@EAC  
Subject Fw: Draft response to Tova Wang

commisisoners,

See below edits that Gracia has offered to the letter. Let me know if you agree. I would like to send this out today. Also, in response to Gracia's question below, I believe that since her letter was addressed to the Commissioners that the Commissioners should respond (either collectively or through the Chairman). Please let me know if you agree with the edits. It would be nice to get this out today.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005

008127

(202) 566-3100

— Forwarded by Juliet E. Hodgkins/EAC/GOV on 12/11/2006 11:37 AM —

Gracia Hillman/EAC/GOV

12/11/2006 11:26 AM

To Juliet E. Hodgkins/EAC/GOV@EAC, jlayson@eac.gov  
cc

Subject Re: Draft response to Tova Wang [Link](#)

Julie and Jeannie:

Thank you for the quick turn around on drafting a response to Tova Wang.

I have made substantial edits because I think the first draft offered too much information, which is not germane to Tova's complaint. Additionally, too much verbiage masks the strength of our good report and seemed to obscure the main points in our response.

I hope you will find the attached helpful.

BTW, who will sign the letter ?

[attachment "Tova Wang, Dec06.doc" deleted by Paul DeGregorio/EAC/GOV]

Gracia M. Hillman  
Commissioner  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, DC 20005  
Tel: 202-566-3100  
Fax: 202-566-1392  
[www.eac.gov](http://www.eac.gov)

**CONFIDENTIALITY NOTICE:** This email message is from a federal agency. Its contents and all attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this email and delete this message from your computer.



tova wang response 121106.doc

008128



December 11, 2006

Ms. Tova Wang  
c/o The Century Foundation  
1333 H Street NW, 10<sup>th</sup> Floor  
Washington, DC 20005

**Via U.S. Mail and Facsimile Transmission**  
**202-483-9430**

Dear Ms. Wang:

We are writing in response to your December 7, 2006 memorandum. As you know, the U.S. Election Assistance Commission (EAC) issued its first report on election crimes last week, based in large part on the work that was done for EAC by Job and you. The report contains the full and complete summaries of every interview conducted as well as every book, article, report or case that was reviewed. Rather than provide the synopsis of these interviews, EAC provided the individual summaries so readers could reach their own conclusions about the substance of the interviews.

As the agency responsible for these final reports, it is incumbent upon EAC to assure that the information contained in the reports is accurate and fairly presented. With each of the reports, best practices documents, quick start guides, and other documents that EAC publishes, EAC makes changes as needed to make certain that our constituents are receiving the best and most complete information. This due diligence process is observed regardless of whether the document was created in-house or was created by consultants or contractors.

Upon reviewing initial information about the Department of Justice interviews contained in the status report that was provided to the EAC Standards Board and EAC Board of Advisors and the information provided at the working group meeting in May 2006, those persons interviewed at the Department of Justice did not agree with certain characterizations of their statements contained in these materials. Therefore, EAC exercised its responsibility to make clarifying edits. The Department of Justice is an important prosecutorial agency engaged in enforcing Federal anti-fraud and anti-intimidation laws. Thus, it was important to EAC to assure that the summary of their comments did not lend confusion to an already complex and hotly-debated topic.

008129

The report on voting fraud and voter intimidation will stand as adopted on December 7, 2006. Again, we thank you for the contributions you made to the EAC's initial research of these important issues.

Sincerely,

Paul DeGregorio  
Chairman

Donetta Davidson  
Commissioner

Gracia Hillman  
Commissioner

Margaret Sims /EAC/GOV  
11/13/2006 10:27 AM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject VF-VI Another DOJ Objection

Julie:

I just remembered that there was one other DOJ objection. It was about the way the consultants described the Election Crimes Branch focus on cases. In the interview with Donsanto (the only interview I attended), he made reference to the fact that the Election Crimes Branch used to only go after conspiracies, not individuals. Now, however, they had begun prosecuting individuals for noncitizen and felon voting. The consultants heard an unexpressed "instead", which would mean that DOJ had dropped pursuing conspiracies in favor of going after individuals. Based on my previous experience, I heard and unexpressed "in addition", meaning that DOJ was not just prosecuting conspiracies, the department also had begun to prosecute individuals.

I had lengthy discussions with the consultants over this issue as well. Donsanto confirmed that he meant "in addition", and the lists of cases he provided indicates that the department continues to pursue conspiracies. (It doesn't make sense any other way, unless you believe that the government is out to get the little guy.) — Peggy

**Deliberative Process  
Privilege**

Margaret Sims /EAC/GOV  
11/12/2006 08:45 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject VF-VI Interviews

Sorry this is later than expected. I was missing the notes of one interview and had several computer crashes when I tried to retrieve archived email to determine if I had failed to file it after one of the consultants sent it. I finally gave up looking for it in favor of summarizing what I had.

Attached is a summary of points raised in the interviews. I found it more difficult to extract lessons learned from the interview notes, so I used a summary format. (The interview notes make it appear that the focus of the interviews differed from one person to another, perhaps because consultants were seeking different information from interviewees). I've also attached a list of interviewees with pertinent interview notes. (Some of the interview notes dealt with irregularities other than voting fraud and voter intimidation.) ---  
Peggy



EAC-Summary of Info from Interviews 11-06.doc EAC-Experts Interviewed Notes 11-06.doc

008132

SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

**Deliberative Process  
Privilege**

**Voter Suppression & Intimidation:**

- Voter suppression efforts are sometimes racially based, and sometimes based on partisan considerations
- Hard to know how much vote suppression and intimidation is taking place because it depends on one's definition of the terms – they are used very loosely by some people. Many instances of what some people refer to as voter intimidation are more unclear now (e.g.; photographing voters at the polls has been called intimidating, but now everyone is at the polls with a camera). It is hard to know when something is intimidation and it is difficult to show that it was an act of intimidation
- The fact that both parties are engaging in these tactics now makes it more complicated. It makes it difficult to point the finger at any one side.
- Some advocates assert that, given the additional resources and latitude given to the DOJ enforcement of acts such as double voting and noncitizen voting, there should be an equal commitment to enforcement of acts of intimidation and suppression cases.
- Examples:
  - spreading of false information, such as phone calls, flyers, and radio ads that intentionally mislead as to voting procedures, such as claiming that if you do not have identification, you cannot vote, and providing false dates for the election
  - Observers with cameras, which people associate with potential political retribution or even violence
  - Intimidating police presence at the polls
  - open hostility by poll workers toward minorities (racial and language), or poll workers asking intimidating questions;
  - groups of officious-looking poll watchers at the poll sites who seem to be some sort of authority looking for wrongdoing;
  - challenges
    - There are cases where challenger laws have been beneficial and where they have been abused (Brennan is currently working on developing a model challenger law)
    - No way to determine whether a challenge is in good or bad faith, and there is little penalty for making a bad faith challenge. The fact that there are no checks on the challenges at the precinct level, or even a requirement of concurrence from an opposing party challenger leads to the concern that challenge process will be abused. The voter on the other hand, will need to get majority approval of county election board members to defeat the challenge.
    - Especially in jurisdictions that authorize challenges, the use of challenge lists and challengers goes beyond partisanship to racial suppression and intimidation
  - instances where civic groups and church groups intimidate members to vote in a specific manner, not for reward, but under threat of being ostracized or even telling them they will go to hell.(AR, KY)
  - moving poll sites
  - having Indians vote at polling places staffed by non-Indians often results in incidents of disrespect towards Native voters, judges aren't familiar with Indian last names and are more dismissive of solving discrepancies with native voters
  - intimidation at the poll sites in court houses. Many voters are afraid of the county judges or county employees and therefore will not vote. They justifiably believe their ballots will be opened by these employees to see who they voted for, and if they voted against the county people, retribution might ensue. (AR)

**Fraud in Voting:**

*NOTE: Many interviewees appear to have made claims regarding the quantity and type of voting fraud based on incomplete data, their personal experience, or their impressions (e.g.; voting fraud*

SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

*has been confined to absentee ballots; there is no in person assumption of others' voter identities to vote).*

- The most commonly cited example of voting fraud mentioned was absentee ballot fraud (e.g.; vote selling involving absentee ballots, the filling out of absentee ballots en masse, people at nursing homes filling out the ballots of residents, and union leaders getting members to vote a certain way by absentee ballot).
- Many assert that impersonation, or polling place fraud, is probably the least frequent type because:
  - impersonation fraud is more likely to be caught and is therefore not worth the risk
  - unlike in an absentee situation, actual poll workers are present to disrupt impersonation fraud, for instance, by catching the same individual voting twice
  - if one votes in the name of another voter, and that voter shows up at the polls, the fraud will be discovered
  - one half to one quarter of the time the person will be caught (there is a chance the pollworker will have personal knowledge of the person, Georgia Secretary of State Cathy Cox has mentioned that there are many opportunities for discovery of in person fraud as well).
  - deterrent is that it's a felony, and that one person voting twice is not an effective way to influence an election. One would need to get a lot of people involved for it to work
- Vote buying still occurs and, in some cases, it is hard to distinguish between intimidation and vote buying.
- Tampering with ballots in transit between poll and election office is a concern (AR)

**Voter Registration:**

- Some assert that registration fraud is the major issue (esp unsupervised voter registration drives by political parties and advocacy groups that pay workers to register voters)
- Some assert that various groups abuse the existence of list deadwood to make claims about fraudulent voting.
- Some assert that when compiling such lists and doing comparisons, which are used as the basis for challenges, sound statistical methods must be utilized, and often are not. Matching protocols without faulty assumptions will have a 4 percent to 35 percent error rate—that's simply the nature of database work. Private industry has been working on improving this for years. . .
- If someone is on a voter list twice, that does not mean that voter has voted twice.
- Many problems will be addressed by the statewide database required under HAVA

**Enforcement:**

- States vary in their authority to intervene in and track voter intimidation-voter suppression and voting fraud cases (e.g.; in AR, enforcement is the responsibility of counties, in IN it is responsibility of State AG).
- Voter fraud and intimidation is difficult to prove. It is very hard to collect the necessary factual evidence to make a case, and doing so is very labor-intensive
- Some believe that voter suppression matters are not pursued formally because often they involve activities that current law does not reach.
- Only two interviewees assert that current state and federal codes seem sufficient for prosecuting fraud, and are not under-enforced (no need for additional laws).
- Some advocacy groups assert that the government does not engage in a sustained investigation of voter suppression matters or pursue any kind of resolution to them. There is a perception that the Department of Justice has never been very aggressive in pursuing cases of vote suppression, intimidation and fraud, and that choices DOJ has made with respect to where they have brought claims do not seem to be based on any systematic analysis of where the biggest problems are.
- Some advocates point out that, once the election is over, civil litigation becomes moot.

SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

- The development of a pre-election challenge list targeted at minorities (some claim this has never been pursued, yet Mr. Tanner said the DOJ was able to informally intervene in challenger situations in Florida, Atkinson County, Georgia and in Alabama), long lines due to unequal distribution of voting machines based on race, list purges based on race, unequal application of voter ID rules, and refusal to offer a provisional ballot on the basis of race would be VRA violations.
- DOJ asserts there is a big gap between complaints and what can be substantiated
- DOJ Voting Rights Section - Federal Voting Rights Act only applies to state action, so the section only sues State and local governments – it does not have any enforcement power over individuals. Most often, the section enters into consent agreements with governments that focus on poll worker training, takes steps to restructure how polls are run, and deals with problems on Election Day on the spot. When deciding what to do with the complaint, the section errs on the side of referring it criminally because they do not want civil litigation to complicate a possible criminal case
- DOJ Election Crimes Branch – DOJ is permitted to prosecute whenever there is a candidate for federal office, but can't prosecute everything. Deceptive practices that are committed by individuals and would be a matter for the Public Integrity Section; local government would have to be involved for the voting section to become involved. The problem is asserting federal jurisdiction in non-federal elections. (In U.S. v. McNally, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to "fix" McNally, did not include voter fraud.)
- It is preferable for the federal government to pursue these cases for the following reasons:
  - federal districts draw from a bigger and more diverse jury pool;
  - the DOJ is politically detached; local district attorneys are hamstrung by the need to be re-elected;
  - DOJ has more resources – local prosecutors need to focus on personal and property crimes—fraud cases are too big and too complex for them;
  - DOJ can use the grand jury process as a discovery technique and to test the strength of the case.
- Some assert that election crimes are not high on the priority list of either district attorneys or grand juries; therefore, complaints of election crime very rarely are prosecuted or are indicted by the grand jury.
- Political parties have devoted extraordinary resources into 'smoking out' fraudulent voters

**Recommendations Re Laws & Procedures:**

- It is important to keep clear who the perpetrators of the fraud are and where the fraud occurs because that effects what the remedy should be.
- Support Senator Barak Obama's bill for combating voter harassment and deceptive practices. (Many jurisdictions do not currently have laws prohibiting voter harassment and deceptive practices.)
- Support a new law that allows the DOJ to bring civil actions for suppression that are not race based, for example, deceptive practices or wholesale challenges to voters in jurisdictions that tend to vote heavily for one party.
- Support a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce (DOJ has drafted such legislation, which was introduced but not passed in the early 1990s.)
- Put stronger teeth in the voter fraud laws; step up enforcement against fraud and provide stiffer penalties as current penalties make the risk of committing fraud relatively low
- There should be increased resources dedicated to expanded DOJ monitoring efforts. This might be the best use of resources since monitors and observers act as a deterrent to fraud and intimidation.
- Some advocate that all election fraud and intimidation complaints should be referred to the State Attorney General's Office to circumvent the problem of local political prosecutions. The

**SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY**

---

Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes

- Some advocate greater resources for district attorneys. In addition, during election time, there should be an attorney in the DA's office who is designated to handle election prosecution
- Would be useful to have recommendations for prosecutors investigating fraudulent activity
- Better trained poll workers
- Polling places should be open longer, run more professionally but there needs to be fewer of them so that they are staffed by only the best, most professional people (Voting Centers).
- Move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- A day should be given off of work without counting as a vacation day so that better poll workers are available.
- Early voting at the clerk's office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk's office. This should be expanded to other polling places in addition to that of the county clerk.
- Many assert that the best defense against fraud will be better voter lists.
  - States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle
  - Linking voter registration databases across states may be a way to see if people who are registered twice are in fact voting twice
  - New legislation or regulations are needed to provide clear guidance and standards for generating voter lists and purging voters, otherwise states could wrongfully disenfranchise eligible voters; purging must be done in a manner that uses the best databases, and looks at only the most relevant information
  - The process for preventing ineligible ex-felons from casting ballots needs to be improved
  - statewide registration databases should be linked to social service agency databases
- Challenge laws need to be reformed, especially ones that allow for pre-election mass challenges with no real basis. There is no one size fits all model for challenger legislation, but some bad models involving hurdles for voters lead to abuse and should be reformed. There should be room for poll workers to challenge fraudulent voters, but not for abuse. (KY has list of defined reasons for which they can challenge a voter, such as residency, and the challengers must also fill out paperwork to conduct a challenge) Last minute challenges should not be permitted
- False information campaigns should be combated with greater voter education, the media could do more to provide information about what is legal and what is illegal
- Improve the protective zone around polling places: the further vote suppressers can keep people away from the polls, the better.
- States should be encouraged to:
  - codify into law uniform and clear published standards for voter registration, challenges, voter ID, poll worker training, use and counting of provisional votes, the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access
  - standardize forms
  - modify forms and procedures based on feedback from prosecutors
- Ensure good security procedures for the tabulation process and more transparency in the vote counting process
- Conduct post-election audits
- Many advocate eliminating "no excuse" absentee voting.
- Some recommend reducing partisanship in election administration, but others are skeptical of the feasibility of this



SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

- Some strongly recommend requiring voter ID, while others strongly oppose it as a voter suppression tactic, asserting that states should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.) and that states could use signature comparisons.
- Political parties should monitor the processing of voter registrations and purging of registered by local election authorities on an ongoing basis to ensure the timely processing of registrations and changes, including both newly registered voters and voters who move within a jurisdiction or the state, and the Party should ask state Attorneys General to take action where necessary to force the timely updating of voter lists or to challenge, unlawful purges and other improper list maintenance practices.

**Future Study Recommendations:**

- Just because there was no prosecution, does not mean there was no vote fraud; very hard to come up with a measure of voter fraud short of prosecution
- EAC should conduct a survey of the general public that asks whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data
- EAC should work with the Census Bureau to have them ask different, additional questions in their Voter Population Surveys
- EAC should talk to private election lawyers

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Wade Henderson, Executive Director, Leadership Conference for Civil Rights

Data Collection

Mr. Henderson had **several recommendations as to how to better gather additional information and data on election fraud and intimidation in recent years.** He suggested interviewing the following individuals who have been actively involved in Election Protection and other similar efforts:

- Jon Greenbaum, Lawyers Committee for Civil Rights
- Tanya Clay, People for the American Way
- Melanie, Campbell, National Coalition for Black Political Participation
- Larry Gonzalez, National Association of Latino Election Officers
- Jacqueline Johnson, National Congress of American Indians
- Chellie Pingree, Common Cause
- Jim Dickson, disability rights advocate
- Mary Berry, former Chair of the US Commission on Civil Rights, currently at the University of Pennsylvania
- Judith Browne and Eddie Hailes, Advancement Project (former counsel to the US Commission on Civil Rights)
- Robert Rubin, Lawyers Committee for Civil Rights – San Francisco Office
- Former Senator Tom Daschle (currently a fellow at The Center for American Progress)

He also recommended we **review the following documents and reports:**

- The 2004 litigation brought by the Advancement Project and SEIU under the 1981 New Jersey Consent Decree
- Forthcoming LCCR state-by-state report on violations of the Voting Rights Act
- Forthcoming Lawyers Committee report on violations of the Voting Rights Act (February 21)

Types of Fraud and Intimidation Occurring

Mr. Henderson said he believed that the kinds of **voter intimidation and suppression tactics employed over the last five years are ones that have evolved over many years.** They are **sometimes racially based, sometimes based on partisan motives.** He believes the **following types of activity have actually occurred, and are not just a matter of anecdote and innuendo, and rise to the level of either voter intimidation or vote suppression:**

- **Flyers with intentional misinformation, such as ones claiming that if you do not have identification, you cannot vote, and providing false dates for the election**
- **Observers with cameras, which people associate with potential political retribution or even violence**
- **Intimidating police presence at the polls**
- **Especially in jurisdictions that authorize challenges, the use of challenge lists and challengers goes beyond partisanship to racial suppression and intimidation**
- **Unequal deployment of voting equipment, such as occurred in Ohio. Also, he has seen situations in which historically Black colleges will have one voting machine while other schools will have more.**

Mr. Henderson **believes that these matters are not pursued formally because often they involve activities that current law does not reach.** For example, there is no law prohibiting a Secretary of State from being the head of a political campaign, and then deploying voting machines in an uneven manner. There is no way to pursue that. Also, **once the election is over, civil litigation becomes moot.** Finally, sometimes upon reflection **after the campaign, some of the activities are not as sinister as believed at the time.**

Mr. Henderson believes **government does not engage in a sustained investigation of these matters or pursue any kind of resolution to**

Deliberative Process  
Privilege

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

them. LCCR has filed a FOIA request with both the Civil Rights Division and the Criminal Division of the Department of Justice to examine this issue.

Election Protection activities will be intensified for the 2006 elections, although the focus may shift somewhat given the implementation of new HAVA requirements.

Recommendations for Reform

There was tremendous concern after the 2004 election about conflicts of interest – the “Blackwell problem” – whereby a campaign chair is also in charge of the voting system. We need to get away from that.

He also **supports Senator Barak Obama’s bill regarding deceptive practices**, and is opposed to the voter identification laws passing many state legislatures.

- States should adopt **election-day registration**, in order to boost turnout as well as to allow eligible voters to immediately rectify erroneous or improperly purged registration records
- **Expansion of early voting & no-excuse absentee voting**, to boost turnout and reduce the strain on election-day resources.
- **Provisional ballot reforms:**
  - Should be **counted statewide** – if cast in the wrong polling place, votes should still be counted in races for which the voter was eligible to vote (governor, etc.)
  - Provisional ballots should also **function as voter registration applications**, to increase the likelihood that voters will be properly registered in future elections
- Voter ID requirements: **states should allow voters to use signature attestation to establish their identity**
- The **Department of Justice should increase enforcement of Americans with Disabilities Act and the accessibility requirements of the Help America Vote Act**
- **Statewide registration databases should be linked to social service agency databases**
- **Prohibit chief state election officials from simultaneously participating in partisan electoral campaigns** within their states
- Create and enforce **strong penalties for deceptive or misleading voting practices**

Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

Brennan Center findings on fraud

The Brennan Center’s primary work on fraud is their report for the Carter Baker Commission with commissioner Spencer Overton, written in response to the Commission’s ID recommendations. Brennan reviewed all existing reports and election contests related to voter fraud. They believe the contests serve as an especially good record of whether or not fraud exists, as the parties involved in contested elections have a large incentive to root out fraudulent voters. Yet despite this, the incidence of voter impersonation fraud discovered is extremely low—something on the order 1/10000<sup>th</sup> of a percentage of voters. See also the brief Brennan filed on 11<sup>th</sup> circuit in Georgia photo ID case which cites sources in Carter Baker report and argues the incidence of voter fraud too low to justify countermeasures.

Among types of fraud, they **found impersonation, or polling place fraud, is probably the least frequent type, although other types, such as absentee ballot fraud are also very infrequent. Weiser believes this is because impersonation fraud is more likely to be caught and is therefore not worth the risk. Unlike in an absentee situation, actual poll workers are present to disrupt impersonation fraud, for instance, by catching the same individual voting twice. She believes perhaps one half to one quarter of the time the person will be caught.** Also, there is a chance the pollworker will have personal knowledge of the person. Georgia Secretary of State Cathy Cox has mentioned that there are many opportunities for discovery of in person fraud as well. For example, **if one votes in the name of another voter, and that**

008139

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**voter shows up at the polls, the fraud will be discovered.**

Weiser believes court proceedings in election contests are especially useful. Some are very extensive, with hundreds of voters brought up by each side and litigated. In both pre-election challenges and post-election contests, **parties have devoted extraordinary resources into 'smoking out' fraudulent voters.** Justin Leavitt at Brennan scoured such proceedings for the Carter Baker report, which includes these citations. Contact him for answers to particular questions.

Countermeasures/statewide databases

Brennan has also considered what **states are doing to combat impersonation fraud besides photo ID laws**, although again, it seems to be the rarest kind of fraud, beyond statistically insignificant. In the **brief Brennan filed in the Georgia case, the Center detailed what states are already doing to effectively address fraud.** In another **on the web site includes measures that can be taken that no states have adopted yet.** Weiser adds that an effort to look at strategies states have to prevent fraud, state variations, effectiveness, ease of enforcement would be very useful.

Weiser believes the **best defense against fraud will be better voter lists**—she argues the fraud debate is actually premature because states have yet to fully implement the HAVA database requirement. This should eliminate a great deal of 'deadwood' on voter rolls and undermine the common argument that fraud is made possible by this deadwood. This was the experience for Michigan, which was able to remove 600,000 names initially, and later removed almost 1 million names from their rolls. It is fairly easy to cull deadwood from lists due to consolidation at the state level—most deadwood is due to individuals moving within the state and poor communication between jurisdictions. (Also discuss with Chris Thomas, who masterminded the Michigan database for more information and a historical perspective.)

Regarding the question of whether the effect of this maintenance on fraud in Michigan can be quantified, Weiser would caution against drawing direct lines between list problems and fraud. **Brennan has found various groups abusing the existence of list deadwood to make claims about fraudulent voting.** This is analyzed in greater detail in the Brennan Center's critique of a purge list produced by the NJ Republican party, and was illustrated by the purge list produced by the state of Florida. **When compiling such lists and doing comparisons, sound statistical methods must be utilized, and often are not.**

**The NJ GOP created a list and asked NJ election officials to purge names of ineligible voters on it. Their list assumed that people appearing on the list twice had voted twice. Brennan found their assumptions shoddy and based on incorrect statistical practices, such as treating individuals with the same name and birthdays as duplicates, although this is highly unlikely according to proper statistical methods. Simply running algorithms on voter lists creates a number of false positives, does not provide an accurate basis for purging, and should not be taken as an indicator of fraud.**

**Regarding the Florida purge list, faulty assumptions caused the list to systematically exclude Hispanics while overestimating African Americans. Matching protocols required that race fields match exactly, despite inconsistent fields across databases.**

The kinds of list comparisons that are frequently done to allege fraud are unreliable. Moreover, **even if someone is on a voter list twice, that does not mean that voter has voted twice. That, in fact, is almost never the case.**

Ultimately, **even matching protocols without faulty assumptions will have a 4 percent to 35 percent error rate —that's simply the nature of database work. Private industry has been working on improving this for years. Now that HAVA has introduced a matching requirement, even greater skepticism is called for in judging the accuracy of list maintenance.**

Intimidation and Suppression

Brennan does not have a specific focus here, although they do come across it and have provided assistance on bills to prevent suppression and intimidation. They happen to have an **extensive paper file of intimidating fliers and related stories from before the 2004 election.** (They can supply copies after this week).

Challengers

**Brennan has analyzed cases where challenger laws have been beneficial and where they have been abused. See the decision and record**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

from the 1982 NJ vs. RNC case for some of the history of these laws. **Brennan is currently working on developing a model challenger law.** Weiser believes challenge laws with no requirement that the challenger have any specific basis for the challenge or showing of **ineligibility are an invitation to blanket harassing challenges and have a range of pitfalls.** State laws are vague and broad and often involve arcane processes such as where voters are required to meet a challenge within 5 days. There are **incentives for political abuse, potential for delaying votes and disrupting the polls, and they are not necessarily directed toward the best result.** Furthermore, **when a voter receives a mailer alleging vote fraud with no basis, even the mere fact of a challenge can be chilling.** A voter does not want to have to go through a quasi-court proceeding in order to vote.

**Brennan recommends challenge processes that get results before election, minimize the burden for voters, and are restricted at polling place to challenges by poll workers and election officials, not voters.** They believe limitless challenges can lead to pandemonium—that once the floodgates are open they won't stop.

Recommendations

- **Intimidation— Weiser believes Sen. Barak Obama's bill is a good one for combating voter harassment and deceptive practices. Many jurisdictions do not currently have laws prohibiting voter harassment and deceptive practices.**
- **Fraud— Current state and federal codes seem sufficient for prosecuting fraud. Weiser doesn't consider them under-enforced, and sees no need for additional laws.**
- **Voter lists— New legislation or regulations are needed to provide clear guidance and standards for generating voter lists and purging voters, otherwise states could wrongfully disenfranchise eligible voters.**
- **Challengers—Challenge laws need to be reformed, especially ones that allow for pre-election mass challenges with no real basis. There is no one size fits all model for challenger legislation, but some bad models involving hurdles for voters lead to abuse and should be reformed. There should be room for poll workers to challenge fraudulent voters, but not for abuse.**

**Also useful would be recommendations for prosecutors investigating fraudulent activity, How should they approach these cases? How should they approach cases of large scale fraud/intimidation? While there is sufficient legislative cover to get at any election fraud activity, questions remain about what proper approaches and enforcement strategies should be.**

William Groth, attorney for the plaintiffs in the Indiana voter identification litigation

Fraud in Indiana

**Indiana has never charged or prosecuted anyone for polling place fraud. Nor has any empirical evidence of voter impersonation fraud or dead voter fraud been presented.** In addition, there is no record of any credible complaint about voter impersonation fraud in Indiana. State legislators signed an affidavit that said there had never been impostor voting in Indiana. At the same time, the Indiana Supreme Court has not necessarily required evidence of voter fraud before approving legislative attempts to address fraud.

**The state attorney general has conceded that there is no concrete fraud in Indiana, but has instead referred to instances of fraud in other states.** Groth filed a detailed motion to strike evidence such as John Fund's book relating to other states, arguing that none of that evidence was presented to the legislature and that it should have been in the form of sworn affidavits, so that it would have some indicia of verifiability.

Photo ID law

**By imposing restrictive ID measures, Groth contends you will discourage 1,000 times more legitimate voters than illegitimate voters you might protect against.** He feels the implementation of a REAL ID requirement is an inadequate justification for the law, as it will not affect the upcoming 2006 election where thousands of registered voters will be left without proper ID. In addition, he questions whether REAL ID will be

008141

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

implemented as planned in 2008 considering the backlash against the law so far. **He also feels ID laws are unconstitutional because of inconsistent application.**

Statewide database as remedy

Groth believes **many problems will be addressed by the statewide database required under HAVA.** To the extent that the rolls in Indiana are bloated, it is because state officials have not complied with NVRA list maintenance requirements. Thus, it is somewhat disingenuous for them to use bloated voter rolls as a reason for imposing additional measures such as the photo ID law. Furthermore, the state has ceded to the counties the obligation to do maintenance programs, which results in a hit or miss process (see discussion in reply brief, p 26 through p. 28).

Absentee fraud

**To the extent that there has been an incidence of fraud, these have all been confined to absentee balloting.** Most notably the East Chicago mayoral election case where courts found absentee voting fraud had occurred. See: Pabey vs. Pastrick 816 NE 2<sup>nd</sup> 1138 Decision by the Indiana Supreme Court in 2004.

Intimidation and vote suppression

**Groth is only aware of anecdotal evidence supporting intimidation and suppression activities.** While he considers the sources of this evidence credible, it is still decidedly anecdotal. Instances he is aware of include **police cars parked in front of African American polling places.** However, **most incidents of suppression which are discussed occurred well in the past.** Trevor Davidson claims a fairly large scale intimidation program in Louisville.

Challengers

There was **widespread information that the state Republican Party had planned a large scale challenger operation in Democratic precincts for 2004, but abandoned the plan at the last minute.**

Last year the legislature made a crucial change to election laws which will allow partisan challengers to be physically inside the polling area next to members of the precinct board. **Previously, challengers at the polling place have been restricted to the 'chute,'** which provides a buffer zone between voting and people engaging in political activity. That change will make it **much easier to challenge voters.** As there is no recorded legislative history in Indiana, it is difficult to determine the justification behind this change. As both chambers and the governorship are under single-party control, the challenger statute was passed under the radar screen.

Photo ID and Challengers

Observers are especially concerned **about how this change will work in conjunction with the photo ID provision.** Under the law, there are at least two reasons why a member of the precinct board or a challenger can raise object to an ID: whether a presented ID conforms to ID standards, and whether the photo on an ID is actually a picture of the voter presenting it. The law does not require bipartisan agreement that a challenge is valid. **All it takes is one challenge to raise a challenge to that voter, and that will lead to the voter voting by provisional ballot.**

**Provisional ballot voting means that voter must make a second trip to the election board (located at the county seat) within 13 days to produce the conforming ID or to swear out an affidavit that they are who they claim to be.** This may pose a considerable burden to voters. For example, Indianapolis and Marion County are coterminous—anyone challenged under the law will be required to make second trip to seat of government in downtown Indianapolis. If the voter in question did not have a driver's license in the first place, they will likely need to arrange transportation. Furthermore, in most cases the election result will already be known.

The law is **vague about acceptable cause for challenging a voter's ID.** Some requirements for valid photo ID include being issued by state or fed gov't, w/ expiration date, and the names must conform exactly. **The League of Women Voters is concerned about voters with hyphenated names, as the Indiana DMV fails to put hyphens on driver's licenses potentially leading to a basis for challenge.** Misspelling of names would also be a problem. The other primary mode of challenge is saying the photo doesn't look like the voter, which could be happen in a range of instances. Essentially, the law gives unbridled discretion to challengers to decide what conforms and what does not.

008142

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Furthermore, there is **no way to determine whether a challenge is in good or bad faith, and *there is* little penalty for making a bad faith challenge.** The fact that there are no checks on the challenges at the precinct level, or even a requirement of concurrence from an opposing party challenger leads to the concern that challenge process will be abused. The voter on the other hand, will need to get majority approval of county election board members to defeat the challenge.

Groth suggests the political situation in Indianapolis also presents a temptation to abuse this process, as electoral margins are growing increasingly close due to shifting political calculus.

Other cases

Groth's other election law work has included a redistricting dispute, a dispute over ballot format, NVRA issues, and a case related to improper list purging, but nothing else related to fraud or intimidation. The purging case involved the election board attempting to refine its voter list by sending registration postcards to everyone on the list. When postcards didn't come back they wanted to purge those voters. Groth blames this error more on incompetence, than malevolence, however, as the county board is bipartisan. (The Indiana Election Commission and the Indiana election division are both bipartisan, but the 92 county election boards which will be administering photo id are controlled by one political party or the other—they are always an odd number, with the partisan majority determined by who controls the clerk of circuit court office.)

Recommendations

- **Supports nonpartisan administration of elections.**
- Indiana specific recommendations including a longer voting day, time off for workers to vote, and an extended registration period.
- He views the central problem of the Indiana photo ID law is that the list of acceptable forms of ID is too narrow and provides no fallback to voters without ID. At the least, he believes the state **needs to expand the list so that most people will have at least one.** If not, **they should be allowed to swear an affidavit regarding their identity, under penalty of perjury/felony prosecution. This would provide sufficient deterrence for anyone considering impersonation fraud. He believes absentee ballot fraud should be addressed by requiring those voters to produce ID as well, as under HAVA.**
- His personal preference would be **signature comparison.** Indiana has never encountered an instance of someone trying to forge a name in the poll book, and while this leaves open the prospect of dead voters, that danger will be substantially diminished by the statewide database. But if we are going to have some form of ID, he believes we should apply it to everyone and avoid disenfranchisement, provided they swear an affidavit.

Lori Minnite, Barnard College, Columbia University

Securing the Vote

In Securing the Vote, Ms. Minnite found very little evidence of voter fraud because the historical conditions giving rise to fraud have weakened over the past twenty years. She stated that for fraud to take root a conspiracy was needed with a strong local political party and a complicit voter administration system. Since parties have weakened and there has been much improvement in the administration of elections and voting technology, the conditions no longer exist for large scale incidents of polling place fraud. Ms. Minnite concentrates on fraud committed by voters not fraud committed by voting officials. She has looked at this issue on the national level and also concentrated on analyzing certain specific states. Ms. Minnite stressed that it is important to keep clear who the perpetrators of the fraud are and where the fraud occurs because that effects what the remedy should be. Often, voters are punished for fraud committed by voting officials.

Other Fraud Issues

Ms. Minnite found no evidence that NVRA was leading to more voter fraud. She supports non-partisan election administration. Ms.

008143

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Minnite has found evidence that there is absentee ballot fraud. She can't establish that there is a certain amount of absentee ballot fraud or that it is the major kind of voter fraud.

Recommendations

- Assure there are accurate voter records and centralize voter databases
- Reduce partisanship in electoral administration.

Neil Bradley, ACLU Voting Rights Project

Voter Impersonation Cases (issue the Georgia ID litigation revolves around)

Mr. Bradley asserted that Georgia **Secretary of State Cox** stated in the case at issue: that she clearly would know if there had been any instances of voter impersonation at the polls; that she works very closely with the county and local officials and she **would have heard about voter impersonation** from them if she did not learn about it directly; and that she said that she had not heard of "any incident"---which includes acts that did not rise to the level of an official investigation or charges.

Mr. Bradley said that it is also **possible to establish if someone has impersonated another voter at the polls. Officials must check off the type of voter identification the voter used. Voters without ID may vote by affidavit ballot. One could conduct a survey of those voters to see if they in fact voted or not.**

The type of **voter fraud that involves impersonating someone else is very unlikely to occur.** If someone wants to steal an election, it is **much more effective to do so using absentee ballots.** In order to change an election outcome, one must steal many votes. Therefore, one would have to have lots of people involved in the enterprise, meaning there would be many people who know you committed a felony. It's simply not an efficient way to steal an election.

Mr. Bradley is not aware of any instance of voter impersonation anywhere in the country except in local races. **He does not believe it occurs in statewide elections.**

Voter fraud and intimidation in Georgia

Georgia's **process for preventing ineligible ex-felons from casting ballots has been improved** since the Secretary of State now has the power to create the felon purge list. When this was the responsibility of the counties, there were many difficulties in purging felons because local officials did not want to have to call someone and ask if he or she was a criminal.

The **State Board of Elections has a docket of irregularity complaints. The most common involve an ineligible person mailing in absentee ballots on behalf of another voter.**

In general, Mr. Bradley **does not think voter fraud and intimidation is a huge problem in Georgia** and that people have confidence in the vote. The biggest problems are the new ID law; misinformation put out by elections officials; and **advertisements that remind people that vote fraud is a felony, which are really meant to be intimidating. Most fraud that does occur involves an insider, and that's where you find the most prosecutions. Any large scale fraud involves someone who knows the system or is in the courthouse.**

Prosecution of Fraud and Intimidation

Mr. Bradley stated that **fraud and intimidation are hard to prosecute.** However, Mr. Bradley made contradictory statements. When asked whether the decision to prosecute on the county level was politically motivated, he first said "no." Later, Mr. Bradley reversed himself stating the opposite.

Mr. Bradley also stated that **with respect to US Attorneys, the message to them from the top is that this is not a priority. The Georgia ACLU has turned over information about violations of the Voting Rights Act that were felonies, and the US Attorney has done nothing with the information. The Department of Justice has never been very aggressive in pursuing cases of vote suppression, intimidation**



EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

and fraud. But, the Georgia ACLU has not contacted Craig Donsanto in DC with information of voter fraud. Mr. Bradley believes that **voter fraud and intimidation is difficult to prove. It is very hard to collect the necessary factual evidence to make a case, and doing so is very labor-intensive.**

Recommendations

In Georgia, the Secretary of State puts a lot of work into training local officials and poll workers, and much of her budget is put into that work. **Increased and improved training of poll workers**, including training on how to respectfully treat voters, is the most important reform that could be made. Mr. Bradley also suggested that **increased election monitoring** would be helpful.

Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

Ms. Perales **did not seem to have a sense of the overall electoral issues in her working region (the southwest) effecting Hispanic voters and did not seem to want to offer her individual experiences** and work activities as necessarily a perfect reflection of the challenges Hispanic voters face.

Largest Election Problems Since 2000

- **Santa Anna County, New Mexico-2004-intimidated voters by video taping them.**
- **San Antonio-One African American voter subjected to a racial slur.**
- **San Antonio-Relocated polling places at the last minute without Section 5 pre-clearance.**
- **San Antonio-Closed polls while voters were still in line.**
- **San Antonio-2003-only left open early voting polls in predominantly white districts.**
- **San Antonio-2005-racially contested mayoral run-off election switched from touch screen voting to paper ballots.**

Voter Fraud and Intimidation

In Texas, the counties are refusing to open their records with respect to **Section 203 compliance (bilingual voting assistance)**, and those that did respond to MALDEF's request submitted incomplete information. Ms. Perales **believes this in itself is a form of voter intimidation.**

Ms. Perales said it is **hard to say if the obstacles minorities confront in voting are a result of intentional acts or not because the county commission is totally incompetent.** There have continuously been problems with too few ballots, causing long lines, especially in places that had historically lower turnout. There is no formula in Texas for allocating ballots – each county makes these determinations.

When there is not enough language assistance at the polls, **forcing a non-English speaker to rely on a family member to vote, that can suppress voter turnout.**

Ms. Perales is **not aware of deceptive practices or dirty tricks targeted at the Latino community.**

There have been **no allegations of illegal noncitizen voting in Texas.** Indeed, the sponsor of a bill that would require **proof of citizenship to vote could not provide any documentation of noncitizen voting in support of the bill.** The bill was defeated in part because of the racist comments of the sponsor. In Arizona, such a measure was passed. Ms. Perales was only **aware of one case of noncitizen voting in Arizona, involving a man of limited mental capacity who said he was told he was allowed to register and vote.** Ms. Perales believes **proof of citizenship requirements discriminate against Latinos.**

Recommendations

Ms. Perales feels the **laws are adequate**, but that **her organization does not have enough staff to do the monitoring necessary. This could be done by the federal government.** However, even though the Department of Justice is focusing on Section 203 cases now, they have not even begun to scratch the surface. Moreover, the **choices DOJ has made with respect to where they have brought claims do not seem to be based on any systematic analysis of where the biggest problems are.** This may be because the administration is so ideological and partisan.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Ms. Perales does not believe making election administration nonpartisan would have a big impact. In Texas, administrators are appointed in a nonpartisan manner, but they still do not always have a nonpartisan approach. Each administrator tends to promote his or her personal view regardless of party.

Pat Rogers, attorney, New Mexico

Major issues in NM w/ regard to vote fraud

**Registration fraud seems to be the major issue**, and while the legislature has taken some steps, Rogers is skeptical of the effect they will have, considering the history of unequal application of election laws. He also believes there are **holes in the 3<sup>rd</sup> party registration requirement deadlines**.

Rogers **views a national law requiring ID as the best solution to registration problems**. Rather than imposing a burden he contends it will enhance public confidence in the simplest way possible.

Registration Fraud in 2004 election

It came to light that **ACORN had registered a 13 year old**. The father was an **APD officer and received the confirmation**, but it was sent to the next door address, a vacant house. They traced this to an **ACORN employee and it was established that this employee had been registering others under 18**.

Two weeks later, in a crack cocaine bust of Cuban nationals, one of those raided said his job was registering voters for ACORN, and the police found signatures in his possession for fictitious persons.

**In a suspicious break-in at an entity that advertised itself as nonpartisan, only GOP registrations were stolen.**

In another instance, a college student was allegedly fired for registering too many Republicans.

Rogers said he believed these workers were paid by the registration rather than hourly.

There have been **no prosecution or convictions related to these incidents**. In fact, there have been no prosecutions for election fraud in New Mexico in recent history. However, Rogers is skeptical that much action can be expected considering the positions of Attorney General, Governor, and Secretary of State are all held by Democrats. Nor has there been any interest from the U.S. attorney—**Rogers heard that U.S. attorneys were given instruction to hold off until after the election in 2004 because it would seem too political**.

As part of the case against the Secretary of State regarding the identification requirement, the parties also sued ACORN. At a hearing, the head of ACORN, and others aligned with the Democratic Party called as witnesses, took the 5<sup>th</sup> on the stand as to their registration practices.

Other incidents

**Very recently, there have been reports of vote buying in the town of Espanola. Originally reported by the Rio Grande Sun, a resident of a low-income housing project is quoted as saying it has been going on for 10-12 years. The Albuquerque Journal is now reporting this as well. So far the investigation has been extremely limited.**

In 1996, there were some prosecutions in Espanola, where a state district judge found registration fraud.

In 1991, the chair of Democratic Party of Bertolino County was convicted on fraud. Yet she was pardoned by Clinton on same day as Marc Rich.

Intimidation/Suppression

Rogers believes the most notable example of intimidation in the 2004 election was the discovery of a DNC Handbook from Colorado advising Democratic operatives to widely report intimidation regardless of confirmation in order to gain media attention.

In-person polling place fraud

There have only been isolated instances of people reporting that someone had voted in their name, and Rogers doesn't believe there is any large scale conspiracy. Yet he contends that perspective misses the larger point of voter confidence. Although there has been a large

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

public outcry for voter ID in New Mexico, it has been deflected and avoided by Democrats.

In 2004, there were more Democratic lawyers at the polls than there are lawyers in New Mexico. Rogers believes these lawyers had a positive impact because they deterred people from committing bad acts.

Counting Procedures

The **Secretary of State has also taken the position that canvassing of the vote should be done in private.** In NM, they have a 'county canvas' where they review and certify, after which all materials—machine tapes, etc.—are centralized with the Secretary of State who does a final canvass for final certification. Conducting this in private is a serious issue, especially considering the margin in the 2000 presidential vote in New Mexico was only 366 votes. **They wouldn't be changing machine numbers, but paper numbers are vulnerable.**

On a related note, NM has adopted state procedures that will ensure their reports are slower and very late, considering the 2000 late discovery of ballots. In a close race, potential for fraud and mischief goes up astronomically in the period between poll closing and reporting. Rogers believes these changes are going to cause national embarrassment in the future.

Rogers attributes other harmful effects to what he terms the Secretary of State's incompetence and inability to discern a nonpartisan application of the law. **In the 2004 election, no standards were issued for counting provisional ballots.** Furthermore, the Secretary of State spent over \$1 million of HAVA money for 'voter education' in blatant self-promotional ads.

Recommendations

- Rogers believes it would be unfeasible to have nonpartisan election administration and favors transparency instead. To make sure people have confidence in the election, there must be transparency in the whole process. Then you don't have the 1960 vote coming down to Illinois, or the Espanola ballot or Dona Anna County (ballots found there in the 2000 election). HAVA funds should also be restricted when you have an incompetent, partisan Secretary of State.
- There should be national standards for reporting voting results so there is less opportunity for fraud in a close race. Although he is not generally an advocate of national laws, he does agree there should be more national uniformity into how votes are counted and recorded.

Rebecca Vigil-Giron, Secretary of State, New Mexico

Complaints of election fraud and intimidation are filed with the SOS office. She then decides whether to refer it to the local district attorney or the attorney general. Because the complaints are few and far between, the office does not keep a log of complaints; however, they do have all of the written complaints on file in the office.

Incidents of Fraud and Intimidation

During the 2004 election, there were a couple of complaints of polling place observers telling people outside the polling place who had just voted, and then the **people outside were following the voters to their cars and videotaping them. This happened in areas that are mostly second and third generation Latinos.** The Secretary sent out the sheriff in one instance of this. The perpetrators moved to a different polling place. This was the **only incident of fraud or intimidation Vigil-Giron was aware of in New Mexico.**

There have **not been many problems on Native reservations because, unlike in many other states, in New Mexico the polling place is on the reservation and is run by local Native Americans.** Vigil-Giron said that it does not make sense to have non-Natives running those polls because it is necessary to have people there who can translate. Because most of the languages are unwritten, the HAVA requirement of accessibility through an audio device will be very helpful in this regard. Vigil-Giron said she was surprised to learn while testifying at the Voting Rights Act commission hearings of the lack of sensitivity to these issues and the common failure to provide assistance in language minority areas.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

In 2004 the U.S. Attorney, a Republican, suddenly announced he was launching an investigation into voter fraud without consulting the Secretary of State's office. After all of that, there was maybe one prosecution. Even the allegations involving third party groups and voter registration are often misleading. People doing voter registration drives encourage voters to register if they are unsure if they are already registered, and the voter does not even realize that his or her name will then appear on the voter list twice. The bigger problem is where registrations do not get forwarded to election administrators and the voter does not end up on the voting list on Election Day. This is voter intimidation in itself, Vigil-Giron believes. It is very discouraging for that voter and she wonders whether he or she will try again.

Under the bill passed in 2004, third parties are required to turn around voter registration forms very quickly between the time they get them and when they must be returned. If they fail to return them within 48 hours of getting them, they are penalized. This, Vigil-Giron believes, is unfair. She has tried to get the Legislature to look at this issue again.

Regarding allegations of vote buying in Espanola, Vigil-Giron said that the Attorney General is investigating. The problem in that area of New Mexico is that they are still using rural routes, so they have not been able to properly district. There has, as a result, been manipulation of where people vote. Now they seem to have pushed the envelope too far on this. The investigation is not just about vote buying, however. There have also been allegations of voters being denied translators as well as assistance at the polls.

Vigil-Giron believes there was voter suppression in Ohio in 2004. County officials knew thirty days out how many people had registered to vote, they knew how many voters there would be. Administrators are supposed to use a formula for allocation of voting machines based on registered voters. Administrators in Ohio ignored this. As a result, people were turned away at the polls or left because of the huge lines. This, she believes, was a case of intentional vote suppression.

A few years ago, Vigil-Giron heard that there may have been people voting in New Mexico and a bordering town in Colorado. She exchanged information with Colorado administrators and it turned out that there were no cases of double voting.

Recommendations

- Vigil-Giron believes that linking voter registration databases across states may be a way to see if people who are registered twice are in fact voting twice.
- The key to improving the process is better trained poll workers, who are certified, and know what to look for on Election Day. These poll workers should then work with law enforcement to ensure there are no transgressions.
- There should be stronger teeth in the voter fraud laws. For example, it should be more than a fourth degree felony, as is currently the case.

Sarah Ball Johnson, Executive Director of the State Board of Elections, Kentucky

Procedures for Handling Fraud

Fraud complaints are directed first to the state Board of Elections. Unlike boards in other states, Kentucky's has no investigative powers. Instead, they work closely with both the Attorney General and the U.S. Attorney. Especially since the current administration took office, they have found the U.S. Attorney an excellent partner in pursuing fraud cases, and have seen many prosecutions in the last six years. She believes that there has been no increase in the incidence of fraud, but rather the increase in prosecutions is related to increased scrutiny and more resources.

Major Types of Fraud and Intimidation

Johnson says that vote buying and voter intimidation go hand in hand in Kentucky. While historically fraud activity focused on election day, in the last 20 years it has moved into absentee voting. In part, this is because new voting machines aren't easy to manipulate in the way

08148

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

that paper ballots were open to manipulation in the past, especially in distant rural counties. For this reason, she is troubled by the proliferation of states with early voting, but notes that there is a difference between absentee ballot and early voting on machines, which is far more difficult to manipulate.

Among the cases of absentee ballot fraud they have seen, **common practice involves a group of candidates conspiring together to elect their specific slate. Nursing homes are an especially frequent target.** Elderly residents request absentee ballots, and then workers show up and 'help' them vote their ballots. **Though there have been some cases in the Eastern district of election day fraud, most have been absentee.**

Johnson argues that it is **hard to distinguish between intimidation and vote buying.** They have also seen instances where **civic groups and church groups intimidate members to vote in a specific manner, not for reward, but under threat of being ostracized or even telling them they will go to hell.**

While she is **aware of allegations of intimidation by the parties regarding minority precincts in Louisville, the board hasn't received calls about it and there haven't been any prosecutions.**

Challengers

**Challengers are permitted at the polls in Kentucky.** Each party is allowed two per location, and they must file proper paperwork. **There is a set list of defined reasons for which they can challenge a voter, such as residency, and the challengers must also fill out paperwork to conduct a challenge.**

As for allegations of challengers engaging in intimidation in minority districts, Johnson notes that challengers did indeed register in Jefferson County, and filed the proper paperwork, although they ultimately did not show up on election day.

She finds that **relatively few challengers end up being officially registered, and that the practice has grown less common in recent years.** This is due more to a change of fashion than anything. And after all, **those wishing to affect election outcomes have little need for challengers in the precinct when they can target absentee voting instead.**

In the event that intimidation is taking place, **Kentucky has provisions to remove disruptive challengers, but this hasn't been used to her knowledge.**

Prosecutions

**Election fraud prosecutions in Kentucky have only involved vote buying.** This may be because that it is easier to investigate, by virtue of a cash and paper trail which investigators can follow. It is difficult to quantify any average numbers about the practice from this, due in part to the five year statute of limitations on vote buying charges. However, she does not believe that vote-buying is pervasive across the state, but rather confined to certain pockets.

Vote-hauling Legislation

**Vote hauling is a common form of vote buying by another name. Individuals are legally paid to drive others to the polls, and then divide that cash in order to purchase votes.** Prosecutions have confirmed that vote hauling is used for this purpose. While the Secretary of State has been committed to legislation which would ban the practice, it has failed to pass in the past two sessions.

Paying Voter Registration Workers Legislation

**A law forbidding people to pay workers by the voter registration card or for obtaining cards with registrations for a specific party was passed this session.** Individuals working as part of a registration campaign may still be paid by hour. Kentucky's experience in the last presidential election illustrates the problems arising from paying individuals by the card. That contest included a constitutional amendment to ban gay marriage on the ballot, which naturally attracted the attention of many national groups. **One group paying people by the card resulted in the registrar being inundated with cards, including many duplicates in the same bundle, variants on names, and variants on addresses. As this practice threatens to overwhelm the voter registration process, Kentucky views it as constituting malicious fraud.**

Deceptive practices

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**Other than general reports in the news, Johnson hasn't received any separate confirmation or reports of deceptive practices, i.e., false and misleading information being distributed to confuse voters.**

Effect of Kentucky's Database

Johnson **believes Kentucky's widely praised voter registration database is a key reason why the state doesn't have as much fraud as it might, especially the types alleged elsewhere like double and felon voting.** While no database is going to be perfect, the connections with other state databases such as the DMV and vital statistics have been invaluable in allowing them to aggressively purge dead weight and create a cleaner list. When parties use their database list they are notably more successful. Johnson wonders how other states are able to conduct elections without a similar system.

**Some factors have made especially important to their success.**

- **When the database was instituted in 1973, they were able to make everyone in the state re-register and thus start with a clean database. However, it is unlikely any state could get away with this today.**
- She is also a big supporter of a **full Social Security number standard**, as practiced in Kentucky. The full Social Security, which is compared to date of birth and letters in the first and last name, automatically makes matching far more accurate. The huge benefits Kentucky has reaped make Johnson skeptical of privacy concerns arguing for an abbreviated Social Security number. Individuals are willing to submit their Social Security number for many lesser purposes, so why not voting? And in any event, they **don't require a Social Security number to register (unlike others such as Georgia). Less than a percent of voters in Kentucky are registered under unique identifiers, which the Board of Elections then works to fill in the number through cross referencing with the DMV.**

Recommendations

- Johnson believes the backbone of effective elections administration must be **standardized procedures, strong record keeping, and detailed statutes. In Kentucky, all counties use the same database and the same pre election day forms. Rather than seeing that as oppressive, county officials report that the uniformity makes their jobs easier.**
- This philosophy **extends to the provisional ballot question.** While they did not have a standard in place like HAVA's at the time of enactment, they worked quickly to put a uniform standard in place.
- They have also **modified forms and procedures based on feedback from prosecutors.** Johnson believes a **key to enforcing voting laws is working with investigators and prosecutors and ensuring that they have the information they need to mount cases.**
- She also believes **public education** is important, and that **the media could do more to provide information about what is legal and what is illegal.** Kentucky tries to fulfill this role by **information in polling places, press releases, and high profile press conferences before elections. She notes that they deliberately use language focusing on fraud and intimidation.**
- Johnson is somewhat **pessimistic about reducing absentee ballot fraud.** Absentee ballots do have a useful function for the military and others who cannot get to the polling place, and **motivated individuals will always find a way to abuse the system if possible. At a minimum, however, she recommends that absentee ballots should require an excuse. She believes this has helped reduce abuse in Kentucky, and is wary of no-excuse practices in other states.**

Stephen Ansolobhere, Massachusetts Institute of Technology

Chandler Davidson, Rice University

Methodology suggestions

In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. **In criminology, experts use two sources:**

008150

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that asks whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. Mr. Ansolobehere recommended Jonathan Krosnick, Doug Rivers, and Paul Sniderman at Stanford; Donald Kinder and Arthur Lupia at Michigan; Edward Carmines at Indiana; and Phil Tetlock at Berkeley. In the alternative, Mr. Ansolobehere suggested that the EAC might work with the Census Bureau to have them ask different, additional questions in their Voter Population Surveys.

Mr. Chandler further suggested it is important to talk to private election lawyers, such as Randall Wood, who represented Ciro Rodriguez in his congressional election in Texas. Mr. Ansolobehere also recommended looking at experiments conducted by the British Election Commission.

Incidents of Fraud and Intimidation

Mr. Davidson's study for the Lawyers Committee for Civil Rights on the Voting Rights Act documented evidence of widespread difficulty in the voting process. However, he did not attempt to quantify whether this was due to intentional, malevolent acts. In his 2005 report on ballot security programs, he found that there were many allegations of fraud made, but not very many prosecutions or convictions. He saw many cases that did go to trial and the prosecutors lost on the merits.

In terms of voter intimidation and vote suppression, Mr. Davidson said he believes the following types of activities do occur:

- videotaping of voters' license plates;
- poll workers asking intimidating questions;
- groups of officious-looking poll watchers at the poll sites who seem to be some sort of authority looking for wrongdoing;
- spreading of false information, such as phone calls, flyers, and radio ads that intentionally mislead as to voting procedures.

Mr. Ansolobehere believes the biggest problem is absentee ballot fraud. However, many of these cases involve people who do not realize what they are doing is illegal, for example, telling someone else how to vote. Sometimes there is real illegality occurring however.

For example:

- vote selling involving absentee ballots,
- the filling out of absentee ballots en masse,
- people at nursing homes filling out the ballots of residents, and
- there are stories about union leaders getting members to vote a certain way by absentee ballot.

This problem will only get bigger as more states liberalize their absentee ballot rules. Mr. Chandler agreed that absentee ballot fraud was a major problem.

Recommendations

- Go back to "for cause" absentee ballot rules, because it is truly impossible to ever ensure the security of a mail ballot. Even in Oregon, there was a study showing fraud in their vote by mail system.
- False information campaigns should be combated with greater voter education. Los Angeles County's voter education program should be used as a model.

Tracey Campbell, author, *Deliver the Vote*

While less blatant than in previous eras, fraud certainly still occurs, and he mentions some examples in his book. The major trend of the past 60-70 years has been that these tactics have grown more subtle.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

While he hasn't conducted any scientific study of the current state of fraud, his sense as a historian is that it seems naive, after generations of watching the same patterns and practices influence elections, to view suspect election results today as merely attributable to simple error.

Vote-buying and absentee fraud

Campbell sees fraud by absentee ballot and vote buying as the greatest threats to fair elections today. He says vote fraud is like real estate: location, location, location—the closer you can keep the ballots to the courthouse the better. Absentee ballots create a much easier target for vote brokers who can manage voting away from the polling place, or even mark a ballot directly, in exchange for, say, \$50—or even more if an individual can bring their entire family. He has noted some small counties where absentee ballots outnumber in-person ballots.

However, few people engaged in this activity would call it 'purchasing' a vote. Instead, it is candidate Jones' way of 'thanking' you for a vote you would have cast in any event. The issue is what happens if candidate Smith offers you more. Likewise, the politicians who engage in vote fraud don't see it as a threat to the republic but rather as a game they have to play in order to get elected.

Regional patterns

Campbell suggests such practices are more prevalent in the South than the Northern states, and even more so compared to the West. The South has long been characterized as particularly dangerous in intimidation and suppression practices—throughout history, one can find routine stories of deaths at the polls each year. While he maintains that fraud seems less likely in the Western states, he sees the explosion of mail in and absentee ballots there as asking for trouble.

Poll site closings as a means to suppress votes

Campbell points to a long historical record of moving poll sites in order to suppress votes. Polling places in the 1800s were frequently set-up on rail cars and moved further down the line to suppress black votes. He would include door-to-door canvassing practices here, as well as voting in homes, which was in use in Kentucky until only a few years ago. All of these practices have been justified as making polling places 'more accessible' while their real purpose has been to suppress votes.

Purge lists

Purge lists are, of course, needed in theory, yet Campbell believes the authority to mark names off the voter rolls presents extensive opportunity for abuse. For this reason, purging must be done in a manner that uses the best databases, and looks at only the most relevant information. When voters discover their names aren't on the list when they go to vote, for example, because they are "dead," it has a considerable demoralizing effect. Wrongful purging takes place both because of incompetence and as a tool to intentionally disenfranchise.

Campbell believes transparency is the real issue here. An hour after the polls close, we tend to just throw up our hands and look the other way, denying voters the chance to see that discrepancies are being rectified. He believes the cost in not immediately knowing election outcomes is a small price to pay for getting results right and showing the public a transparent process.

Deceptive practices

Today's deceptive practices have are solidly rooted in Reconstruction-era practices—i.e. phony ballots, the Texas 'elimination' ballot. The ability to confuse voters is a powerful tool for those looking to sway elections.

Language minorities

Campbell argues there is a fine line between offering help to non-English speakers and using that help against them. A related issue, particularly in the South, is taking advantage of the illiterate.

Current intimidation

Another tactic Campbell considers an issue today is polling place layout: the further vote suppressers can keep people away from the



EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

polls, the better. Practices such as **photographing people leaving a polling place may also tie into vote-buying, where photos are used to intimidate and validate purchased votes. A good way to combat such practices is by keeping electioneering as far from the polls as possible.**

Recommendations

- Specific voting administration recommendations Campbell advocates would include **reducing the use of absentee ballots and improving the protective zone around polling places.**
- Campbell would also like to see **enforcement against fraud stepped up and stiffer penalties enacted, as current penalties make the risk of committing fraud relatively low.** He compares the risk in election fraud similar to steroid use in professional sports—the potential value of the outcome is far higher than the risk of being caught or penalized for the infraction, so it is hard to prevent people from doing it. People need to believe they will pay a price for engaging in fraud or intimidation. Moreover, we need to have the will to kick people out of office if necessary.
- He is **skeptical of the feasibility of nonpartisan election administration**, as he believes it would be difficult to find people who care about politics yet won't lean one way or the other—such an attempt would be unlikely to get very far before accusations of partisanship emerged. He **considers the judiciary the only legitimate check on election fraud.**

Douglas Webber, Assistant Attorney General, Indiana, (defendant in the Indiana voter identification litigation)

Litigation

Status of litigation in Indiana: On January 12 the briefing was completed. The parties are waiting for a decision from the U.S. district judge. The judge understood that one of the parties would seek a stay from the 7<sup>th</sup> Circuit Court of Appeals. The parties anticipate a decision in late March or early April. Mr. Webber did the discovery and depositions for the litigation. Mr. Webber feared the plaintiffs were going to state in their reply brief that HAVA's statewide database requirement would resolve the problems alleged by the state. However, the plaintiffs failed to do so, relying on a Motor Voter Act argument instead. **Mr. Webber believes that the voter ID at issue will make the system much more user-friendly for the poll workers.** The Legislature passed the ID legislation, and the state is defending it, on the basis of the problem of the *perception* of fraud.

Incidents of fraud and intimidation

Mr. Webber thinks that **no one can put his or her thumb on whether there has been voter fraud in Indiana.** For instance, if someone votes in place of another, no one knows about it. **There have been no prosecuted cases of polling place fraud in Indiana. There is no recorded history of documented cases, but it does happen.** In the litigation, he used articles from around the country about instances of voter fraud, but even in those examples there were ultimately no prosecutions, for example the case of Milwaukee. He also stated in the litigation that **there are all kinds of examples of dead people voting---totaling in the hundreds of thousands of votes across the country.**

One interesting **example of actual fraud in Indiana occurred when a poll worker, in a poll using punch cards, glued the chads back and then punched out other chads for his candidate.** But this would not be something that would be addressed by an ID requirement.

He also believes that the perception that the polls are loose can be addressed by the legislature. The legislature does not need to wait to see if the statewide database solves the problems and therefore affect the determination of whether an ID requirement is necessary. When he took the deposition of the Republican Co-Director, he said he thought Indiana was getting ahead of the curve. That is, there have been problems around the country, and confidence in elections is low. Therefore Indiana is now in front of getting that confidence back.

Mr. Webber stated that the **largest vote problem in Indiana is absentee ballots. Absentee ballot fraud and vote buying are the most documented cases.** It used to be the law that applications for absentee ballots could be sent anywhere. **In one case absentee votes were**

008153

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

exchanged for “a job on election day”---meaning one vote for a certain price. The election was contested and the trial judge found that although there was vote fraud, the incidents of such were less than the margin of victory and so he refused to overturn the election. Mr. Webber appealed the case for the state and argued the judge used the wrong statute. The Indiana Supreme Court agreed and reversed. **Several people were prosecuted as a result – those cases are still pending.**

Process

In Indiana, **voter complaints first come to the attorney for the county election board who can recommend that a hearing be held. If criminal activity was found, the case could be referred to the county prosecutor or in certain instances to the Indiana Attorney General’s Office.** In practice, the Attorney General almost never handles such cases.

Mr. Webber has had experience training county of election boards in preserving the integrity and security of the polling place from political or party officials. Mr. Webber stated that **the Indiana voter rolls need to be culled.** He also stated that in **Southern Indiana a large problem was vote buying while in Northern Indiana a large problem was based on government workers feeling compelled to vote for the party that gave them their jobs.**

Recommendations

- Mr. Webber believes that **all election fraud and intimidation complaints should be referred to the Attorney General’s Office to circumvent the problem of local political prosecutions. The Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes.** At the local level, everyone knows each other, making it harder prosecute.
- Indiana currently votes 6 am to 6 pm on a weekday. Government workers and retirees are the only people who are available to work the polls. Mr. Webber suggested that the biggest change should be to **move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.**
- **Early voting at the clerk’s office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk’s office. This should be expanded to other polling places in addition to that of the county clerk.**
- Finally, Mr. Webber believes **polling places should be open longer, run more professionally but that there needs to be fewer of them so that they are staffed by only the best, most professional people.**

Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

Recent trends

Native election protection operations have intensified recently for several reasons. While election protection efforts in Native areas have been ongoing, leaders realized that they were failing to develop internal infrastructure or cultivate locally any of the knowledge and expertise which would arrive and leave with external protection groups.

Moreover, in recent years partisan groups have become more aware of the power of the native vote, and have become more active in native communities. This has partly resulted in an **extreme increase in voter intimidation tactics. As native communities are easy to identify, easy to target, and generally dominated by a single party, they are especially vulnerable to such tactics.**

**Initially, reports of intimidation were only passed along by word of mouth.** But it became such a problem in the past 5 to 6 years that tribal leaders decided to raise the issue to the national level. Thompson points to the Cantwell election in 2000 and the Johnson election in South Dakota in 2002 as tipping points where many began to realize the Indian vote could matter in Senate and national elections.

Thompson stressed that Native Vote places a great deal of importance on being nonpartisan. While a majority of native communities vote Democratic, there are notable exceptions, including communities in Oklahoma and Alaska, and they have both parties engaging in aggressive tactics. However, she believes the most recent increase in suppression and intimidation tactics have come from Republican Party organizations.

Nature of Suppression/Intimidation of Native Voters

008154

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Thompson categorizes suppression into judge related and poll-watcher related incidents, both of which may be purposeful or inadvertent, as well as longstanding legal-structural constraints.

Structural problems

One **example of inadvertent suppression built into the system** stems from the fact that many Indian communities also include significant numbers of non-Indians due to allotment. Non-Indians tend to be most active in the state and local government while Indians tend to be more involved in the tribal government. Thus, the **individuals running elections end up being non-Indian. Having Indians vote at polling places staffed by non-Indians often results in incidents of disrespect towards Native voters (Thompson emphasized the considerable racism which persists against Indians in these areas). Also, judges aren't familiar with Indian last names and are more dismissive of solving discrepancies with native voters.**

Structural problems also arise from laws which mandate that the tribal government cannot run state or local elections. **In places like South Dakota, political leaders used to make it intentionally difficult for Native Americans to participate in elections. For example, state, local and federal elections could not be held in the same location as tribal elections, leading to confusion when tribal and other elections are held in different locations. Also, it is common to have native communities with few suitable sites, meaning that a state election held in a secondary location can suddenly impose transportation obstacles.**

Photo ID Issues

Thompson believes both **state level and HAVA photo ID requirements have a considerable negative impact.** For a number of reasons, many Indian voters don't have photo ID. Poor health care and poverty on reservations means that many children are born at home, leading to a lack of birth certificates necessary to obtain ID. Also, **election workers and others may assume they are Hispanic, causing additional skepticism due to citizenship questions.** There is a cultural issue as well—historically, whenever Indians register with the federal government it has been associated with a taking of land or removal of children. Thus **many Indians avoid registering for anything with the government, even for tribal ID.**

Thompson also offered examples of how the **impact of ID requirements had been worsened by certain rules and the discriminatory way they have been carried out.** In the **South Dakota special election of 2003, poll workers told Native American voters that if they did not have ID with them and they lived within sixty miles of the precinct, the voter had to come back with ID. The poll workers did not tell the voters that they could vote by affidavit ballot and not need to return, as required by law. This was exacerbated by the fact that the poll workers didn't know the voters—as would be the case with non-Indian poll workers and Indian voters. Many left the poll site without voting and did not return.**

In **Minnesota, the state tried to prohibit the use of tribal ID's for voting outside of a reservation, even though Minnesota has a large urban Native population.** Thompson believes this move was very purposeful, and despite any reasonable arguments from the Secretary of State, they had to file a lawsuit to stop the rule. They were very surprised to find national party representatives in the courtroom when they went to deal with lawsuit, representatives who could only have been alerted through a discussion with the Secretary of State.

Partisan Poll-Monitoring

Thompson believes the **most purposeful suppression has been perpetrated by the party structures on an individual basis, of which South Dakota is a great example.**

**Some negative instances of poll monitoring are not purposeful. Both parties send in non-Indian, non-Western lawyers, largely from the East Coast, which can lead to uncomfortable cultural clashes. These efforts display a keen lack of understanding of these communities and the best way to negotiate within in them. But while it may be intimidating, it is not purposeful.**

Yet there are also **many instances of purposeful abuse of poll monitoring.** While there were indeed problems during the 2002 Johnson election, it was small compared to the Janklow special election. Thompson says **Republican workers shunned cultural understanding outreach, and had an extensive pamphlet of what to say at polls and were very aggressive about it. In one tactic, every time a voter**

008155

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

would come up with no ID, poll monitors would repeat "You can't vote" over and over again, causing many voters to leave. This same tactic appeared across reservations, and eventually they looked to the Secretary of State to intervene.

In another example, the head of poll watchers drove from poll to poll and told voters without IDs to go home, to the point where the chief of police was going to evict him from the reservation. In Minnesota, on the Red Lake reservation, police actually did evict an aggressive poll watcher—the fact that the same strategies are employed several hundred miles apart points to standardized instructions.

None of these incidents ever went to court. Thompson argues this is due to few avenues for legal recourse. In addition, it is inherently difficult to settle these things, as they are he said-she said incidents and take place amidst the confusion of Election Day. Furthermore, poll watchers know what the outline of the law is, and they are careful to work within those parameters, leaving little room for legal action.

Other seeming instances of intimidation may be purely inadvertent, such as when, in 2002, the U.S. Attorney chose Election Day to give out subpoenas, and native voters stayed in their homes. In all fairness, she believes this was a misunderstanding.

The effect of intimidation on small communities is especially strong and is impossible to ultimately measure, as the ripple effect of rumors in insular communities can't be traced. In some communities, they try to combat this by using the Native radio to encourage people to vote and dispel myths.

She has suggestions for people who can describe incidents at a greater level of detail if interested.

#### Vote Buying and Fraud

They haven't found a great deal of evidence on vote-buying and fraud. When cash is offered to register voters, individuals may abuse this, although Thompson believes this is not necessarily unique to the Native community, but a reflection of high rates of poverty. This doesn't amount to a concerted effort at conspiracy, but instead represents isolated incidents of people not observing the rules. While Thompson believes looking into such incidents is a completely fair inquiry, she also believes it has been exploited for political purposes and to intimidate. For example, large law enforcement contingents were sent to investigate these incidents. As Native voters tend not to draw distinctions between law enforcement and other officials, this made them unlikely to help with elections.

#### Remedies

- As far as voter suppression is concerned, Native Vote has been asking the Department of Justice to look into what might be done, and to place more emphasis on law enforcement and combating intimidation. They have been urging the Department to focus on this at least much as it is focusing on enforcement of Section 203. Native groups have complained to DOJ repeatedly and DOJ has the entire log of handwritten incident reports they have collected. Therefore, Thompson recommends more DOJ enforcement of voting rights laws with respect to intimidation. People who would seek to abuse the process need to believe a penalty will be paid for doing so. Right now, there is no recourse and DOJ does not care, so both parties do it because they can.
- Certain states should rescind bars on nonpartisan poll watchers on Election Day; Thompson believes this is contrary to the nonpartisan, pro-Indian presence which would best facilitate voting in Native communities.
- As discussed above, Thompson believes ID requirements are a huge impediment to native voters. At a minimum, Thompson believes all states should be explicit about accepting tribal ID on Election Day.
- Liberalized absentee ballot rules would also be helpful to Native communities. As many Indian voters are disabled and elderly, live far away from their precinct, and don't have transportation, tribes encourage members to vote by absentee ballot. Yet obstacles remain. Some voters are denied a chance to vote if they have requested a ballot and then show up at the polls. Thompson believes South Dakota's practice of tossing absentee ballots if a voter shows up at the ED would serve as an effective built-in protection. In addition, she believes there should be greater scrutiny of GOTV groups requesting absentee ballots without permission. Precinct location is a longstanding issue, but Thompson recognizes that states have limited resources. In the

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**absence of those resources, better absentee ballot procedures are needed.**

- **Basic voter registration issues and access** are also important in native communities and **need to be addressed.**
- Thompson is mixed on what restrictions should be placed on poll watcher behavior, as she believes open elections and third party helpers are both important. However, she would be willing to explore some sort of stronger recourse and set of rules concerning poll watchers' behavior. Currently, the parties are aware that no recourse exists, and try to get away with what they will. This is not unique to a single party—both try to stay within law while shaking people up. The existing VRA provision is 'fluffy'—unless you have a consent decree, you have very little power. Thompson thinks a **general voter intimidation law that is left a bit broad but that nonetheless makes people aware of some sort of kickback could be helpful.**

Jason Torchinsky, Assistant General Counsel, American Center for Voting Rights

Regarding the August 2005 Report

**ACVR has not followed up on any of the cases it cited in the 2005 report to see if the allegations had been resolved in some manner.** Mr. Torchinsky stated that **there are problems with allegations of fraud in the report and prosecution---just because there was no prosecution, does not mean there was no vote fraud.** He believes that it is **very hard to come up with a measure of voter fraud short of prosecution.** Mr. Torchinsky does not have a good answer to resolve this problem.

P. 35 of the Report indicates that there were coordinated efforts by groups to coordinate fraudulent voter registrations. P. 12 of the Ohio Report references a RICO suit filed against organizations regarding fraudulent voter registrations. Mr. Torchinsky does not know what happened in that case. He stated that there was a drive to increase voter registration numbers regardless of whether there was an actual person to register. He stated that when you have an organization like ACORN involved all over the place, there is reason to believe it is national in scope. When it is the same groups in multiple states, this leads to the belief that it is a concerted effort.

Voting Problems

Mr. Torchinsky stated **there were incidents of double voting---ex. a double voter in Kansas City, MO. If the statewide voter registration database requirement of HAVA is properly implemented, he believes it will stop multiple voting in the same state.** He supports the HAVA requirement, if implemented correctly. **Since Washington State implemented its statewide database, the Secretary of State has initiated investigations into felons who voted. In Philadelphia the major problem is permitting polling places in private homes and bars – even the homes of party chairs.**

Mr. Torchinsky believes that **voter ID would help, especially in cities in places like Ohio and Philadelphia, PA.** The ACVR legislative fund supports the Real ID requirements suggested by the Carter-Baker Commission. **Since federal real ID requirements will be in place in 2010, any objection to a voter ID requirement should be moot.**

Mr. Torchinsky stated that there are **two major poll and absentee voting problems---(1) fraudulent votes-ex. dead people voting in St. Louis and (2) people voting who are not legally eligible-ex. felons in most places.** He also believes that **problems could arise in places that still transport paper ballots from the voting location to a counting room.** However, he does not believe this is as widespread a problem now as it once was.

Suggestions

**Implement the Carter-Baker Commission recommendations because they represent a reasonable compromise between the political parties.**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Robin DeJarnette, Executive Director, American Center for Voting Rights

[NO SUMMARY FOUND]

Joseph Rich, former Director of the Voting Section, Civil Rights Division, U.S. Department of Justice

Data Collection and Monitoring

- The (Voting) section developed a new database before the 2004 election to log complaint calls and what was done to follow up on them. They opened many investigations as a result of these complaints, including one on the long lines in Ohio (see DOJ letter on website, as well as critical commentary on the DOJ letter's analysis). DOJ found no Section 2 violation in Ohio. John Tanner should be able to give us this data. However, the database does not include complaints that were received by monitors and observers in the field.
- All attorney observers in the field are required to submit reports after Election Day to the Department. These reports would give us a very good sense of the scope and type of problems that arose on that day and whether they were resolved on the spot or required further action.
- The monitoring in 2004 was the biggest operation ever. Prior to 2000, only certain jurisdictions could be observed – a VRA covered jurisdiction that was certified or a jurisdiction that had been certified by a court, e.g. through a consent decree. Since that time, and especially in 2004, the Department has engaged in more informal "monitoring." In those cases, monitors assigned to certain jurisdictions, as opposed to observers, can only watch in the polling place with permission from the jurisdiction. The Department picked locations based on whether they had been monitored in the past, there had been problems before, or there had been allegations in the past. Many problems that arose were resolved by monitors on the spot.

Processes for Cases not Resolved at the Polling Site

- If the monitor or observer believes that a criminal act has taken place, he refers it to the Public Integrity Section (PIN). If it is an instance of racial intimidation, it is referred to the Civil Rights Criminal Division. However, very few such cases are prosecuted because they are very hard to prove. The statutes covering such crimes require actual violence or the threat of violence in order to make a case. As a result, most matters are referred to PIN because they operate under statutes that make these cases easier to prove. In general, there are not a high number of prosecutions for intimidation and suppression.
- If the act is not criminal, it may be brought as a civil matter, but only if it violated the Voting Rights Act – in other words, only if there is a racial aspect to the case. Otherwise the only recourse is to refer it to PIN.
- However, PIN tends not to focus on intimidation and suppression cases, but rather cases such as alleged noncitizen voting, etc. Public Integrity used to only go after systematic efforts to corrupt the system. Now they focus on scattered individuals, which is a questionable resource choice. Criminal prosecutors over the past 5 years have been given more resources and more leeway because of a shift in focus and policy toward noncitizens and double voting, etc.
- There have been very few cases brought involving African American voters. There have been 7 Section 2 cases brought since 2001 – only one was brought on behalf of African American voters. That case was initiated under the Clinton administration. The others have included Latinos and discrimination against whites.

Types of Fraud and Intimidation Occurring

- There is no evidence that polling place fraud is a problem. There is also no evidence that the NVRA has increased the opportunity for fraud. Moreover, regardless of NVRA's provisions, an election official can always look into a voter's registration if he or she believes that person should no longer be on the list. The Department is now suing Missouri because of its poor registration list.

008158

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

- **The biggest problem is with absentee ballots. The photo ID movement is a vote suppression strategy.** This type of suppression is a bigger problem than intimidation. There has been an increase in vote suppression over the last five years, but it has been indirect, often in the way that laws are interpreted and implemented. Unequal implementation of ID requirements at the polls based on race would be a VRA violation.
- **The most common type of intimidation occurring is open hostility by poll workers toward minorities. It is a judgment call whether this is a crime or not – Craig Donsanto of PIN decides if it rises to a criminal matter.**
- **Election Day challenges at the polls could be a VRA violation but such a case has never been formally pursued. Such cases are often resolved on the spot. Development of a pre-election challenge list targeted at minorities would be a VRA violation but this also has never been pursued. These are choices of current enforcement policy.**
- **Long lines due to unequal distribution of voting machines based on race, list purges based on race and refusal to offer a provisional ballot on the basis of race would also be VRA violations.**

Recommendations

- **Congress should pass a new law that allows the Department to bring civil actions for suppression that is NOT race based, for example, deceptive practices or wholesale challenges to voters in jurisdictions that tend to vote heavily for one party.**
- **Given the additional resources and latitude given to the enforcement of acts such as double voting and noncitizen voting, there should be an equal commitment to enforcement of acts of intimidation and suppression cases.**
- **There should also be increased resources dedicated to expanded monitoring efforts. This might be the best use of resources since monitors and observers act as a deterrent to fraud and intimidation.**

Joseph Sandler, Counsel to the Democratic National Committee

2004-Administrative Incompetence v. Fraud

Sandler believes the 2004 election was a combination of administrative incompetence and fraud. Sandler stated there was a deliberate effort by the Republicans to disenfranchise voters across the country. This was accomplished by mailing out cards to registered voters and then moving to purge from the voters list those whose cards were returned. Sandler indicated that in New Mexico there was a deliberate attempt by Republicans to purge people registered by third parties. He stated that there were intentional efforts to disenfranchise voters by election officials like Ken Blackwell in Ohio.

The problems with machine distribution in 2004 were not deliberate. However, Sandler believes that a large problem exists in the states because there are no laws that spell out a formula to allocate so many voting machines per voter.

Sandler was asked how often names were intentionally purged from the voter lists. He responded that there will be a lot of names purged as a result of the creation of the voter lists under HAVA. However, Sandler stated most wrongful purging results from incompetence.

Sandler also said there was not much intimidation at the polls because most such efforts are deterred and that the last systematic effort was in Philadelphia in 2003 where Republicans had official looking cars and people with badges and uniforms, etc.

Sandler stated that deliberate dissemination of misinformation was more incidental, with individuals misinforming and not a political party. Disinformation did occur in small Spanish speaking communities.

Republicans point to instances of voter registration fraud but Sandler believes it did not occur, except for once in a blue moon. Sandler did not believe non-citizen voting was a problem. He also does not believe that there is voter impersonation at the polls and that Republicans allege this as a way of disenfranchising voters through restrictive voter identification rules.

008159

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Fraud and Intimidation Trends

- Sandler stated that over the years there has been a shift from organized efforts to intimidate minority voters through voter identification requirements, improper purging, failure to properly register voters, not allocating enough voting machines, failure to properly use the provisional ballot, etc., by voter officials as well as systematic efforts by Republicans to deregister voters.
- At the federal level, Sandler said, the voting division has become so politicized that it is basically useless now on intimidation claims. At the local level, Sandler does not believe politics prevents or hinders prosecution for vote fraud.

Sandler's Recommendations:

- Moving the voter lists to the state level is a good idea where carefully done
- Provisional ballots rules should follow the law and not be over-used
- No voter ID
- Partisanship should be taken out of election administration, perhaps by giving that responsibility by someone other than the Secretary of State. There should at least be conflict of interest rules
- Enact laws that allow private citizens to bring suit under state law

All suggestions from the DNC Ohio Report:

1. The Democratic Party must continue its efforts to monitor election law reform in all fifty states, the District of Columbia and territories.
2. States should be encouraged to codify into law all required election practices, including requirements for the adequate training of official poll workers.
3. States should adopt uniform and clear published standards for the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access. These standards should be based on set ratios of numbers of machines and pollworkers per number of voters expected to turn out, and should be made available for public comment before being adopting.
4. States should adopt legislation to make clear and uniform the rules on voter registration.
5. The Democratic Party should monitor the processing of voter registrations by local election authorities on an ongoing basis to ensure the timely processing of registrations and changes, including both newly registered voters and voters who move within a jurisdiction or the state, and the Party should ask state Attorneys General to take action where necessary to force the timely updating of voter lists.
6. States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle.
7. State and local jurisdictions should adopt clear and uniform rules on the use of, and the counting of, provisional ballots, and distribute them for public comment well in advance of each election day.
8. The Democratic Party should monitor the purging and updating of registered voter lists by local officials, and the Party should challenge, and ask state Attorneys General to challenge, unlawful purges and other improper list maintenance practices.
9. States should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.)
10. State Attorneys General and local authorities should vigorously enforce, to the full extent permitted by state law, a voter's right to vote without showing identification.
11. Jurisdictions should be encouraged to use precinct-tabulated optical scan systems with a computer assisted device at each precinct, in preference to touchscreen ("direct recording equipment" or "DRE") machines.

008160



EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

12. Touchscreen (DRE) machines should not be used until a reliable voter verifiable audit feature can be uniformly incorporated into these systems. In the event of a recount, the paper or other auditable record should be considered the official record.
13. Remaining punchcard systems should be discontinued.
14. **States should ask state Attorneys General to challenge unfair or discriminatory distribution of equipment and resources** where necessary, and the Democratic Party should bring litigation as necessary.
15. Voting equipment vendors should be required to disclose their source code so that it can be examined by third parties. No voting machine should have wireless connections or be able to connect to the Internet.
16. Any equipment used by voters to vote or by officials to tabulate the votes should be used exclusively for that purpose. That is particularly important for tabulating/aggregating computers.
17. States should adopt "no excuse required" standards for absentee voting.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

18. States should make it easier for college students to vote in the jurisdiction in which their school is located.
19. States should develop procedures to ensure that voting is facilitated, without compromising security or privacy, for all eligible voters living overseas.
20. **States should make voter suppression a criminal offense at the state level, in all states.**
21. **States should improve the training of pollworkers.**
22. **States should expend significantly more resources in educating voters on where, when and how to vote.**
23. **Partisan officials who volunteer to work for a candidate should not oversee or administer any elections.**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

008164

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

John Ravitz, Executive Director, New York City Board of Elections

Process

If there is an allegation of fraud or intimidation, the commissioners can rule to act on it. For example, in 2004 there were allegations in Queens that people had registered to vote using the addresses of warehouses and stores. The Board sent out teams of investigators to look into this. The Board then developed a challenge list that was to be used at the polls if any of the suspect voters showed up to vote. If the allegation rises to a criminal level, the Board will refer it to the county district attorney. If a poll worker or election official is involved, the Board may conduct an internal investigation. That individual would be interviewed, and if there is validity to the claim, the Board would take action.

Incidences of Fraud and Intimidation

Mr. Ravitz says there have been **no complaints about voter intimidation since he has been at the Board**. There have been instances of over-aggressive poll workers, but nothing threatening. Voter fraud has also generally not been a problem.

**In 2004, the problem was monitors from the Department of Justice intimidating voters. They were not properly trained, and were doing things like going into the booth with voters.** The Board had to contact their Department supervisors to put a stop to it.

**Charges regarding "ballot security teams" have generally just been political posturing.**

**The problem of people entering false information on voter registration forms is a problem. However, sometimes a name people allege is false actually turns out to be the voter's real name. Moreover, these types of acts do not involve anyone actually casting a fraudulent ballot.**

**With respect to the issue of voters being registered in both New York and Florida, the Board now compares its list with that of Florida and other places to address the problem. This will be less of an issue with the use of statewide voter registration databases, as information becomes easier to share.** Despite the number of people who were on the voter registration lists of both jurisdictions, there was no one from those lists who voted twice.

**Most of the problems at the polls have to do with poll workers not doing what they are supposed to do, not any sort of malfeasance. This indicates that improved training is the most important measure we can take.**

**There have been instances in which poll workers ask voters for identification when they shouldn't. However, the poll workers seem to do it when they cannot understand the name when the voter tells it to them.** The Board has tried to train them that no matter what, the poll worker cannot ask for identification in order to get the person's name.

**Absentee ballot fraud has also not been a problem in New York City. This is likely because absentee ballots are counted last – eight days after election day. This is so that they can be checked thoroughly and verified.** This is a practice other jurisdictions might consider.

**New York City has not had a problem with ex-felons voting or with ex-felons not knowing their voting rights.** The City has not had any problems in recent years with deceptive practices, such as flyers providing misinformation about voting procedures.

Recommendations

**Better poll worker training**

John Tanner, Director, Voting Section, Civil Rights Division, U.S. Department of Justice

Mr. Tanner **would not give us any information about or data from the section's election complaint in-take phone logs; data or even general information from the Interactive Case Management (ICM) system-its formal process for tracking and managing work activities in pursuing complaints and potential violations of the voting laws; and would give us only a selected few samples of attorney-observer reports,**

008165

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

reports that every Voting Section attorney who is observing elections at poll sites on Election Day is required to submit. **He would not discuss in any manner any current investigations or cases the section is involved in.** He also did not believe it was his position to offer us recommendations as to how his office, elections, or the voting process might be improved.

Authority and Process

The Voting Section, in contrast to the Public Integrity section as Craig Donsanto described it, typically looks only at systemic problems, not problems caused by individuals. Indeed, the section never goes after individuals because it does not have the statutory authority to do so. In situations in which individuals are causing problems at the polls and interfering with voting rights, the section calls the local election officials to resolve it.

Federal voting laws only apply to state action, so the section only sues local governments – it does not have any enforcement power over individuals. Most often, the section enters into consent agreements with governments that focus on poll worker training, takes steps to restructure how polls are run, and deals with problems on Election Day on the spot. Doing it this way has been most effective – for example, while the section used to have the most observers in the South, systematic changes forced upon those jurisdictions have made it so now the section does not get complaints from the South.

The section can get involved even where there is no federal candidate on the ballot if there is a racial issue under the 14<sup>th</sup> and 15<sup>th</sup> Amendments.

When the section receives a complaint, attorneys first determine whether it is a matter of individuals or systemic. When deciding what to do with the complaint, the section errs on the side of referring it criminally because they do not want civil litigation to complicate a possible criminal case.

When a complaint comes in, the attorneys ask questions to see if there are even problems there that the complainant is not aware are violations of the law. For example, in the Boston case, the attorney did not just look at Spanish language cases under section 203, but also brought a Section 2 case for violations regarding Chinese and Vietnamese voters. When looking into a case, the attorneys look for specificity, witnesses and supporting evidence.

Often, lawsuits bring voluntary compliance.

Voter Intimidation

Many instances of what some people refer to as voter intimidation are more unclear now. For example, photographing voters at the polls has been called intimidating, but now everyone is at the polls with a camera. It is hard to know when something is intimidation and it is difficult to show that it was an act of intimidation.

The fact that both parties are engaging in these tactics now makes it more complicated. It makes it difficult to point the finger at any one side.

The inappropriate use of challengers on the basis of race would be a violation of the law. Mr. Tanner was unaware that such allegations were made in Ohio in 2004. He said there had never been an investigation into the abusive use of challengers.

Mr. Tanner said a lot of the challenges are legitimate because you have a lot of voter registration fraud as a result of groups paying people to register voters by the form. They turn in bogus registration forms. Then the parties examine the registration forms and challenge them because 200 of them, for example, have addresses of a vacant lot.

However, Mr. Tanner said the Department was able to informally intervene in challenger situations in Florida, Atkinson County, Georgia and in Alabama, as was referenced in a February 23 Op-Ed in USA Today. Mr. Tanner reiterated the section takes racial targeting very seriously.

Refusal to provide provisional ballots would be a violation of the law that the section would investigate.

Deceptive practices are committed by individuals and would be a matter for the Public Integrity Section. Local government would have to be involved for the voting section to become involved.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Unequal implementation of ID rules, or asking minority voters only for ID would be something the section would go after. Mr. Tanner was unaware of allegations of this in 2004. He said this is usually a problem where you have language minorities and the poll workers cannot understand the voters when they say their names. The section has never formally investigated or solely focused a case based on abuse of ID provisions. However, implementation of ID rules was part of the Section 2 case in San Diego. Mr. Tanner reiterated that the section is doing more than ever before.

When asked about the section's references to incidents of vote fraud in the documents related to the new state photo identification requirements, Mr. Tanner said the section only looks at retrogression, not at the wisdom of what a legislature does. In Georgia, for example, everyone statistically has identification, and more blacks have ID than whites. With respect to the letter to Senator Kit Bond regarding voter ID, the section did refer to the perception of concern about dead voters because of reporting by the Atlanta Journal-Constitution. It is understandable that when you have thousands of bogus registrations that there would be concerns about polling place fraud. Very close elections make this even more of an understandable concern. Putting control of registration lists in the hands of the states will be helpful because at this higher level of government you find a higher level of professionalism.

It is hard to know how much vote suppression and intimidation is taking place because it depends on one's definition of the terms – they are used very loosely by some people. However, the enforcement of federal law over the years has made an astounding difference so that the level of discrimination has plummeted. Registration of minorities has soared, as can be seen on the section's website. Mr. Tanner was unsure if the same was true with respect to turnout, but the gap is less. That information is not on the section's website.

The section is not filing as many Section 2 cases as compared to Section 203 cases because many of the jurisdictions sued under Section 2 in the past do not have issues anymore. Mr. Tanner said that race based problems are rare now.

NVRA has been effective in opening up the registration process. In terms of enforcement, Mr. Tanner said they do what they can when they have credible allegations. There is a big gap between complaints and what can be substantiated. Mr. Tanner stated that given the high quality of the attorneys now in the section, if they do not investigate it or bring action, that act complained of did not happen.

Recommendations

Mr. Tanner did not feel it was appropriate to make recommendations

Kevin Kennedy, Executive Director of the State Board of Elections, Wisconsin

Complaints of fraud and intimidation do not usually come to Kennedy's office. Kennedy says that complainants usually take their allegations to the media first because they are trying to make a political point.

Election Incidents of Fraud

The investigations into the 2004 election uncovered some cases of double voting and voting by felons who did not know they were not eligible to vote, but found no concerted effort to commit fraud. There have been a couple of guilty pleas as a result, although not a number in the double digits. The task force and news reports initially referred to 100 cases of double voting and 200 cases of felon voting, but there were not nearly that many prosecutions. Further investigation since the task force investigation uncovered that in some instances there were mis-marks by poll workers, fathers and sons mistaken for the same voter, and even a husband and wife marked as the same voter. The double votes that are believed to have occurred were a mixture of absentee and polling place votes. It is unclear how many of these cases were instances of voting in two different locations.

In discussing the case from 2000 in which a student claimed – falsely – that he had voted several times, Kennedy said that double voting can be done. The deterrent is that it's a felony, and that one person voting twice is not an effective way to influence an election. One would need to get a lot of people involved for it to work.

The task force set up to investigate the 2004 election found a small number of illegal votes but given the 7,000 alleged, it was a relatively small number. There was no pattern of fraud.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

The one case Kennedy could recall of an organized effort to commit fraud was in the spring of 2003 or 2004. A community service agency had voters request that absentee ballots be sent to the agency instead of to the voters and some of those ballots were signed without the voters' knowledge. One person was convicted, the leader of the enterprise.

In Milwaukee, the main contention was that there were more ballots than voters. However, it was found that the 7,000 vote disparity was tied to poll worker error. The task force found that there was no concerted effort involved. Kennedy explained that there are many ways a ballot can get into a machine without a voter getting a number. These include a poll worker forgetting to give the voter one; someone does Election Day registration and fills out a registration form but does not get a number because the transaction all takes place at one table; and in Milwaukee, 20,000 voters who registered were not put on the list in time and as a short term solution the department sent the original registration forms to the polling places to be used instead of the list to provide proof of registration. This added another element of confusion that might have led to someone not getting a voter number.

The Republican Party used this original list and contracted with a private vendor to do a comparison with the U.S. postal list. They found initially that there were 5,000 bad addresses, and then later said there were 35,000 illegitimate addresses. When the party filed a complaint, the department told them they could force the voters on their list to cast a challenge ballot. On Election Day, the party used the list but found no one actually voting from those addresses. Kennedy suspects that the private vendor made significant errors when doing the comparison.

In terms of noncitizen voting, Kennedy said that there is a Russian community in Milwaukee that the Republican Party singles out every year but it doesn't go very far. Kennedy has not seen much in the way of allegations of noncitizen voting.

However, when applying for a drivers license, a noncitizen could register to vote. There is no process for checking citizenship at this point, and the statewide registration database will not address this. Kennedy is not aware of any cases of noncitizen voting as a result, but it might have happened.

Kennedy said that the biggest concern seemed to be suspicions raised when groups of people are brought into the polling site from group homes, usually homes for the disabled. There are allegations that these voters are being told how to vote.

#### Incidents of Voter Intimidation

In 2004, there was a lot of hype about challenges, but in Wisconsin, a challenger must articulate a basis under oath. This acts as a deterrent, but at the same time it creates the potential that someone might challenge everyone and create long lines, keeping people from voting. In 2004, the Republican Party could use its list of suspect addresses as a legitimate basis for challenges, so there is the potential for abuse. It is also hard to train poll workers on that process. In 2004, there were isolated cases of problems with challengers.

In 2002, a flyer was circulated only in Milwaukee claiming that you had vote by noon. This was taken as an intimidation tactic by the Democrats.

#### Reforms

Wisconsin has had difficulty with its database because 1) they have had a hard time getting a good product out of the vendor and 2) until now there was no registration record for one-quarter of the voters. Any jurisdiction with fewer than 5000 voters was not required to have a registration list.

In any case, once these performance issues are worked out, Kennedy does believe the statewide voter registration database will be very valuable. In particular, it will mean that people who move will not be on more than one list anymore. It should also address the double voting issue by identifying who is doing it, catching people who do it, and identifying where it could occur.

#### Recommendations

- Better trained poll workers
- Ensure good security procedures for the tabulation process and more transparency in the vote counting process



EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

- **Conduct post-election audits**

Evelyn Stratton, Justice, Supreme Court of Ohio

The 2004 Election

Justice Stratton stated that usually in the period right before an election, filings die down due to the Ohio expedited procedures for electoral challenges. However, the 2004 election was unusual because there were motions and cases decided up to the day of the election. Justice Stratton believed that most of the allegations were knee-jerk reactions without any substance. For example, without any factual claims, suit was brought alleging that all voter challengers posed a threat to voters. Thematically, allegations were either everyday voting problems or "conspiracies" depending on where the complaint came from. The major election cases in 2004 revolved around Secretary of State Blackwell.

Justice Stratton made a point that the Ohio Supreme Court bent over backwards in the 2004 election to be fair to both sides. There was never any discussion about a ruling helping one political party more than the other.

Justice Stratton cited **two cases that summarize and refute the 2004 complaints---819 NE 2d 1125 (Ohio 2004) and 105 Ohio St. 3d 458 (2004).**

General Election Fraud Issues

Justice Stratton has seen very few fraud cases in Ohio. Most challenges are for technical statutory reasons. She remembered one instance where a man who assisted handicapped voters marked the ballot differently than the voter wanted. Criminal charges were brought against this man and the question that the Ohio Supreme Court had to decide was whether ballots could be opened and inspected to see how votes were cast.

Justice Stratton claimed she knew of isolated incidences of fictitious voter registration but these were not prosecuted. She has not seen any evidence of ballots being stuffed, dead people voting, etc.

Suggestions for Changes in Voting Procedures

- The Ohio Supreme Court is very strict about latches---if a person sits on their rights too long, they loose the right to file suit. The Ohio expedited procedures make election challenges run very smooth. Justice Stratton does not remember any suits brought on the day of the election.
- lower courts need to follow the rules for the expedited procedures. Even given the anomalies with lower courts permitting late election challenges in 2004, the Ohio Supreme Court does not want to make a new rule unless this pattern repeats itself in 2008.
- last minute challenges should not be permitted
- supports a non-partisan head of state elections.

Tony Sirvello, Executive Director, International Association of Clerks, Recorders, Election Officials and Treasurers

Incidents of Election Fraud

Sirvello stated that one problem with election crimes is that they are not high on the priority list of either district attorneys or grand juries. Therefore, complaints of election crime very rarely are prosecuted or are indicted by the grand jury. In 1996 in Harris County, 14 people voted twice but the grand jury refused to indict. One woman voted twice, once during early voting and once on Election Day. She said she thought there were two elections. The jury believed her. Sirvello believes none of the people intentionally voted more than once. He said that he believes double voting is not as big of an issue as people make it out to be.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

In 1986, it was found that there were 300 more ballots than voter signatures. It was clear that the elections officials stuffed the ballot boxes. The case was brought before a grand jury, but there was no indictment because all of the defendants were friends and relatives of each other and none would admit what had been done.

Sirvello stated that there have been isolated circumstances where a voter would show up at the poll and his name had already been signed and he had voted.

Finally, Sirvello indicated that some people who worked in Houston but did not live in Harris County were permitted to vote.

Specific Absentee Ballot/Vote By Mail Issues

Sirvello said that mail voting presents the largest problem. With mail voting there is too much opportunity to influence voters or to fraudulently request a ballot. If one applied for an absentee ballot, their name and address was made available to candidates and political consultants who would often send people to collect the ballot. Many did not want to give up the ballot but wanted to mail it personally. The result was to discourage voting.

In Texas, a person could only apply for an absentee ballot if over 65 years of age. Parties, candidates and consultants would get the list of voters over 65 and send them a professional mail piece telling them they could vote by mail and a ballot with everything filled out except the signature. Problems ensued -- for example, voters would print their names rather than sign them, and the ballot was rejected. In other cases, the elderly would give their absentee ballot to someone else.

If a person applied for an absentee ballot but then decided not to cast it but to vote in person, that person had to bring the non-voted absentee ballot to the poll and surrender it. If they did not they would not be permitted to vote at the polling place.

Incidents of Voter Intimidation

Sirvello only reported isolated cases of intimidation or suppression in Harris County. These mostly occurred in Presidential elections. Some people perceived intimidation when being told they were not eligible to vote under the law. Sirvello stated that the big issue in elections now is whether there should be a paper trail for touch screen voting.

Recommendations

- District attorneys need to put more emphasis on election crime so people will not believe that it goes unpunished.
- There should be either a national holiday for Election Day or a day should be given off of work without counting as a vacation day so that better poll workers are available and there can be more public education on election administration procedures.

Harry Van Sickle, Commissioner of Elections, and Deputy Chief Counsel to the Secretary of State Larry Boyle, Pennsylvania

Fraud and Intimidation

Neither Van Sickle nor Boyle was aware of any fraud of any kind in the state of Pennsylvania over the last five years. They are not aware of the commission of any deceptive practices, such as flyers that intentionally misinform as to voting procedures. They also have never heard of any incidents of voter intimidation. With respect to the mayoral election of 2003, the local commission would know about that.

Since the Berks County case of 2003, where the Department of Justice found poll workers who treated Latino voters with hostility among other voting rights violations, the Secretary's office has brought together Eastern Pennsylvania election administrators and voting advocates to discuss the problems. As a result, other counties have voluntarily chosen to follow the guidance of the Berks County federal court order.

Regarding the allegations of fraud that surrounded the voter identification debate, Mr. Boyle said was not aware of any instances of fraud involving identity. He believes this is because Pennsylvania has laws in place to prevent this. For example, in 2002 the state legislature passed an ID law that is stricter than HAVA's -- it requires all first time voters to present identification. In addition, the SURE System --

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**the state's statewide voter registration database – is a great anti-fraud mechanism.** The system will be in place statewide in the May 2006 election.

In addition, the state took many steps before the 2004 election to make sure it would be smooth. They had **attorneys in the counties to consult on problems as well as staff at the central office to take calls regarding problems.** In addition, in 2004 the state used provisional ballots for the first time. This resolved many of the problems that used to occur on Election Day.

Mr. Boyle is **not aware of any voter registration fraud.** This is because **when someone registers to vote, the administrator does a duplicate check.** In addition, under new laws a person registering to vote must provide their drivers license or Social Security number which are verified through the Department of Motor Vehicles and the Social Security Administration. Therefore, it would be unlikely that someone would be able to register to vote falsely.

Process

**Most problems are dealt with at the local level and do not come within the review of the Secretary of State's office.** For instance, if there is a complaint of intimidation, this is generally dealt with by the county courts which are specially designated solely to election cases on Election Day. The Secretary does not keep track of these cases. Since the passage of NVRA and HAVA counties will increasingly call the office when problems arise.

Recommendations

Mr. Boyle suggested we review the recommendations of the Pennsylvania Election Reform Task Force which is on the Secretary's website. Many of those recommendations have been introduced in the legislature.

Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice

Questions

*How are Prosecution Decisions Made?*

**Craig Donsanto must approve all investigations that go beyond a preliminary stage, all charges, search warrant applications and subpoenas and all prosecutions. The decision to investigate is very sensitive because of the public officials involved. If a charge seems political, Donsanto will reject it.** Donsanto gives possible theories for investigation. **Donsanto and Noel Hillman will decide whether to farm out the case to an AUSA. Donsanto uses a concept called predication. In-other-words, there must be enough evidence to suggest a crime has been committed.** The method of evaluation of this evidence depends on the type of evidence and its source. There are two types of evidence---factual (antisocial behavior) and legal (antisocial behavior leading to statutory violations). **Whether an indictment will be brought depends on the likelihood of success before a jury. Much depends on the type of evidence and the source.** Donsanto said he "knows it when he sees it." Donsanto will only indict if he is confident of a conviction assuming the worst case scenario – a jury trial.

A person under investigation will first receive a target letter. Often, a defendant who gets a target letter will ask for a departmental hearing. The defendant's case will be heard by Donsanto and Hillman. On occasion, the assistant attorney general will review the case. The department grants such hearings easily because such defendants are likely to provide information about others involved.

**The Civil Rights Division, Voting Rights Section makes its own decisions on prosecution.** The head of that division is John Tanner. There is a lot of cooperation between

Does the Decision to Prosecute Incorporate Particular Political Considerations within a State Such as a One Party System or a System in which the Party in Power Controls the Means of Prosecution and Suppresses Opposition Complaints?

Yes. Before, the department would leave it to the states. Now, if there is racial animus involved in the case, there is political bias involved, or the prosecutor is not impartial, the department will take it over.

Does it Matter if the Complaint Comes from a Member of a Racial Minority?

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

No. But if the question involves racial animus, that has also always been an aggravating factor, making it more likely the Department will take it over

What Kinds of Complaints Would Routinely Override Principles of Federalism?

Federalism is no longer big issue. DOJ is permitted to prosecute whenever there is a candidate for federal office.

Are There Too Few Prosecutions?

DOJ can't prosecute everything.

What Should Be Done to Improve the System?

- The problem is asserting federal jurisdiction in non-federal elections. It is preferable for the federal government to pursue these cases for the following reasons:
  - federal districts draw from a bigger and more diverse jury pool;
  - the DOJ is politically detached; local district attorneys are hamstrung by the need to be re-elected;
  - DOJ has more resources – local prosecutors need to focus on personal and property crimes---fraud cases are too big and too complex for them;
  - DOJ can use the grand jury process as a discovery technique and to test the strength of the case.
- In *U.S. v. McNally*, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to "fix" *McNally*, did not include voter fraud.
- As a result, the department needs a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce. The department has drafted such legislation, which was introduced but not passed in the early 1990s..

Other Information

The Department has held four symposia for DEOs and FBI agents since the initiation of the Ballot Access and Voting Integrity Initiative. In 2003, civil rights leaders were invited to make speeches, but were not permitted to take part in the rest of the symposium. All other symposia have been closed to the public. (Peg will be sending us the complete training materials used at those sessions. These are confidential and are the subject of FOIA litigation).

There are two types of attorneys in the division:

- prosecutors, who take on cases when the jurisdiction of the section requires it; the US Attorney has recused him or herself; or when the US Attorney is unable to handle the case (most frequent reason) and
- braintrust attorneys who analyze the facts, formulate theories, and draft legal documents.

Cases:

Donsanto provided us with three case lists: Open cases (still being investigated) as of January 13, 2006 – confidential; election fraud prosecutions and convictions as a result of the Ballot Access and Voting Integrity Initiative October 2002-January 13, 2006 and cases closed for lack of evidence as of January 13, 2006

If we want more documents related to any case, we must get those documents from the states. The department will not release them to us.

**Although the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate complaints of fraud, the number of cases that the department is investigating and the number of indictments the department is pursuing are both up dramatically.**

Since 2002, the department has brought more cases against alien voters, felon voters, and double voters than ever before. Previously, cases were only brought when there was a pattern or scheme to corrupt the process. Charges were not brought against individuals – those

008172

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

cases went un-prosecuted. This change in direction, focus, and level of aggression was by the decision of the Attorney General. The reason for the change was for deterrence purposes.

The department is currently undertaking three pilot projects to determine what works in developing the cases and obtaining convictions and what works with juries in such matters to gain convictions:

- **Felon voters in Milwaukee.**
- **Alien voters in the Southern District of Florida.** FYI – under 18 USC 611, to prosecute for “alien voting” there is no intent requirement. Conviction can lead to deportation. Nonetheless, the department feels compelled to look at mitigating factors such as was the alien told it was OK to vote, does the alien have a spouse that is a citizen.
- **Double voters in a variety of jurisdictions.**

The department does not maintain records of the complaints that come in from DEOs, U.S attorneys and others during the election that are not pursued by the department. Donsanto asserted that U.S. attorneys never initiate frivolous investigations.

Sharon Priest, former Secretary of State, Arkansas

Process:

When there is an allegation of election fraud or intimidation, the county clerk refers it to the local district attorney. Most often, the DA does not pursue the claim. There is little that state administrators can do about this because in Arkansas, county clerks are partisanly elected and completely autonomous. Indeed, county clerks have total authority to determine who is an eligible voter.

Data:

There is very little data collected in Arkansas on fraud and intimidation cases. Any information there might be stays at the county level. This again is largely because the clerks have so much control and authority, and will not release information. Any statewide data that does exist might be gotten from Susie Storms from the State Board of Elections.

Most Common Problems

The perception of fraud is much greater than the actual incidence of fraud.

- The DMV does not implement NVRA in that it does not take the necessary steps when providing the voter registration forms and does not process them properly. This leads to both ineligible voters potentially getting on the voting rolls (e.g. noncitizens, who have come to get a drivers license, fill out a voter registration form having no intention of actually voting) and voter thinking they are registered to vote to find they are not on the list on Election Day. Also, some people think they are automatically registered if they have applied for a drivers license.
- Absentee ballot fraud is the most frequent form of election fraud.
- In Arkansas, it is suspected that politicians pay ministers to tell their congregations to vote for them
- In 2003, the State Board documented 400 complaints against the Pulaski County Clerk for engaging in what was at least borderline fraud, e.g. certain people not receiving their absentee ballots. The case went to a grand jury but no indictment was brought.
- Transportation of ballot boxes is often insecure making it very easy for insiders to tamper with the ballots or stuff the ballot boxes. Priest has not actually witnessed this happen, but believes it may have.
- Intimidation at the poll sites in court houses. Many voters are afraid of the county judges or county employees and therefore will not vote. They justifiably believe their ballots will be opened by these employees to see who they voted for, and if they voted against the county people, retribution might ensue.

008173

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH


- **Undue challenges to minority language voters at the poll sites**
- **Paid registration collectors fill out phony names, but these individuals are caught before anyone is able to cast an ineligible ballot.**

Suggested Reforms for Improvement:

- **Nonpartisan election administration**
- **Increased prosecution of election crimes through greater resources to district attorneys. In addition, during election time, there should be an attorney in the DA's office who is designated to handle election prosecution.**
- **There should be greater centralization of the process, especially with respect to the statewide database. Arkansas has a "bottom up" system. This means the counties still control the list and there is insufficient information sharing. For example, if someone lives in one county but dies in another, the county in which the voter lived – and was registered to vote – will not be notified of the death.**

**Deliberative Process  
Privilege**

Margaret Sims/EAC/GOV  
11/07/2006 11:29 AM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: VF and VI study 

OK, I will get started on the interview summaries today.

DOJ (Donsanto and Tanner) raised objections to the consultants' description of their interviews, which state that DOJ officials agreed they were bringing fewer intimidation and suppression cases. An advocacy group is going after DOJ, accusing the agency of doing just that for political reasons, so this is something DOJ wants corrected.

Apart from the consultants pre-existing bias that "the feds aren't doing enough", a big part of the problem appears to have been a misunderstanding over terminology. When our consultants used the term "intimidation", they included all sorts of suppression activities. When Craig Donsanto used the term "intimidation", he was using the definition under federal criminal vote fraud statutes, which requires the action be accompanied by threat of physical or economic harm. (He told me he has had only one such case in 30 years.) His office is actively pursuing voter suppression activities under statutes other than federal voter intimidation laws (e.g.; the recent case in NH where a campaign operative conspired to block election day GOTV telephone lines of the opposing party). A copy of Tanner's comments on the interview summary in the status report for the Standards and Advisory Boards meetings is attached.

I had many long discussions with Tova and Job about this. I was able to get them to soften their description (see 4th bullet on page 7 of the draft report), but not entirely to my satisfaction. Also, at the Working Group meeting, it was agreed that the consultants would add a note to their definition to clarify that the working definition for purposes of the research includes activities that do not meet the federal definition of voter intimidation. The resulting note on page 5 of the draft report is too vague.

DOJ has not seen everything the consultants put in the draft final report, so they may have additional concerns. For example, the consultants' recommendations include the following:

**Attend the Department of Justice's Ballot Access and Voting Integrity Symposium** . The consultants also believe it would be useful for any further activity in this area to include attendance at the next Ballot Access and Voting Integrity Symposium. According to the Department, DEOs are required to attend annual training conferences centered on combating election fraud and voting rights abuses. These conferences sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, feature presentations by civil rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. According to the Department, DEOs are required to attend annual training conferences centered on combating election fraud and voting rights abuses. These conferences sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, feature presentations by civil rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices.

**Footnote:**

By attending the symposium researchers could learn more about the following:  
How *DEOs* are trained, e.g. what they are taught to focus their resources on; How they are instructed to respond to various types of complaints; How information about previous elections and voting issues is presented; and, How the Voting Rights Act, the criminal laws governing election fraud and intimidation, the National Voter Registration Act, and the Help America Vote Act are described and explained to participants.

DOJ has stated that this is an internal meeting, involving only DOJ officials, US Attorneys and FBI. EAC researchers cannot be admitted without opening the meeting to other outsiders. DOJ does not want to do this, probably for two reasons: (1) confidential information on current enforcement cases may be

008175

discussed; and (2) making enforcement strategies public could give unscrupulous individuals a virtual "how to" manual for circumventing such strategies when committing election crimes.

We may also have a hard time gaining access to the DOE reports and the Voting Section records of complaints, as they probably aren't considered public documents.

— Peggy



DOJ-TannerComments-TWInterviewSummary.doc

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV

11/07/2006 09:47 AM

To Margaret Sims/EAC/GOV@EAC

cc

Subject Re: VF and VI study 

that would be great. I am also interested in identifying the points of contention between DOJ and the consultants.

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

Margaret Sims /EAC/GOV

11/07/2006 09:45 AM

To Juliet E. Hodgkins/EAC/GOV@EAC

cc

Subject Re: VF and VI study 

Yes (at T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Interviews\Interview Summaries). Do you want me to do the same with those as I did with the literature summaries? — Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV

11/07/2006 09:33 AM

To Margaret Sims/EAC/GOV@EAC

cc

Subject VF and VI study

008176



Did Tova and Job provide us with summaries or notes of their interviews?

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

Margaret Sims/EAC/GOV  
11/07/2006 09:45 AM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: VF and VI study

History This message has been replied to.

Yes (at T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Interviews\Interview Summaries). Do you want me to do the same with those as I did with the literature summaries? — Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/07/2006 09:33 AM


To Margaret Sims/EAC/GOV@EAC  
cc  
Subject VF and VI study

Did Tova and Job provide us with summaries or notes of their interviews?

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

008178

Margaret Sims /EAC/GOV  
11/06/2006 06:36 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: VF\_VI Literature Review 

Julie:


Happy to help, especially as I have to assume the blame for the report turned in by the consultants. I think you were aware that I was disappointed that it was not a more professional product. As I was not clear what the Commission's position is on editing such reports after receipt of the final, and as the consultants insisted that their work not be changed, I felt a bit stymied. Let me know what else I can do.

In the meantime, I'm revisiting some drafts received on the Vote Count-Recount best practices to see if I can encourage more improvements before submission of the final. We're still waiting for the state-by-state summary of practices, originally delayed by the subcontractor's nonperformance, which could affect goes into the best practices. I think some of the emphasis I see in the drafts on post election audits and proper recordkeeping will help respond to some of the issues raised in the literature review for the voting fraud-voter intimidation study.

— Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins /EAC/GOV  
11/06/2006 05:18 PM


To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: VF\_VI Literature Review 

Peggy,

I wanted to let you know that I had a chance to review your summaries today. I think that these are some excellent conclusions that we can definitely use in our report. Thank you for doing such a detailed and thorough job. If tomorrow goes quietly, hopefully I will have some time to write.

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

Margaret Sims /EAC/GOV  
11/06/2006 11:07 AM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
Subject Re: VF\_VI Literature Review 

Julie:

I have not received the outline, but went ahead with reviewing the literature researched. Attached are my perspectives on what we learned and a listing of the literature with portions of the analysis for each. Both of these documents are on the shared drive under T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Research Summaries. Hope these help. Let me know what else you need from me. --- Peggy



EAC-Learned from Lit Review 11-6-06.doc EAC Lit Review Notes 11-5-06.doc

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV

11/03/2006 06:41 PM

To Margaret Sims/EAC/GOV@EAC

cc

Subject Re: Job and Tova 

I appreciate it. I will send you a copy of the outline that I am working from. It is somewhat subject to change as I am still trying to gel in my mind what goes first, second ....

-----  
Sent from my BlackBerry Wireless Handheld

Margaret Sims

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

**From:** Margaret Sims  
**Sent:** 11/03/2006 06:38 PM  
**To:** Juliet Hodgkins  
**Subject:** Re: Job and Tova

I can review them over the weekend and attempt to summarize what they tell us.--- Peggy

-----  
Sent from my BlackBerry Wireless Handheld

Juliet E. Hodgkins

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

**From:** Juliet E. Hodgkins  
**Sent:** 11/03/2006 06:14 PM  
**To:** Margaret Sims  
**Subject:** Re: Job and Tova

I think we should use the content of those articles or some summary of them as a background of what we know about VF and VI. I just didn't want to have to read all of those articles to be able to make some generalized statements about their contents.

-----  
Sent from my BlackBerry Wireless Handheld

Margaret Sims

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

**From:** Margaret Sims  
**Sent:** 11/03/2006 06:11 PM  
**To:** Juliet Hodgkins

008180

**Subject:** Re: Job and Tova

Julie:

All of the summaries received are in the shared drawer under T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Research Summaries. There are too many of them to append to this message, or I would do it. The researchers did not propose to include these summaries in the report. Are you considering adding them?

If you want, I can cross reference each of these with the list of articles and ID any missing summaries. I could do that over the weekend. -- Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV

11/03/2006 05:42 PM

To Margaret Sims/EAC/GOV@EAC

cc

Subject Job and Tova

I spoke to Job about the documents that I need. He will send me his summary of the articles/books that he read. However, he said that Tova also summarized some of those articles/books. I don't have a contact number/email for Tova. Could you contact her and ask her to provide us with any summary of the articles/books that she read as they are listed in Appendix 2?

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

008181

**1. Everyone does not define voting fraud and voter intimidation the same way.**

In some cases, what may have been honest administrative mistakes or errors due to poor poll worker training are lumped together with genuine voter suppression efforts and labeled as voter intimidation or voting fraud. Examples: (1) many authors consider certain voter suppression tactics to be voter intimidation that do not rise to the definition used in criminal enforcement of election crimes; (2) some charge that a DOJ ballot integrity measure in South Dakota was voter intimidation; and (3) some mistakes made in the maintenance of voter registration lists are labeled as fraud.

**2. There seems to be no systematic *nationwide* study that reports all (or most) verified instances of voting fraud and voter intimidation or suppression efforts in a particular election or a particular period in U.S. history.**

Some sources focus on certain areas of the country, which can bias the study if these areas are more or less susceptible to fraud and suppression. Some focus on the alleged (but not necessarily verified) misdeeds of one political party or another. Still others focus on unverified allegations reported to a toll-free phone line. In some cases, it is not clear if the incidents were intentional voter suppression or genuine poll worker mistakes (e.g.; not providing provisional ballots or in appropriately asking voters for ID). Minnite's study is as close as they get to a systematic study.

**3. There are a number of obstacles to gathering compete data on voting fraud and voter intimidation/suppression nationwide in any election.**

Authors often have limited resources (time and money) to collect such information. Investigation and prosecution of voting fraud and voter intimidation or suppression occurs at different levels of government (Federal, state and local). These investigations and prosecutions are not reported to and recorded by a central authority. Some voting fraud is inherently more difficult to identify and to prove than others (e.g.; impersonation of another voter at the polls is more difficult, due to the transient nature of some jurisdictions and the fact that impersonators not identified as a fraud at the polls are hard to identify later, than voter registration, vote buying, and absentee ballot fraud). At least some voting fraud and voter intimidation appears to go unreported and uninvestigated, and some prosecutions are unsuccessful due to local politics and law enforcement affiliations and the lack of sufficient resources at the Federal, state, and local levels to support the labor intensive effort.

**4. Most sources seem to agree that voter registration and absentee balloting fraud are the most common forms of voting fraud. Absentee ballot fraud often is accompanied by vote buying or voter coercion. Also frequently alleged were instances of ineligible voters (usually felons, but sometime non-citizens, under aged individuals, or non-residents) that voted. But not all agree that these are the only common forms of fraud.**

Some contend that voting in the name of another at the polling place is common, but that such instances are extremely hard to prove. Most instances of ineligible voters voting were linked to improper voter list maintenance or confusion on the part of local election officials as to state law on felon disenfranchisement.

**5. A number of sources have identified numerous instances of attempted voter suppression, but no instances of voter intimidation that could be prosecuted under Federal criminal laws is alleged.**

Examples of voter suppression efforts include: (1) phone calls and mailings deliberately directing targeted voters to vote on the wrong day or to go to the wrong polling place, or that provide incorrect and threatening information about the voter qualifications and legal consequences of voting; (2) targeted, inappropriate challenges to voters at the polls or shortly before election day; (3) people posing as law enforcement agents at targeted polling places. When such tactics target minority communities, they may be attacked through civil action by DOJ under Voting Rights Act provisions, but they do not qualify for criminal penalties under Federal voter intimidation law. Currently, there is no Federal election law providing criminal penalties for voter suppression efforts. When the suppression adversely affects a political party, but does not have a racial component, DOJ may be hard pressed to pursue the matter unless other Federal criminal law has been violated (e.g.; suppression of phone banks in New Hampshire).

**6. Unsupervised voter registration drives by political parties and advocacy groups are a primary source of fraudulent voter registration applications and missing (perhaps deliberately) voter registration applications.**

The practice of paying persons to man voter registration drives (particularly, but not only, when the person is paid by the head) is a frequent source of fraudulent voter registration applications. Partisan drives have resulted in applications from persons of “the wrong party” being held back or destroyed. Therefore, while the applicant believes they have registered, the election official has no record of that registration.

**7. Many authors contend that proper implementation of the National Voter Registration Act of 1993 (NVRA) and the Help America Vote Act of 2002 (HAVA) will reduce or at least not increase the potential for fraud and voter suppression, but some argue that provisions in these laws increase the likelihood of fraud or voter suppression.**

Many argue that proper implementation of the list maintenance and fail-safe voting provisions of the NVRA and HAVA’s requirements for the statewide voter registration list, voter ID for certain first-time voters, and provisional voting will reduce the potential for voting fraud and voter intimidation. Others argue that the list maintenance provisions of NVRA cause “dead wood” to be left on the voter rolls, providing opportunity for fraud, or that HAVA’s voter ID and list matching requirements can be used as voter suppression tactics.

EAC-LESSONS LEARNED FROM LITERATURE RESEARCH  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

- 8. Proper recordkeeping and post-election auditing is an important key to identifying and preventing voting fraud, and for subsequent prosecution of such activities; but is not being done consistently.**
- 9. Poll worker recruitment and training is a key component to combating actions that are perceived as suppressing or intimidating voters.**
- 10. Both sides on election reform debates are using incomplete data to bolster their arguments.**



EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**Articles**

People for the American Way and the NAACP, "The Long Shadow of Jim Crow," December 6, 2004.

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. 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. Examples include:

- 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.

Laughlin McDonald, "The New Poll Tax," *The American Prospect* vol. 13 no. 23, December 30, 2002.

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." Blames the federal government as well as the states for use of suspect ballot security programs. McDonald cites several ballot security efforts that were really disguised attempts at minority voter suppression:

- SD-DOJ "voting integrity initiative".
- AR - poll watchers driving away voters in predominantly black precincts by taking photos of them and demanding identification during pre-election day balloting.
- MI - "spotters" at heavily Democratic precincts was an effort to intimidate black voters and suppress Democratic turnout
- SC - one county's officials instituted a new and unauthorized policy allowing them to challenge voters who gave rural route or box numbers for their registration address (disproportionately affecting African Americans).
- 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.

States that HAVA "contains provisions that may enhance the opportunities for harassment and intimidation of minorities through ballot-security

Deliberative Process  
Privilege

008185

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**programs** (especially voter ID). Indicates that the crux of the problem is **lax enforcement of federal voters rights laws** ("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 Crawfordville [Arkansas].")

Recommends that Congress and the states should adopt "nondiscriminatory, evenly applied measures to ensure the integrity of the ballot."

Wisconsin Legislative Audit Bureau, "An Evaluation: Voter Registration Elections Board" Report 05-12, September, 2005.

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. **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** (all but dead voters were forwarded to appropriate district attorneys for investigation). 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 to those registering to vote on Election Day in November 2004. 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.
- registration lists contain duplicate records and the names of ineligible individuals (e.g.; 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).

### Recommendations:

- adjust the early registration deadline to provide clerks more time to prepare registration lists;
- establish more stringent requirements for special registration deputies, including prohibiting compensation based on the number of individuals registered;
- establish uniform requirements for demonstrating proof of residence for all registrants;
- provide municipal clerks with more flexibility in the use of address verification cards;
- Authorize civil penalties for local election officials and municipalities that fail to comply with election laws; and
- implement mandatory elections training requirements for municipal clerks.

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

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Milwaukee Police Department, Milwaukee County District Attorney's Office, Federal Bureau of Investigation, United States Attorney's Office "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 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.**
- **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. (Evidence indicates widespread record keeping errors with respect to recording the number of voters)**

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 (141 of them were same day registrants; in several instances, the voter explicitly listed municipality names other than Milwaukee on the registration cards);
- 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;
- 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.

Investigation also 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.**
- **more than 200 felons who were not eligible to vote in the 2004 election, but who are recorded as having done so.**
- **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 (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).**
- **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.**

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

National Commission on Federal Election Reform, "Building Confidence in U.S. Elections," Center for Democracy and Election Management, American University, September 2005.

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**

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**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

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

election committee would clearly violate these standards.

The Brennan Center for Justice at NYU School of Law and Spencer Overton, Commissioner and Law Professor at George Washington University School of Law "Response to the Report of the 2005 Commission on Federal Election Reform," September 19, 2005.

### Recommendation on Voter Identification -

- Report premises its burdensome identification proposals on the need to ensure ballot integrity and on the existence of or potential for widespread fraud. However, the **Report admits that there is simply "no evidence" that the type of fraud that could be solved by stricter voter identification** – individual voters who misrepresent their identity at the polls – is a widespread problem.
- The photo ID proposal guards against only one type of fraud: individuals arriving at the polls to vote using false information, such as the name of another registered voter, or a recent but not current address. Since the costs of this form of fraud are extremely high (federal law provides for up to five years' imprisonment), and the benefits to any individual voter are extremely low, it is highly unlikely that this will ever occur with any frequency. **The limited types of fraud that could be prevented by a Real ID requirement are extremely rare and difficult.**
- In the most comprehensive survey of alleged election fraud to date, Professor Loraine Minnite and David Callahan have shown that the **incidence of individual voter fraud at the polls is negligible**. A few prominent examples support their findings. In Ohio, a statewide survey found four instances of ineligible persons voting or attempting to vote in 2002 and 2004, out of 9,078,728 votes cast – a rate of 0.00004%. Earlier this year, Georgia Secretary of State Cathy Cox stated that she could not recall one documented case of voter fraud relating to the impersonation of a registered voter at the polls during her ten-year tenure as Secretary of State or Assistant Secretary of State.
- The Report attempts to support its burdensome identification requirements on four specific examples of purported fraud or potential fraud. **None of the Report's cited examples of fraud stand up under closer scrutiny**. This response report goes through each instance of fraud raised by the Commission report and demonstrates that in each case the allegation in fact turned out later not to be true or the fraud cited was not of the type that would be addressed by a photo identification requirement.
- The Report fails to provide a good reason to create greater hurdles for voters who vote at the polls than for those who vote absentee. Despite the fact that **absentee ballots are more susceptible to fraud than regular ballots**, the Report exempts absentee voters from its proposed Real ID and proof of citizenship requirements.

### Other points in ID requirement:

- **Report does not explain why the goals of improved election integrity will not be met through the existing provisions in the Help America Vote Act of 2002 (HAVA).**
- Report fails to consider alternative measures to advance its goals that are less restrictive to voters. To the extent that any limited fraud **by individuals at the polls does trickle into the system, it can be addressed by far less restrictive alternatives**. The first step is to recognize that only voters who appear on the registration list may vote a regular ballot. Proper cleaning of registration lists – and proper use of the lists at the poll – will therefore go a long way toward ensuring that every single ballot is cast by an eligible voter.
- In addition to the **better registration lists that full implementation will provide, better record keeping and administration at the polls will reduce the limited potential for voting by ineligible persons**. In the unlikely event that implementation of current law is not able to wipe out whatever potential for individual fraud remains, there are several effective and less burdensome alternatives to the Report's Real ID recommendation that received wholly insufficient consideration.
- Costs - If required as a precondition for voting, photo identification would operate as a de facto poll tax that could disenfranchise low-income voters. To alleviate this burden, the Report appropriately recommends that the "Real ID" card itself be issued free of charge. Nevertheless, the

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

percentage of Americans without the documentary proof of citizenship necessary to obtain Real IDs is likely to remain high because the requisite documents are both expensive and burdensome to obtain. (Each of the documents an individual is required to show in order to obtain a "Real ID" card or other government-issued photo ID card costs money or presumes a minimal level of economic resources. Unless the federal and all state governments waive the cost of each of these other forms of identification, the indirect costs of photo IDs will be even greater than their direct costs. In addition, since government-issued IDs may only be obtained at specified government offices, which may be far from voters' residences and workplaces, individuals seeking such IDs will have to incur transportation costs and the costs of taking time off from work to visit those offices during often-abbreviated business hours.)

- Since voting generally depends on the voter's address, and since many states will not accept IDs that do not bear an individual's current voting address, an additional 41.5 million Americans each year will have ID that they may not be able to use to vote.
- The burden would fall disproportionately on the elderly, the disabled, students, the poor, and people of color.
- The ID recommendations reduce the benefits of voter registration at disability and other social service agencies provided by the National Voter Registration Act of 1993. Individuals who seek to register at those offices—which generally do not issue IDs Census data demonstrate that African Americans and Latinos are more than three times more likely than whites to register to vote at a public assistance agency, and that whites are more likely than African Americans and Latinos to register when seeking a driver's license. Accordingly, the voter registration procedure far more likely to be used by minorities than by whites will no longer provide Americans with full eligibility to vote.
- The Report's proposal to use Real ID as a condition of voting is so excessive that it would prevent eligible voters from proving their identity with even a valid U.S. passport or a U.S. military photo ID card. The Report's proposal to use Real ID as a condition of voting is so excessive that it would prevent eligible voters from proving their identity with even a valid U.S. passport or a U.S. military photo ID card

**Recommendation on Database Information Sharing Across States -serious efficacy, privacy, and security concerns raised by a nationally distributed database of the magnitude it contemplates.** These problems are exacerbated by the Report's recommendation that an individual's Social Security number be used as the broadly disseminated unique voting identifier.

**Recommendation on Voting Rights of Ex-Felons - This recommendation would set a standard more generous than the policies of the most regressive thirteen states in the nation but more restrictive than the remaining thirty-seven. The trend in the states is toward extension of the franchise.**

Chandler Davidson, Tanya Dunlap, Gale Kenny, and Benjamin Wise, "Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – or Both?" A Report to the Center for Voting Rights & Protection, September, 2004.

Focuses on **vote suppression through "ballot security programs"** (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). Noteworthy **characteristics of these programs**:

- **focus on minority precincts almost exclusively**
- **is often on only the flimsiest evidence that vote fraud is likely to be perpetrated in such precincts;**
- **in addition to encouraging the presence of sometimes intimidating white 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
- **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."**
- **doing mailings, collecting returned materials, and using that as a basis for creating challenger lists and challenging voters at the polls,**

008191

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

started in the 1950s and continues to today (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)

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 (including 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). 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. 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.

**Some of the features of vote suppression efforts** put forth by Republicans under the guise of ballot security programs:

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.** Recommends 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.

Alec Ewald, "A Crazy Quilt of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law," The Sentencing Project, November 2005.

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 (spring 2004) and telephone interviews with almost one hundred city, county, town, and parish officials drawn from 10 selected states.

### **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



## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

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.

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

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.

### American Center for Voting Rights "Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election," August 2, 2005.

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. The report **most often alleges voter intimidation and voter registration fraud, and to a lesser degree absentee ballot fraud and vote buying.** 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. paid Democrat operatives were far more involved in voter intimidation and suppression activities than were their Republican counterparts during the 2004 presidential election. Identified five cities as "hot spots" which require additional immediate attention, based on the findings of this report and the cities' documented history of fraud and intimidation: Philadelphia, PA, Milwaukee, WI, Seattle, WA, St. Louis/East St. Louis, MO/IL, and Cleveland, OH. 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. Recommends:

- **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.

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

- **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.**

The Advancement Project, "America's Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy" November 7, 2001

Written after the 2000 election, thesis of report 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." 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."** 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 (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.) 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."

### Findings:

- 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

008195

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

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.

### Recommendations:

- 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.

The Brennan Center and Professor Michael McDonald “Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General,” The Brennan Center for Justice at NYU School of Law, December 2005.

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. **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. **Analysis reveals several serious problems with the methodology used to compile the suspect lists that compromise the lists' practical value.** For example, 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. **A presumption that two records with the same name and date of birth must represent the same person is not consistent with basic statistical principles.**

Re Claim of Double Voting by 4,497 Individuals:

- 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 (far more likely that data error is to blame for the doubly logged vote - to irregularities in the data processing and compilation process for one single county);
- another 1,257 entries of the 4,397 records probably represent similar data errors;
- approximately 800 of the entries on the list likely represent different people, with different addresses and different middle initials or suffixes;
- for approximately 200 of the entries in this category, however, less information is available (lack of or differences in middle initial or middle name);
- 7 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;
- 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

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

such coincidences are surprisingly common. . In a group of just 23 people, it is more likely than not that two will share the same birthday. For 40 people, the probability is 90%. Many, if not most, of the 289 alleged double votes of persons registered at different addresses most likely reflect two separate individuals sharing a first name, last name, middle initial, and birth date.

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.**

Democratic National Committee, "Democracy at Risk: The November 2004 Election in Ohio," DNC Services Corporation, 2005

Study re 2004 election in Ohio. Findings considered related to EAC study:

- **Statewide, 6 % of all voters reported feelings of intimidation: 16 percent of African Americans reported experiencing intimidation versus only 5 % of white voters.**
- **African American voters were 1.2 times more likely than white voters to be required to vote provisionally.** Of provisional voters in Cuyahoga County, 35% were African American, compared to 25% of non-provisional voters, matched by geography.
- 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% 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% reported being asked to provide identification.—meaning large numbers of voters were illegally required to produce identification. African American voters statewide were 47% more likely to be required to show identification than white voters. Indeed, 61% of African American men reported being asked to provide identification at the polls.**
- **Scarcity of voting machines caused long lines that deterred many people from voting: 3% 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% of white Ohio voters reported waiting more than twenty minutes, while 44% of African American voters reported doing so.**

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.

Pertinent recommendations:

- **codify into law all required election practices**, including requirements for the adequate training of official poll workers
- adopt legislation to **make clear and uniform the rules on voter registration.**
- 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
- improve **training of official poll workers**
- 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
- not adopt requirements that voters show identification at the polls, beyond those already required by federal law; **vigorously enforce, to the full extent permitted by state law, a voter's right to vote without showing identification.**

EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

- **make voter suppression a criminal offense at the state level**, in all states
- **implement statewide voter lists** in accordance with the Help America Vote Act ("HAVA")
- **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.**

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2002."

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2003."

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2004."

**Supervision of the Justice Department's nationwide response to election crimes:**

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. 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.

**Voting Fraud:**

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. 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. 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.

008198

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

### **District Election Officer Program:**

The Branch also assists in implementing the Department's long-standing District Election Officer (DEO) Program. This Program is designed to ensure that each of the 93 United States Attorneys' Offices has a trained prosecutor available to oversee the handling of election crime matters within the district and to coordinate district responses with Headquarters regarding these matters. The DEO Program involves the appointment of an Assistant United States Attorney in each federal district to serve a two-year term as a District Election Officer; the training of these prosecutors in the investigation and prosecution of election crimes; and the coordination of election-related initiatives and other law enforcement activities between Headquarters and the field. In addition, the DEO Program is a crucial feature of the Department's nationwide Election Day Program, which occurs in connection with the federal general elections held in November of even-numbered years. The Election Day Program ensures that federal prosecutors and investigators are available both at the Department's Headquarters in Washington and in each district to receive and handle complaints of election irregularities from the public while the polls are open and that the public is aware of how these individuals can be contacted on election day. In 2002 the Department enhanced the DEO Program by establishing a Ballot Integrity Initiative.

### **Ballot Integrity Initiative:**

**Beginning in September of 2002**, the Public Integrity Section, acting at the request of the Attorney General, assisted in the implementation of a Ballot Integrity Initiative for the 2002 general election and subsequent elections. This initiative included increasing the law enforcement priority the Department gives to election crimes; holding a special day-long training event in Washington, DC for representatives of the 93 United States Attorneys' Offices; publicizing the identities and telephone numbers of the DEOs through press releases issued shortly before the November elections; and requiring the 93 U.S. Attorneys to communicate the enhanced federal prioritization of election crime matters to state and local election and law enforcement authorities. As part of Ballot Integrity Initiative, on October 8, 2002, the Public Integrity Section and the Voting Rights Section of the Department's Civil Rights Division co-sponsored a Voting Integrity Symposium for District Election Officers representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes used to prosecute such cases. Attorney General John Ashcroft delivered the keynote address on the importance of election crime and ballot integrity enforcement. Assistant Attorney General of the Civil Rights Division Ralph Boyd and Assistant Attorney General of the Criminal Division Michael Chertoff also spoke to attendees on the protection of voting rights and the prosecution of election cases. As part of Ballot Access and Voting Integrity Initiative, on September 23 and 24, 2003, the Public Integrity Section and the Voting Rights Section of the Department's Civil Rights Division co-sponsored a two-day Symposium for DEOs representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes used to prosecute such cases. Assistant Attorney General of the Civil Rights Division Alexander Acosta and Assistant Attorney General of the Criminal Division Christopher A. Wray delivered the keynote addresses on the importance of protecting voting rights and the prosecution of election cases. On July 20 and 21, 2004, the Public Integrity Section and the Voting Section of the Department's Civil Rights Division co-sponsored a two-day symposium for DEOs representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes available to prosecute such cases, and the handling of civil rights matters involving voting. Attorney General John Ashcroft delivered the keynote address on the importance of protecting voting rights and the prosecution of election fraud. In addition, Assistant Attorney General Christopher A. Wray of the Criminal Division and Assistant Attorney General R. Alexander Acosta of the Civil Rights Division addressed conference attendees on voting rights and election fraud enforcement issues respectively.

As a result of the Initiative, during 2002 the number of election crime matters opened by federal prosecutors throughout the country increased significantly, as did the Section's active involvement in election crime matters stemming from the Initiative. At the end of 2002, the Section was supervising and providing advice on approximately 43 election crime matters nationwide. In addition, as of December 31, 2002, 11 matters involving possible election crimes were pending in the Section. During 2002 the Section closed two election crime matters and continued its operational supervision of 8 voting fraud cases (conspiracy to illegally obtain criminal history records to use to challenge voters (AL) and 7 cases of vote buying involving 10 defendants (KY)).

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Craig Donsanto, "The Federal Crime of Election Fraud," Public Integrity Section, Department of Justice, prepared for Democracy.Ru, n.d., at [http://www.democracy.ru/english/library/international/eng\\_1999-11.html](http://www.democracy.ru/english/library/international/eng_1999-11.html)

Addresses the role of the United States Department of Justice in matters of election fraud, specifically: what sort of election-related conduct is potentially actionable as a federal crime; what specific statutory theories apply to frauds occurring in elections lacking federal candidates on the ballot, what federalism; procedural, and policy considerations impact on the federalization of this type of case; and how Assistant United States Attorneys should respond to this type of complaint. As a general rule, the federal crime of voter fraud embraces only organized efforts to corrupt of the election process itself: i.e., the registration of voters, the casting of ballots, and the tabulation and certification of election results. Moreover, this definition excludes all activities that occur in connection with the political campaigning process, unless those activities are themselves illegal under some other specific law or prosecutorial theory. This definition also excludes isolated acts of individual wrongdoing that are not part of an organized effort to corrupt the voting process. Mistakes and other gaffs that inevitably occur are not included as voter fraud. Prosecuting election fraud offenses in federal court is further complicated by the constitutional limits that are placed on federal power over the election process. The conduct of elections is primarily a state rather than a federal activity.

### **Four situations where federal prosecution is appropriate:**

1. Where the objective of the conduct is to corrupt the outcome of a federal elective contest, or where the consequential effect of the corrupt conduct impacts upon the vote count for federal office;
2. Where the object of the scheme is to discriminate against racial, ethnic or language minority groups, the voting rights of which have been specifically protected by federal statutes such as the Voting Rights Act, 42 U.S.C. section 1973 et seq.;
3. Where federalization is required in order to redress longstanding patterns of electoral fraud, either at the request of state or local authorities, or in the face of longstanding inaction by state authorities who appear to be unwilling or unable to respond under local law; and,
4. Where there is a factual basis to believe that fraudulent registration or voting activity is sufficiently connected to other forms of criminal activity that perusing the voter fraud angle will yield evidence useful in the prosecution of other categories of federal offense

### **Four advantages to federal prosecution:**

1. Voter fraud investigations are labor intensive - local law enforcement agencies often lack the manpower and the financial resources to take these cases on;
2. Voter fraud matters are always politically sensitive and very high profile endeavors at the local level - local prosecutors (who are usually themselves elected) often shy away from prosecuting them for that reason; the successful prosecution of voter fraud cases demands that critical witnesses be examined under oath before criminal charges based on their testimony are filed.
3. Many states lack the broad grand jury process that exists in the federal system; and
4. The defendants in voter fraud cases are apt to be politicians - or agents of politicians - and it is often impossible for either the government or the defendant to obtain a fair trial in a case that is about politics and is tried to a locally-drawn jury. The federal court system provides for juries to be drawn from broader geographic base, thus often avoiding this problem.

Several prosecutorial theories used by United States Attorneys to federalize election frauds are discussed.

### **Four questions used by prosecutors in evaluating the credibility of election complaints:**

1. does the substance of the complaint assuming it can be proven through investigation - suggest a potential crime;
2. is the complaint sufficiently fact-specific that it provides leads for investigators to pursue;
3. is there a federal statute that can be used to federalize the criminal activity at issue; and,
4. is there a special federal interest in the matter that warrants federalization rather than deferral to state law enforcement.

All federal election investigations must avoid the following: non-interference in elections unless absolutely necessary to preserve evidence; interviewing voters during active voting periods; seizing official election documentation; investigative activity inside open polls; and prosecutors must adhere to 18 U.S.C. section 592, prohibiting the stationing of armed men at places where voting activity is taking place.



## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Election crimes based on race or language minority status are treated as civil rights matters under the Voting Rights Act.

People for the American Way, Election Protection 2004, Election Protection Coalition, at <http://www.electionprotection2004.org/edaynews.htm>

Election Protection 2004 was the nation's most far-reaching effort to protect voter rights before and on Election Day. The historic nonpartisan program included: (1) a toll-free number, 1-866-OUR-VOTE, with free, immediate and multi-lingual assistance to help voters with questions about registration and voting, and assist voters who encounter barriers to the ballot box; (2) distribution of more than five million "Voters' Bills of Rights" with state-specific information; (3) 25,000 volunteers, including 6,000 lawyers and law students, who watched for problems and assisted voters on the spot at more than 3,500 predominantly African-American and Latino precincts with a history of disenfranchisement in at least 17 states; and (4) civil rights lawyers and advocates represented voters in lawsuits, preserved access to the polls, exposed and prevented voter intimidation, worked with election officials to identify and solve problems with new voting machines, technology and ballot forms, and protected voter rights in advance and on Election Day.

### **Voter Intimidation and Suppression Stories (Abridged):**

- An Associated Press story noted Election Protection's exposure of reported voter suppression tactics in **Colorado**: Officials with the Election Protection Coalition, a voter-rights group, also said **some voters in a predominantly black neighborhood north of Denver found papers on their doorsteps giving them the wrong address for their precinct.**
- Election Protection received a report from Boulder County, **Colorado** that a **poll worker made racist comments to Asian American voter and then told her she was not on the list and turned her away.** The voter saw others filling out provisional ballots and asked for one but was denied. Another Asian American woman behind her in line was also given trouble by the same poll worker (he questioned her nationality and also turned her away).
- Election Protection received a report from Florissant County, **Missouri** from a voter who lives in predominantly white neighborhood. While waiting in line to vote, a **Republican challenger challenged the black voters by requesting more proof of identification, residence, and signature match, while asking nothing from white voters.** Also, the same voter reportedly asked a few questions about voting but an election officials refused to provide any meaningful answer, insisting that "it's very simple", but provided white voters with information when requested. There was one other black voter in line who was also singled out for same treatment while white voters were not.
- The Election Protection hotline received reports from **Pinellas County, Florida** that individuals purporting to be from the Kerry campaign are going door-to-door handing out absentee ballots, and asking voters to fill them out, and then taking the ballots from them, saying "Vote here for Kerry. Don't bother going to the polls."
- The Election Protection Coalition received a report from a woman whose sister lives in **Milwaukee** and is on government assistance. Her sister was reportedly told by her "case manager" that if she voted for Kerry, she would stop receiving her checks.
- An illiterate, older and disabled voter in **Miami-Dade** asked for assistance reading the ballot and reported that a poll worker yelled at him and refused to assist him and also refused to allow him to bring a friend into the booth in order to read the ballot to him.
- The Election Protection Coalition have gathered reports that flyers are circulating in a black community in **Lexington, South Carolina** claiming they those who are behind on child support payments will be arrested as the polls.
- **Minority voters from Palm Beach County, Florida** reported to the hotline that they received middle-of-the-night, live harassing phone calls warning them away from the polls.
- A volunteer for Rock the Vote reported that two illiterate voters in **Michigan** requested assistance with their ballots but were refused and reportedly mocked by poll workers.
- The hotline received a call from a radio DJ in **Hillsborough County, Florida**, who stated that he has received many calls (most of which were from African-Americans) claiming that poll workers were turning voters away and not "letting" them vote.

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

- The hotline received a call from **Pima County, Arizona**, indicating that **Democratic voters received calls throughout Monday evening, providing incorrect information about the precinct location**. Voters have had to be transported en masse in order to correct the problem.
- A caller from **Alabama** claims that he was told at his polling place that he could vote there for everything but the President and that he would have to go elsewhere in order to vote for a presidential candidate.
- Poll monitors in **Philadelphia** reports groups of lawyers, traveling in threes, who pull voters out of line and challenge them to provide ID, but when challenged themselves, they hop into waiting cars or vans and leave. Similar activity by Republican lawyers in Philadelphia was reported in the 2002 election.
- In **Cuyahoga, Ohio**, a caller reported that all black voters are being asked to show ID, while white voters are not. Caller report that he is black and had to show ID while his girlfriend is white and did not have to show ID.
- Two months ago, **suspicious phone calls to newly registered Democrats —telling them they weren't, in fact, registered to vote —** were traced to the Republican headquarters in the **Eastern Panhandle**. On **Monday, Democrats there said the calls have started again, even after the Berkeley County Clerk — a Republican — sent the party a cease-and-desist letter**. The Berkeley prosecutor, who also is county Democratic chairman, has called on the U.S. attorney to investigate.
- In **Tuscon, Arizona** a **misleading call informing voters that they should vote on November 3** has been traced back to the state GOP headquarters. The FBI is investigating.
- **A man driving around in a big van covered in American flags and a big picture of a policeman was reportedly parked in front of a polling place; he then got out and moved within the 75 ft limit**, until he was asked to leave; he then was found inside the polling place and was again asked to leave. Election Protection volunteers contacted officials and the man was eventually removed.
- The Election Protection hotline has received a report from individuals who claim to have received recorded telephone message coming from **Bill Clinton and ACT and reminding them to vote on Nov. 3rd**.
- In **Massachusetts**, the EP Hotline has received a report that a radio station (**WILD**) is broadcasting that voters will be arrested on the spot if they have outstanding parking tickets.
- In **Richland, South Carolina** Election Protection has received a report of a poll manager turning away individuals who do not have photo ID issued to the county or a driver's license; an EP lawyer spoke with the Poll Manager at 8:20 am and told her that people with other forms of ID should be allowed to vote by provisional ballot.
- In **Greenville**, a caller reported that a **white poll worker was asking Blacks for multiple form of I.D.** Fortunately, the voter who reported the problem did have a second I.D. but reported that some others were turned away. Election Protection attorneys have alerted election officials.
- In **Allegheny County, Pennsylvania**, an official looking flyer advises **Democratic voters to "create a peaceful voting environment" by voting on Wednesday, November 3**
- The week before the election, flyers were circulated in **Milwaukee** under the heading "**Milwaukee Black Voters League**" with some "**warnings for election time.**" The flyer listed false reasons for which you would be barred from voting (such as a traffic ticket) and then warned that "**If you violate any of these laws you can get ten years in prison and your children will get taken away from you.**"
- There is a **Jefferson County** flyer which tells voters "**See you at the Poles!sic**"... on **November 4**.

Craig Donsanto, "Prosecution of Electoral Fraud Under United State Federal Law," *IFES Political Finance White Paper Series*, IFES, 2006.

[NO SUMMARY FOUND] This is summary of federal role in prosecuting election crimes.

General Accounting Office, "Elections: Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote,"

EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Report to Congressional Requesters, September 2005.

**[SUMMARY FAILS TO NOTE ELECTION OFFICIALS' RESPONSES THAT LITTLE VOTING FRAUD OR VOTER INTIMIDATION WAS DETECTED. DETECTED VOTING FRAUD WAS RELATED TO SUBMISSION OF FALSE/MATERIALLY INCORRECT VOTER REGISTRATION APPLICATIONS AND TO ABSENTEE BALLOT FRAUD. VOTER SUPPRESSION EFFORTS OCCUR.]** 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. 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. 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.

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. 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. 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. 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 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.

Lori Minnite and David Callahan, "Securing the Vote: An Analysis of Election Fraud," Demos: A Network of Ideas and Action, 2003.

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

008203

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

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. Minnute 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.

### **Suggested reforms to prevent what voter fraud does take place:**

1. effective use of new statewide voter registration databases;
2. identification requirements for first time voters who register by mail should be modified to expand the list of acceptable identifying documents;
3. fill important election administration positions with nonpartisan professionals;
4. strengthen enforcement through adequate funding and authority for offices responsible for detecting and prosecuting fraud; and
5. 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.
- 6.

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

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 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**

EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**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.

**Books**

John Fund, *Stealing Elections: How Voter Fraud Threatens Our Democracy*, Encounter Books, 2004.

Focuses almost entirely on alleged transgressions by Democrats. Fund's accusations, if credible, would indicate that fraud such as voter registration fraud, absentee ballot fraud, dead people voting, and felon voting is prevalent throughout the country. However, due to its possible biases, lack of specific footnoting, and insufficient identification of primary source material, caution is strongly urged with respect to utilizing this book for assessing the amount and types of voter fraud and voter intimidation occurring.

Fund says that "Election fraud, whether its phony voter registrations, illegal absentee ballots, shady recounts or old-fashioned ballot-box stuffing, can be found in every part of the United States, although it is probably spreading because of the ever-so-tight divisions that have polarized the country and created so many close elections lately. Fund argues that fraud **has been made easier by the passage of the National Voting Rights Act** because it allows ineligible voters to remain on the voter rolls, allowing a voter to vote in the name of someone else. He claims dead people, people who have moved, and people in jail remain on the voting list. He believes because of NVRA illegal aliens have been allowed to vote.

**Absentee balloting makes it even worse:** someone can register under false names and then use absentee ballots to cast multiple votes. Groups can get absentee ballots for the poor and elderly and then manipulate their choices.

Provides a number of examples of alleged voter fraud, mostly perpetrated by Democrats. For example, he claims much fraud in St. Louis in 2000, including illegal court orders allowing people to vote, **felons voting, people voting twice, dead people voting, voters were registered to vacant lots, election judges were not registered and evidence of false registrations.** Another case he pays a great deal of attention to are the alleged transgressions by Democrats in Indian Country in South Dakota 2002, including **voter registration fraud, suspicious absentee ballot requests, vote hauling, possible polling place fraud, abusive lawyers at polling sites, and possible vote buying.**

Andrew Gumbel, *Steal this Vote: Dirty Elections and the Rotten History of Democracy in American*, Nation Books, 2005.

Bulk of the book comprises stories from United States electoral history outside the scope of this project; however, tales are instructive in showing how far back irregular and illegal voting practices go. Focuses almost entirely on alleged transgressions by Republican, although at times it does include complaints about Democratic tactics. Gumbel's accusations, if credible, especially in the Bush-Gore election, would indicate there were a number of problems in key states in such areas as **intimidation, vote counting, and absentee ballots.** However, due to its possible biases, lack of specific footnoting, and insufficient identification of primary source material, caution is strongly urged with respect to utilizing this book for assessing the amount

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

|   |
|---|
| and types of voter fraud and voter intimidation occurring.  |
| Tracy Campbell, <i>Deliver the Vote: A History of Election Fraud, An American Political Tradition – 1742-2004</i> , Carroll & Graf Publishers, 2005.  |
| 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. [SKIMPY SUMMARY-DOES NOT SAY MUCH.]  |
| David E. Johnson and Jonny R. Johnson, <i>A Funny Thing Happened on the Way to the White House: Foolhardiness, Folly, and Fraud in the Presidential Elections, from Andrew Jackson to George W. Bush</i> , Taylor Trade Publishing, 2004.   |
| <b>Adds almost nothing to the present study.</b> It contains no footnotes and no references to primary source material, save what may be able to be gleaned from the bibliography. Takes a historical look at United States Presidential elections from Andrew Jackson to George Bush by providing interesting stories and other historical information. 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.  |
| Mark Crispin Miller, <i>Fooled Again</i> , Basic Books, 2005.   |
| Sets out to show that the 2004 election was won by Bush through nefarious means, and indicts the news media for not taking anomalies, irregularities, and <b>alleged malfeasance</b> in the process seriously enough. However, book is well sourced, and individual instances of alleged malfeasance discussed may be worth looking at. He accuses Republicans of committing crimes and improprieties throughout the country, including: <ol style="list-style-type: none"> <li>1. <b>deliberate disparities in voting machine distribution and long lines in Democratic jurisdictions;</b></li> <li>2. <b>misinterpretation of voting laws by elections officials to the detriment of Democratic voters;</b></li> <li>3. <b>dirty tricks and deceptive practices to mislead Democratic and minority voters about voting times, places and conditions;</b></li> <li>4. <b>machine irregularities in Democratic jurisdictions;</b></li> <li>5. <b>relocating polling sites in Democratic and minority areas;</b></li> <li>6. <b>suspicious mishandling of absentee ballots;</b></li> <li>7. <b>refusing to dispense voter registration forms to certain voter registration groups;</b></li> <li>8. <b>intimidation of students;</b></li> <li>9. <b>suspicious ballot spoilage rates in certain jurisdictions;</b></li> <li>10. <b>“strategic distribution of provisional ballots,” and trashing of provisional ballots;</b></li> <li>11. <b>harassment of Native American voters;</b></li> <li>12. <b>a Republican backed organization engaging in voter registration efforts throughout the country that allegedly destroyed the voter registration forms of Democrats;</b></li> <li>13. <b>illegitimate challenges at the polls by Republican poll watchers;</b></li> <li>14. <b>improper demands for identification in certain areas;</b></li> <li>15. <b>Republican challenges to the voter registration status of thousands of voters before the election, and the creation of lists of voters to challenge at the polls;</b></li> <li>16. <b>wrongful purging of eligible voters from voting rolls;</b></li> <li>17. <b>partisan harassment;</b></li> <li>18. <b>the selective placement of early voting sites; and</b></li> <li>19. <b>failure to send out absentee ballots in time for people to vote.</b></li> </ol> <p>Details what he says was the inappropriate use of the Federal Voter Assistance Program that made voting for the military easy while throwing up obstacles</p> |

008206

EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

for civilians overseas in their efforts to vote by absentee ballot, leading many of them to be disenfranchised.

**Legal**

*Indiana Democratic Party vs. Rokita*, U.S. District Court Southern District of Indiana (Indianapolis) 1:05-cv-00634, U.S. Court of Appeals, 7<sup>th</sup> Circuit 06-2218

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.

**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.

**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.**

**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. The problem is only exacerbated by the increasingly transient nature of society. **Documentation of in-person voter fraud often occurs only when a legitimate voter at the polls hears a fraudulent voter trying to use her name, as happened to a woman in California in 1994. See Larry J. Sabato & Glenn R. Simpson, *Dirty Little Secrets* 292 (1996).**

Regardless of the lack of extensive evidence of in-person voter fraud, the Commission on

008207

EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

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.)*

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

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

It is also important to understand that the **nature of in-person election fraud is such that it is nearly impossible to detect or investigate. Unless a voter stumbles across someone else trying to use her identity, see Sabato & Simpson, *supra*, 292, or unless the over-taxed poll worker happens to notice that the voter's signature is different from her registration signature State Ex. 37, ¶ 9, the chances of detecting such in-person voter fraud are extremely small. Yet, inflated voter-registration rolls provide ample opportunity for those who wish to commit in-person voter fraud.**

See Fund, *supra*, 24, 65, 69, 138; Sabato & Simpson, *supra*, 321. And there is **concrete evidence that the names of dead people have been used to cast fraudulent ballots. See Fund, *supra*, 64. Particularly in light of Indiana's highly inflated voter rolls State Ex. 27, p. 9, Plaintiffs' repeated claims that there has never been any in-person voter fraud in Indiana can hardly be plausible, even if the state is unable to prove that such fraud has in fact occurred.**

***Common Cause of Georgia vs. Billups*, U.S. District Court, Northern District of Georgia (Rome) 4:05-cv-00201-HLM U.S. Court of Appeals, 11<sup>th</sup> Circuit 05-15784**

The Secretary of State, as the Chief Election Officer in Georgia, informed the General Assembly before the passage of Act 53 in a letter (attached hereto as Exhibit A), and also informed the Governor in a letter (attached hereto as Exhibit B) before he signed the bill into law, that **there had been no documented cases of fraudulent voting by persons who obtained ballots unlawfully by misrepresenting their identities as registered voters to poll workers reported to her office during her nine years as Secretary of State.**

Although the Secretary of State had informed the members of the General Assembly and the Governor prior to the enactment of Act 53, that her office had



## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

received many complaints of voter fraud involving absentee ballots and no documented complaints of fraud that involve ballots that were cast in person at the polls, the General Assembly ignored this information and arbitrarily chose instead to require only those registered voters who vote in person to present a Photo ID as a condition of voting, but deliberately refused to impose the same requirement on absentee voters.

The Stated Purpose Of The Photo ID Requirement Fraud Is A Pretext.

According to a press release prepared by the Communications Office of the Georgia House of Representatives, the purpose of Act 53 is: to address the issue of voter fraud by placing tighter restrictions on voter identification procedures. Those casting ballots will now be required to bring a photo ID with them before they will be allowed to vote.

Al Marks, Vice Chairman for Public Affairs and Communication of the Hall County GOP told the Gainesville Times: I don't think we need it for voting, because I don't think there's a voter fraud problem. Gainesville Times, "States Voters Must Present Picture IDs" (September 15, 2005) ([www.gainesvilletimes.com](http://www.gainesvilletimes.com)).

**There is no evidence that the existing provisions of Georgia law have not been effective in deterring and preventing imposters from fraudulently obtaining and casting ballots at the polls by misrepresenting their true identities to election officials and passing themselves off as registered voters whose names appear on the official voter registration list.**

The pretextual nature of the purported justification for the burden which the Photo ID requirement imposes on the right to vote is shown by the following facts:

(a) Fraudulent voting was already prohibited by existing Georgia law without unduly burdening the right of a citizen to vote.

(i) Fraudulent voting was already prohibited as a crime under O.C.G.A. §§ 21-2-561, 21-2-562, 21-2-566, 21-2-571, 21-2-572 and 21-2-600, punishable by a fine of up to \$10,000 or imprisonment for up to ten years, or both.

(ii) Voter registration records are updated periodically by the Secretary of State and local election officials to eliminate people who have died, have moved, or are no longer eligible to vote in Georgia for some other reason.

(iii) Existing Georgia law also required election officials in each precinct to maintain a list of names and addresses of registered voters residing in that precinct, and to check off the names of each person from that official list as they cast their ballots.

(iv) Registered voters were also required by existing Georgia law to present at least one of the seventeen forms of documentary identification to election officials who were required, before issuing the voter a ballot, to match the name and address shown on the document to the name and address on the official roll of registered voters residing in the particular precinct. O.C.G.A. § 21-2-417.

(b) There is no evidence that the existing Georgia law has not been effective in deterring or preventing fraudulent in-person voting by impersonators - the only kind of fraudulent voting that might be prevented by the Photo ID requirement. To the contrary, the Secretary of State, who, as the Superintendent of Elections, is the highest election official in Georgia, informed both the General Assembly (Exhibit A) and the Governor (Exhibit B) in writing that there had been no documented cases of fraudulent in person voting by imposters reported to her during her nine years in office.

(c) If the true intention of the General Assembly had been to prevent fraudulent voting by imposters, the General Assembly would have imposed the same restrictions on the casting of absentee ballots - particularly after the Secretary of State had called to their attention the fact that there had been many documented instances of fraudulent casting of absentee ballots reported to her office.

(d) Fraudulent in-person voting is unlikely, would be easily detected if it had occurred in significant numbers, and would not be likely to have a substantial impact on the outcome of an election:

(i) Many people vote at a local neighborhood polling place where they are likely to be known to and recognized by neighbors or poll workers.

(ii) Voters were required by existing Georgia law (O.C.G.A. § 21-2-417), to provide one of the seventeen means of identification to election officials.

(iii) Election officials are required, before issuing the ballot to the voter, to check off the name of either voter from an up-to-date list of the names and addresses of every registered voter residing in the precinct. If an imposter arrived at a poll and was successful in fraudulently obtaining a ballot before

## EAC SUMMARY OF LITERATURE REVIEW FOR VOTING FRAUD-VOTER INTIMIDATION RESEARCH

the registered voter arrived at the poll, a registered voter, who having taken the time to go to the polls to vote, would undoubtedly complain to elections officials if he or she were refused a ballot and not allowed to vote because his or her name had already been checked off the list of registered voters as having voted. Likewise, if an imposter arrived at the polls after the registered voter had voted and attempted to pass himself off as someone he was not, the election official would instantly know of the attempted fraud, would not issue the imposter a ballot or allow him to vote, and presumably would have the imposter arrested or at least investigate the attempted fraud and report the attempt to the Secretary of State as Superintendent of Elections.

U.S. Department of Justice Section 5 Recommendation Memorandum (regarding HB 244), August 25, 2005 at <http://www.votingrights.org/news/downloads/Section%205%20Recommendation%20Memorandum.pdf>


**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.

Margaret Sims /EAC/GOV  
11/06/2006 12:21 PM


To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: VF\_VI Literature Review 

History:  This message has been replied to.

Is this an outline of an EAC staff report to accompany the consultants' report, or has there been a decision not to publish the consultants' report at all? (Just curious, as I have been a little out of the loop.) --- Peg

**Deliberative Process  
Privilege**

Margaret Sims/EAC/GOV  
11/06/2006 11:07 AM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: VF\_VI Literature Review 

History

 This message has been replied to

Julie:


I have not received the outline, but went ahead with reviewing the literature researched. Attached are my perspectives on what we learned and a listing of the literature with portions of the analysis for each. Both of these documents are on the shared drive under T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Research Summaries. Hope these help. Let me know what else you need from me. --- Peggy



EAC-Learned from Lit Review 11-6-06.doc EAC Lit Review Notes 11-5-06.doc

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/03/2006 06:41 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: Job and Tova 

I appreciate it. I will send you a copy of the outline that I am working from. It is somewhat subject to change as I am still trying to gel in my mind what goes first, second ....

-----  
Sent from my BlackBerry Wireless Handheld  
Margaret Sims  
----- Original Message -----

**From:** Margaret Sims  
**Sent:** 11/03/2006 06:38 PM  
**To:** Juliet Hodgkins  
**Subject:** Re: Job and Tova

I can review them over the weekend and attempt to summarize what they tell us.--- Peggy

-----  
Sent from my BlackBerry Wireless Handheld  
Juliet E. Hodgkins  
----- Original Message -----

**From:** Juliet E. Hodgkins  
**Sent:** 11/03/2006 06:14 PM  
**To:** Margaret Sims  
**Subject:** Re: Job and Tova

I think we should use the content of those articles or some summary of them as a background of what we know about VF and VI. I just didn't want to have to read all of those articles to be able to make some generalized statements about their contents.

008212

-----  
Sent from my BlackBerry Wireless Handheld  
Margaret Sims  
----- Original Message -----

**From:** Margaret Sims  
**Sent:** 11/03/2006 06:11 PM  
**To:** Juliet Hodgkins  
**Subject:** Re: Job and Tova

Julie:

All of the summaries received are in the shared drawer under T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Research Summaries. There are too many of them to append to this message, or I would do it. The researchers did not propose to include these summaries in the report. Are you considering adding them?

If you want, I can cross reference each of these with the list of articles and ID any missing summaries. I could do that over the weekend. --- Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/03/2006 05:42 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Job and Tova

I spoke to Job about the documents that I need. He will send me his summary of the articles/books that he read. However, he said that Tova also summarized some of those articles/books. I don't have a contact number/email for Tova. Could you contact her and ask her to provide us with any summary of the articles/books that she read as they are listed in Appendix 2?

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

008213

**Deliberative Process  
Privilege**

Margaret Sims /EAC/GOV  
10/19/2006 07:04 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Tamar  
Nedzar/EAC/GOV@EAC  
cc twilkey@eac.gov, Gavin S. Gilmour/EAC/GOV@EAC  
bcc

Subject Voter Fraud-Voter Intimidation Draft Report

Attached is a copy of the draft voter fraud-voter intimidation report that combines all of the pieces provided to me by the consultants, except for the voluminous Nexis research and case law charts. Tom wants to get this before the Commissioners ASAP, but I need some other eyes to look it over before we do. Although I've made some formatting changes to provide some consistency in presentation, and corrected a couple of glaring errors, I remain concerned about a number of issues:

- As you know, references to DOJ actions/responses have caused some concern at DOJ. But both consultants are adamantly opposed to EAC making substantive changes to their report. Perhaps using footnotes clearly labeled as EAC footnotes would be a method of addressing this issue?
- There are some recommendations regarding DOJ that we (the consultants and I) were told would not be supported by DOJ, and other references to DOJ, none of which have been reviewed by the department. I think we ought to give Craig Donsanto and John Tanner a chance to provide feedback on each of these sections.
- I am a little concerned about the naming of names, particularly in the section that addresses working group concerns. If we publish it as is, it might end up as fodder for some very negative newspaper articles.
- The report currently uses three different voices: third person, first person singular, first person plural. I think this looks really clumsy. If we are not actually making substantive changes, perhaps we could get away with making the presentation consistent in this regard.
- Because the consultants submitted the report in pieces, they did not include proper sequeways. I don't know if we should leave it as is, or insert them where needed.

Please let me know what you think. If it would help, we can schedule a teleconference. --- Peggy



VF-VI Final Rept-draft 10-19-06.doc

008214

**Deliberative Process  
Privilege**

# **Voting Fraud and Voter Intimidation**

## **Report to the U.S. Election Assistance Commission on Preliminary Research & Recommendations**

**By**

**Job Serebrov and Tova Wang**

008215

## **Table of Contents**

- 1. Introduction**
    - a. Charge Under HAVA**
    - b. Scope of the Project**
  - 2. Working Definition of Fraud and Intimidation**
  - 3. Summaries of Research Conducted**
    - a. Interviews**
    - b. Nexis Research**
    - c. Existing Literature**
    - d. Cases**
    - e. Methodology**
  - 4. Recommendations for Further EAC Action**
    - a. Consultants' Recommendations**
    - b. Working Group Recommendations**
  - 5. Key Working Group Observations and Concerns**
  - 6. Nexis Charts**
  - 7. Case Charts**
- Appendix 1: List of Individuals Interviewed**
- Appendix 2: List of Literature Reviewed**
- Appendix 3: Excerpt from "Machinery of Democracy," a Brennan Center Report**
- Appendix 4: Members of the Working Group**



## Introduction

### **Charge Under HAVA**

Under the Help America Vote Act, Pub. L. No. 107-252, 116 Stat. 1666 (2002) (“HAVA”), the United States Election Assistance Commission is charged with developing national statistics on voter fraud and developing methods of deterring and investigating voter fraud. Also, the Commission is charged with developing methods of identifying, deterring, and investigating methods of voter intimidation.

### **Scope of Project**

The Commission employed a bipartisan team of legal consultants, Tova Wang and Job Serebrov to develop a preliminary overview work product to determine the quantity and quality of vote fraud and voter intimidation that is present on a national scale. The consultants’ work is neither comprehensive nor conclusive. This first phase of an envisioned two-phase project was constrained by both time and funding. The consultants’ conclusions and recommendations for phase II will be contained in this report.

The consultants, working without the aid of a support staff, divided most of the work. However, the final work product was mutually checked and approved. They agreed upon the steps that were taken needed and the method employed. For all of the documentary sources, the consultants limited the time period under review from January 1, 2001 to January 1, 2006. The research performed by the consultants included interviews, an extensive Nexis search, a review of existing literature, and case research.

**Interviews:** The consultants chose the interviewees by first coming up with a list of the categories of types of people they wanted to interview. Then the consultants separately, equally filled those categories with a certain number of people. Due to time and resource constraints, the consultants had to pare down this list substantially – for instance, they had to rule out interviewing prosecutors altogether – but still got a good range of people to talk to. The ultimate categories were academics, advocates, elections officials, lawyers and judges. Although the consultants were able to talk to most of the people they wanted to, some were unavailable and a few were not comfortable speaking to them, particularly judges. The consultants together conducted all of the interviews, either by phone or in person. Then the consultants split up drafting the summaries. All summaries were reviewed and mutually approved. Most of the interviews were extremely informative and the consultants found the interviewees to be extremely knowledgeable and insightful for the most part.

**Nexis:** Initially, the consultants developed an enormous list of possible Nexis search terms. It soon became obvious that it would be impossible to conduct the research that way. As a result, consultant Wang performed the Nexis search by finding search term combinations that would yield virtually every article on a particular subject from the last

five years. Consultant Serebrov approved the search terms. Then Wang created an excel spreadsheet in order to break down the articles in way in which they could be effectively analyzed for patterns. Each type of fraud is broken down in a separate chart according to where it took place, the date, the type of election it occurred in, what the allegation was, the publication it came from. Where there was a follow up article, any information that that suggested there had been some further action taken or some resolution to the allegation was also included. For four very complicated and long drawn out situations – Washington State, Wisconsin, South Dakota in 2004, and the vote buying cases in a couple of particular jurisdictions over the last several years –written summaries with news citations are provided.

**Existing Literature:** Part of the selections made by the consultants resulted from consultant Wang's long-term familiarity with the material while part was the result of a joint web search for articles and books on vote fraud and voter intimidation and suggestions from those interviewed by the consultants. The consultants reviewed a wide range of materials from government reports and investigations, to academic literature, to reports published by advocacy groups. The consultants believe that they covered the landscape of available sources.

**Cases:** In order to properly identify all applicable cases, the consultants first developed an extensive word search term list. A WestLaw search was performed and the first one hundred cases under each word search term were then gathered in individual files. This resulted in a total of approximately 44,000 cases. Most of these cases were federal as opposed to state and appellate as opposed to trial. Consultant Serebrov analyzed the cases in each file to determine if they were on point. If he found that the first twenty cases were inapplicable, Serebrov would sample forty to fifty other file cases at random to determine applicability. If the entire file did not yield any cases, the file would be discarded. All discarded word search terms were recorded in a separate file. Likewise, if the file only yielded a few applicable cases, it would also be discarded. However, if a small but significant number of cases were on point, the file was later charted. The results of the case search were stark because relatively few applicable cases were found.

## **Working Definition of Fraud and Intimidation**

*Note: The definition provided below is for the purposes of this EAC project. Most of the acts described come within the federal criminal definition of fraud, but some may not.*

Election fraud is any intentional action, or intentional failure to act when there is a duty to do so, that corrupts the election process in a manner that can impact on election outcomes. This includes interfering in the process by which persons register to vote; the way in which ballots are obtained, marked, or tabulated; and the process by which election results are canvassed and certified.

Examples include the following:

- falsifying voter registration information pertinent to eligibility to cast a vote, (e.g. residence, criminal status, etc).;
- altering completed voter registration applications by entering false information;
- knowingly destroying completed voter registration applications (other than spoiled applications) before they can be submitted to the proper election authority;
- knowingly removing eligible voters from voter registration lists, in violation of HAVA, NVRA, or state election laws;
- intentional destruction by election officials of voter registration records or balloting records, in violation of records retention laws, to remove evidence of election fraud;
- vote buying;
- voting in the name of another;
- voting more than once;
- coercing a voter's choice on an absentee ballot;
- using a false name and/or signature on an absentee ballot;
- destroying or misappropriating an absentee ballot;
- felons, or in some states ex-felons, who vote when they know they are ineligible to do so;
- misleading an ex-felon about his or her right to vote;
- voting by non-citizens who know they are ineligible to do so;
- intimidating practices aimed at vote suppression or deterrence, including the abuse of challenge laws;
- deceiving voters with false information (e.g.; deliberately directing voters to the wrong polling place or providing false information on polling hours and dates);
- knowingly failing to accept voter registration applications, to provide ballots, or to accept and count voted ballots in accordance with the Uniformed and Overseas Citizens Absentee Voting Act;
- intentional miscounting of ballots by election officials;
- intentional misrepresentation of vote tallies by election officials;
- acting in any other manner with the intention of suppressing voter registration or voting, or interfering with vote counting and the certification of the vote.

Voting fraud does not include mistakes made in the course of voter registration, balloting, or tabulating ballots and certifying results. For purposes of the EAC study, it also does not include violations of campaign finance laws.

**DRAFT**

## Summaries of Research Conducted

### Interviews

#### *Common Themes*

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, “dead” voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.
- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate – including representatives from DOJ -- that for various reasons, the Department of Justice is bringing fewer voter intimidation and suppression cases now and is focusing on matters such as noncitizen voting, double voting and felon voting. While the civil rights section continues to focus on systemic patterns of malfeasance, the public integrity section is focusing now on individuals, on isolated instances of fraud.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full

implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

***Common Recommendations:***

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.
  - With respect to the civil rights section, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one’s definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and the section has not pursued any such cases.
  - Craig Donsanto of the public integrity section says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases the department is investigating and the number of indictments the section is pursuing are both up dramatically. Since 2002, the department has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so it can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud. Of particular note, Sarah Ball Johnson, Executive Director of Elections for Kentucky, emphasized that having had an effective statewide voter registration database for more than thirty years has helped that state avoid most of the fraud problems that have been alleged elsewhere, such as double voting and felon voting.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment

- Several people advocate passage of Senator Barak Obama’s “deceptive practices” bill
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected nonpartisanly they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas is a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states’ office; increasing transparency in the process; and enacting conflict of interest rules.
- A few recommend returning to allowing use of absentee ballots “for cause” only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the scheme contemplated in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

## **Nexis Research**

### ***Absentee Ballot Fraud***

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

### ***Voter Registration Fraud***

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people
- Fake names and other information on voter registration forms
- Illegitimate addresses used on voter registration forms
- Voters being tricked into registering for a particular party under false pretenses
- Destruction of voter registration forms depending on the party the voter registered with

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported on included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota and Wisconsin.

### *Voter Intimidation and Suppression*

This is the area which had the most articles in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places.
- Improper demands for identification
- Poll watchers harassing voters
- Poll workers being hostile to or aggressively challenging voters
- Disproportionate police presence
- Poll watchers wearing clothes with messages that seemed intended to intimidate
- Insufficient voting machines and unmanageably long lines



Although the incidents reported on occurred everywhere, not surprisingly, many came from “battleground” states. There were several such reports out of Florida, Ohio and Pennsylvania.

### ***“Dead Voters and Multiple Voting”***

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking of voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person taking criminal advantage of that. In total, the San Francisco Chronicle found 5 such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### ***Vote Buying***

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations in three particular jurisdictions as detailed in the vote buying summary. There were more official investigations, indictments and convictions/pleas in this area. All of these cases are concentrated in the Midwest and South.

### ***Deceptive Practices***

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of voter registration forms. There were no reports of prosecutions or any other legal proceeding.

### ***Non-citizen Voting***

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case charges were filed against ten individuals. In one case a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this nexis search, remained just allegations of noncitizen voting.

### ***Felon Voting***

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem has been the large number of ineligible felons that remained on the voting list.

### ***Election Official Fraud***

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### ***Existing Research***

There are many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. There is little research that is truly systematic or scientific. The most systematic look at fraud is the report written by Lori Minnite. The most systematic look at voter intimidation is the report by Laughlin McDonald. Books

written about this subject seem to all have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists. It is hoped that this gap will be filled in the “second phase” of this EAC project.

Moreover, reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund’s frequently cited book. Again, this is something that it is hoped will be addressed in the “second phase” of this EAC project by doing follow up research on allegations made in reports, books and newspaper articles.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate, but some reports say it is a major problem, albeit hard to identify.
- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

## Cases

After reviewing over 40,000 cases, the majority of which came from appeals courts, I have found comparatively very few which are applicable to this study. Of those that are applicable, no apparent thematic pattern emerges. However, it seems that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility. But because so few cases provided a picture of these current problems, I suggest that case research for the second phase of this project concentrate on state trial-level decisions.

## Methodology

The following is a summary of interviews conducted with a number of political scientists and experts in the field as to how one might undertake a comprehensive examination of voter fraud and intimidation. A list of the individuals interviewed and their ideas are available, and all of the individuals welcome any further questions or explanations of their recommended procedures.

- In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that ask whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. (Stephen Ansolobhere, MIT)
- Several political scientists with expertise in these types of studies recommended a methodology that includes interviews, focus groups, and a limited survey. In determining who to interview and where the focus groups should be drawn from, they recommend the following procedure:
  - Pick a number of places that have historically had many reports of fraud and/or intimidation; from that pool pick 10 that are geographically and demographically diverse, and have had a diversity of problems
  - Pick a number of places that have not had many reports of fraud and/or intimidation; from that pool pick 10 places that match the geographic and demographic make-up of the previous ten above (and, if possible, have comparable elections practices)

- Assess the resulting overall reports and impressions resulting from these interviews and focus groups, and examine comparisons and differences among the states and what may give rise to them.

In conducting a survey of elections officials, district attorneys, district election officers, they recommend that:

- The survey sample be large in order to be able to get the necessary subsets
- The survey must include a random set of counties where there have and have not been a large number of allegations

(Allan Lichtman, American University; Thad Hall, University of Utah; Bernard Grofman, UC – Irvine)

- Another political scientist recommended employing a methodology that relies on qualitative data drawn from in-depth interviews with key critics and experts on all sides of the debate on fraud; quantitative data collected through a survey of state and local elections and law enforcement officials; and case studies. Case studies should focus on the five or ten states, regions or cities where there has been a history of election fraud to examine past and present problems. The survey should be mailed to each state's attorney general and secretary of state, each county district attorney's office and each county board of elections in the 50 states. (Lorraine Minnite, Barnard College)
- The research should be a two-step process. Using LexisNexis and other research tools, a search should be conducted of news media accounts over the past decade. Second, interviews with a systematic sample of election officials nationwide and in selected states should be conducted. (Chandler Davidson, Rice University)
- One expert in the field posits that we can never come up with a number that accurately represents either the incidence of fraud or the incidence of voter intimidation. Therefore, the better approach is to do an assessment of what is most likely to happen, what election violations are most likely to be committed – in other words, a risk analysis. This would include an analysis of what it would actually take to commit various acts, e.g. the cost/benefit of each kind of violation. From there we could rank the likely prevalence of each type of activity and examine what measures are or could be effective in combating them. (Wendy Weiser, Brennan Center of New York University)
- Replicate a study in the United States done abroad by Susan Hyde of the University of California- San Diego examining the impact of impartial poll site observers on the incidence of election fraud. Doing this retrospectively would require the following steps:
  - Find out where there were federal observers
  - Get precinct level voting information for those places

- Analyze whether there was any difference in election outcomes in those places with and without observers, and whether any of these results seem anomalous.

Despite the tremendous differences in the political landscapes of the countries examined by Hyde in previous studies and the U.S., Hyde believes this study could be effectively replicated in this country by sending observers to a random sample of precincts. Rather than compare the incumbent's vote share, such factors such as voter complaints, voter turnout, number of provisional ballots used, composition of the electorate, as well as any anomalous voting results could be compared between sites with and without monitors.

For example, if intimidation is occurring, and if reputable monitors make intimidation less likely or voters more confident, then turnout should be higher on average in monitored precincts than in unmonitored precincts. If polling station officials are intentionally refusing to issue provisional ballots, and the polling station officials are more likely to adhere to regulations while being monitored, the average number of provisional ballots should be higher in monitored precincts than in unmonitored precincts. If monitors cause polling station officials to adhere more closely to regulations, then there should be fewer complaints (in general) about monitored than unmonitored precincts (this could also be reversed if monitors made voters more likely to complain).

Again, random assignment controls for all of the other factors that otherwise influence these variables.

One of the downsides of this approach is it does not get at some forms of fraud, e.g. absentee ballot fraud; those would have to be analyzed separately.

- Another political scientist recommends conducting an analysis of vote fraud claims and purging of registration rolls by list matching. Allegations of illegal voting often are based on matching of names and birth dates. Alleged instances of double voting are based on matching the names and birth dates of persons found on voting records. Allegations of ineligible felon (depending on state law), deceased, and of non-citizen voting are based on matching lists of names, birth dates, and sometimes addresses of such people against a voting records. Anyone with basic relational database skills can perform such matching in a matter of minutes.

However, there are a number of pitfalls for the unwary that can lead to grossly over-estimating the number of fraudulent votes, such as missing or ignored middle names and suffixes or matching on missing birth dates. Furthermore, there is a surprising statistical fact that a group of about three hundred people with the same first and last name are almost assured to share the exact same birth date, including year. In a large state, it is not uncommon for hundreds of Robert Smiths (and other common names) to have voted. Thus, allegations of vote fraud

or purging of voter registration rolls by list matching almost assuredly will find a large proportion of false positives: people who voted legally or are registered to vote legally.

Statistics can be rigorously applied to determine how many names would be expected to be matched by chance. A simulation approach is best applied here: randomly assign a birth date to an arbitrary number of people and observe how many match within the list or across lists. The simulation is repeated many times to average out the variation due to chance. The results can then be matched back to actual voting records and purge lists, for example, in the hotly contested states of Ohio or Florida, or in states with Election Day registration where there are concerns that easy access to voting permits double voting. This analysis will rigorously identify the magnitude alleged voter fraud, and may very well find instances of alleged fraud that exceed what might have otherwise happened by chance.

This same political scientist also recommends another way to examine the problem: look at statistics on provisional voting: the number cast might provide indications of intimidation (people being challenged at the polls) and the number of those not counted would be indications of "vote fraud." One could look at those jurisdictions in the Election Day Survey with a disproportionate number of provisional ballots cast and cross-reference it with demographics and number of provisional ballots discarded. (Michael McDonald, George Mason University)

- Spencer Overton, in a forthcoming law review article entitled *Voter Identification*, suggests a methodology that employs three approaches—investigations of voter fraud, random surveys of voters who purported to vote, and an examination of death rolls provide a better understanding of the frequency of fraud. He says all three approaches have strengths and weaknesses, and thus the best studies would employ all three to assess the extent of voter fraud. An excerpt follows:

#### 1. *Investigations and Prosecutions of Voter Fraud*

Policymakers should develop databases that record all investigations, allegations, charges, trials, convictions, acquittals, and plea bargains regarding voter fraud. Existing studies are incomplete but provide some insight. For example, a statewide survey of each of Ohio's 88 county boards of elections found only four instances of ineligible persons attempting to vote out of a total of 9,078,728 votes cast in the state's 2002 and 2004 general elections. This is a fraud rate of 0.00000045 percent. The Carter-Baker Commission's Report noted that since October 2002, federal officials had charged 89 individuals with casting multiple votes, providing false information about their felon status, buying votes, submitting false voter registration information, and voting improperly as a non-citizen. Examined in the context of the 196,139,871 ballots cast between October 2002 and

August 2005, this represents a fraud rate of 0.0000005 percent (note also that not all of the activities charged would have been prevented by a photo identification requirement).

A more comprehensive study should distinguish voter fraud that could be prevented by a photo identification requirement from other types of fraud — such as absentee voting and stuffing ballot boxes — and obtain statistics on the factors that led law enforcement to prosecute fraud. The study would demand significant resources because it would require that researchers interview and pour over the records of local district attorneys and election boards.

Hard data on investigations, allegations, charges, pleas, and prosecutions is important because it quantifies the amount of fraud officials detect. Even if prosecutors vigorously pursue voter fraud, however, the number of fraud cases charged probably does not capture the total amount of voter fraud. Information on official investigations, charges, and prosecutions should be supplemented by surveys of voters and a comparison of voting rolls to death rolls.

## 2. *Random Surveys of Voters*

Random surveys could give insight about the percentage of votes cast fraudulently. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted at the polls in the last election, ask them if they actually voted, and confirm the percentage who are valid voters. Researchers should conduct the survey soon after an election to locate as many legitimate voters as possible with fresh memories.

Because many respondents would perceive voting as a social good, some who did not vote might claim that they did, which may underestimate the extent of fraud. A surveyor might mitigate this skew through the framing of the question (“I’ve got a record that you voted. Is that true?”).

Further, some voters will not be located by researchers and others will refuse to talk to researchers. Photo identification proponents might construe these non-respondents as improper registrations that were used to commit voter fraud.

Instead of surveying all voters to determine the amount of fraud, researchers might reduce the margin of error by focusing on a random sampling of voters who signed affidavits in the three states that request photo identification but also allow voters to establish their identity through affidavit—Florida, Louisiana, and South Dakota. In



South Dakota, for example, only two percent of voters signed affidavits to establish their identity. If the survey indicates that 95 percent of those who signed affidavits are legitimate voters (and the other 5 percent were shown to be either fraudulent or were non-responsive), this suggests that voter fraud accounts for, at the maximum, 0.1 percent of ballots cast.

The affidavit study, however, is limited to three states, and it is unclear whether this sample is representative of other states (the difficulty may be magnified in Louisiana in the aftermath of Hurricane Katrina's displacement of hundreds of thousands of voters). Further, the affidavit study reveals information about the amount of fraud in a photo identification state with an affidavit exception—more voter fraud may exist in a state that does not request photo identification.

### 3. *Examining Death Rolls*

A comparison of death rolls to voting rolls might also provide an estimate of fraud.

Imagine that one million people live in state A, which has no documentary identification requirement. Death records show that 20,000 people passed away in state A in 2003. A cross-referencing of this list to the voter rolls shows that 10,000 of those who died were registered voters, and these names remained on the voter rolls during the November 2004 election. Researchers would look at what percentage of the 10,000 dead-but-registered people who "voted" in the November 2004 election. A researcher should distinguish the votes cast in the name of the dead at the polls from those cast absentee (which a photo identification requirement would not prevent). This number would be extrapolated to the electorate as a whole.

This methodology also has its strengths and weaknesses. If fraudulent voters target the dead, the study might overestimate the fraud that exists among living voters (although a low incidence of fraud among deceased voters might suggest that fraud among all voters is low). The appearance of fraud also might be inflated by false positives produced by a computer match of different people with the same name. Photo identification advocates would likely assert that the rate of voter fraud could be higher among fictitious names registered, and that the death record survey would not capture that type of fraud because fictitious names registered would not show up in the death records. Nevertheless, this study, combined with the other two, would provide important insight into the magnitude of fraud likely to exist in the absence of a photo identification requirement.

**Recommendations for Further EAC Activity**  
**on Voting Fraud and Voter Intimidation**

**Consultants' Recommendations**

***Recommendation 1: Conduct More Interviews***

Time and resource constraints prevented the consultants from interviewing the full range of participants in the process. As a result, we recommend that any future activity in this area include conducting further interviews.

In particular, we recommend that more election officials from all levels of government, parts of the country, and parties be interviewed. These individuals have the most direct inside information on how the system works -- and at times does not work. They are often the first people voters go to when something goes wrong and are often responsible for fixing it. They are the ones who must carry out the measures that are designed to both prevent fraud and voter intimidation and suppression. They will most likely know what, therefore, is and is not working.

It would also be especially beneficial to talk to people in law enforcement, specifically federal District Election Officers ("DEOs") and local district attorneys, as well as civil and criminal defense attorneys.

The Public Integrity Section of the Criminal Division of the Department of Justice has all of the 93 U.S. Attorneys appoint Assistant U.S. Attorneys to serve as DEOs for two years. DEOs are required to

- screen and conduct preliminary investigations of complaints, in conjunction with the FBI and RIN, to determine whether they constitute potential election crimes and should become matters for investigation;
- oversee the investigation and prosecution of election fraud and other election crimes in their districts;
- coordinate their district's (investigative and prosecutorial) efforts with DOJ headquarters prosecutors;
- coordinate election matters with state and local election and law enforcement officials and make them aware of their availability to assist with election-related matters;
- issue press releases to the public announcing the names and telephone numbers of DOJ and FBI officials to contact on election day with complaints about voting or election irregularities and answer telephones on election day to receive these complaints; and
- supervise a team of Assistant U.S. Attorneys and FBI special agents who are appointed to handle election-related allegations while the polls are open on election day.<sup>i</sup>

Given the great responsibilities of the DEOs, and the breadth of issues they must deal with, they undoubtedly are great resources for information and insight as to what types of fraud and intimidation/suppression are occurring in their districts.

In many situations, however, it is the local district attorneys who will investigate election fraud and suppression tactics, especially in local elections. They will be able to provide information on what has gone on in their jurisdictions, as well as which matters get pursued and why.

Finally, those who defend people accused of election related crimes would also be useful to speak to. They may have a different perspective on how well the system is working to detect, prevent, and prosecute election fraud.

***Recommendation 2: Follow Up on Nexis Research***

The Nexis search conducted for this phase of the research was based on a list of search terms agreed upon by both consultants. Thousands of articles were reviewed and hundreds analyzed. Many of the articles contain allegations of fraud or intimidation. Similarly, many of the articles contain information about investigations into such activities or even charges brought. However, without being able to go beyond the agreed search terms, it could not be determined whether there was any later determination regarding the allegations, investigation or charges brought. This leaves a gaping hole: it is impossible to know if the article is just reporting on “talk” or what turns out to be a serious affront to the system.

As a result, we recommend that follow up Nexis research be conducted to determine what, if any, resolutions or further activity there was in each case. This would provide a much more accurate picture of what types of activities are actually taking place.

***Recommendation 3: Follow Up on Allegations Found in Literature Review***

Similarly, many allegations are made in the reports and books that we analyzed and summarized. Those allegations are often not substantiated in any way and are inherently time limited by the date of the writing. Despite this, such reports and books are frequently cited by various interested parties as evidence of fraud or intimidation.

Therefore, we recommend follow up to the literature review: for those reports and books that make or cite specific instances of fraud or intimidation, a research effort should be made to follow up on those references to see if and how they were resolved.

***Recommendation 4: Review Complaints File With MyVote1 Project Voter Hotline***

During the 2004 election and the statewide elections of 2005, the University of Pennsylvania led a consortium of groups and researchers in conducting the MyVote1 Project. This project involved using a 1-800 voter hotline where voters could call for poll location, be transferred to a local hotline, or leave a recorded message with a complaint.

In 2004, this resulted in over 200,000 calls received and over 56,000 recorded complaints.<sup>ii</sup> The researchers in charge of this project have done a great deal of work to parse and analyze the data collected through this process, including going through the audio messages and categorizing them by the nature of the complaint. These categories include registration, absentee ballot, poll access, ballot/screen, coercion/intimidation, identification, mechanical, provisional (ballot).

We recommend that further research include making full use of this data with the cooperation of the project leaders. While perhaps not a fully scientific survey given the self-selection of the callers, the information regarding 200,000 complaints should provide a good deal of insight into the problems voters experienced, especially those in the nature of intimidation or suppression.

***Recommendation 5: Further Review of Complaints Filed With U.S. Department of Justice***

Although according to a recent GAO report the Voting Section of the Civil Rights Division of the Department of Justice has a variety in ways it tracks complaints of voter intimidation,<sup>iii</sup> the Section was extremely reluctant to provide the consultants with useful information. Further attempts should be made to obtain relevant data. This includes the telephone logs of complaints the Section keeps and information from the database – the Interactive Case Management (ICM) system – the Section maintains on complaints received and the corresponding action taken. We also recommend that further research include a review and analysis of the observer and monitor field reports from Election Day that must be filed with the Section.

***Recommendation 6: Review Reports Filed By District Election Officers***

Similarly, the consultants believe it would be useful for any further research to include a review of the reports that must be filed by every District Election Officer to the Public Integrity Section of the Criminal Division of the Department of Justice. As noted above, the DEOs play a central role in receiving reports of voter fraud and investigating and pursuing them. Their reports back to the Department would likely provide tremendous insight into what actually transpired during the last several elections. Where necessary, information could be redacted or made confidential.

***Recommendation 7: Attend Ballot Access and Voting Integrity Symposium***

The consultants also believe it would be useful for any further activity in this area to include attendance at the next Ballot Access and Voting Integrity Symposium. According to the Department,<sup>iv</sup>

Prosecutors serving as District Election Officers in the 94 U.S. Attorneys' Offices are required to attend annual training conferences on fighting election fraud and voting rights abuses... These conferences are sponsored by the Voting Section of the Civil Rights Division and the Public Integrity

Section of the Criminal Division, and feature presentations by Civil Rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there is a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

By attending the symposium researchers could learn more about the following:

- How District Election Officers are trained, e.g. what they are taught to focus their resources on, how they are instructed to respond to various types of complaints
- How information about previous election and voting issues is presented
- How the Voting Rights Act, the criminal laws governing election fraud and intimidation, the National Voter Registration Act, and the Help America Vote Act are described and explained to participants

***Recommendation 8: Employ Academic or Individual to Conduct Statistical Research***

Included in this report is a summary of various methodologies political scientists and others suggested to measure voter fraud and intimidation. While we note the skepticism of the Working Group in this regard, we nonetheless recommend that in order to further the mission of providing unbiased data, further activity in this area include an academic institution and/or individual that focuses on sound, statistical methods for political science research.

***Recommendation 9: Explore Improvements to Federal Law***

Finally, consultant Tova Wang recommends that future researchers review federal law to explore ways to make it easier to impose either civil or criminal penalties for acts of intimidation that do not necessarily involve racial animus and/or a physical or economic threat.

According to Craig Donsanto, long-time Director of the Election Crimes Branch, Public Integrity Section, Criminal Division of the U.S. Department of Justice:

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

Mr. Donsanto reiterated these points to us on several occasions, including at the working group meeting.

As a result, researchers should examine if there is some way in which current law might be revised or new laws passed that would reach voter intimidation that does not threaten the voter physically or financially, but rather threatens the voter's right to vote as a tangible value in itself. Such an amendment or law would reach all forms of voter intimidation, no matter if it is motivated by race, party, ethnicity or any other criteria. The law would then *potentially* cover, for example, letters and postcards with language meant to deter voters from voting and both pre-election and Election Day challengers that are clearly mounting challenges solely on illegitimate bases.

In the alternative to finding a way to criminalize such behavior, researchers might examine ways to invigorate measures to deter and punish voter intimidation under the civil law. For example, there might be a private right of action created for voters or groups who have been subjected to intimidation tactics in the voting process. Such an action could be brought against individual offenders; any state or local actor where there is a pattern of repeated abuse in the jurisdiction that such officials did not take sufficient action against; and organizations that intentionally engage in intimidating practices. As a penalty upon finding liability, civil damages could be available plus perhaps attorney's fees.

Another, more modest measure would be, as has been suggested by Ana Henderson and Christopher Edley,<sup>vi</sup> to bring parity to fines for violations under the Voting Rights Act. Currently the penalty for fraud is \$10,000 while the penalty for acts to deprive the right to vote is \$5,000.

### **Working Group Recommendations**

#### ***Recommendation 1: Employ Observers To Collect Data in the 2006 and/or 2008 Elections***

At the working group meeting, there was much discussion about using observers to collect data regarding fraud and intimidation at the polls in the upcoming elections. Mr. Ginsberg recommended using representatives of both parties for the task. Mr. Bauer and others objected to this, believing that using partisans as observers would be unworkable and would not be credible to the public.

There was even greater concern about the difficulties in getting access to poll sites for the purposes of observation. Most states strictly limit who can be in the polling place. In addition, there are already so many groups doing observation and monitoring at the polls, administrators might object. There was further concern that observers would introduce a variable into the process that would impact the outcome. The very fact that observers were present would influence behavior and skew the results.

Moreover, it was pointed out, many of the problems we see now with respect to fraud and intimidation does not take place at the polling place, e.g. absentee ballot fraud and deceptive practices. Poll site monitoring would not capture this activity. Moreover, with

increased use of early voting, poll site monitoring might have to go on for weeks to be effective, which would require tremendous resources.

Mr. Weinberg suggested using observers in the way they are utilized in international elections. Such observers come into a jurisdiction prior to the election, and use standardized forms at the polling sites to collect data.

***Recommendation 2: Do a Study on Absentee Ballot Fraud***

The working group agreed that since absentee ballot fraud is the main form of fraud occurring, and is a practice that is great expanding throughout the country, it would make sense to do a stand-alone study of absentee ballot fraud. Such a study would be facilitated by the fact that there already is a great deal of information on how, when, where and why such practices are carried out based on cases successfully prosecuted. Researchers could look at actual cases to see how absentee ballot fraud schemes are conducted in an effort to provide recommendations on more effective measures for preventing them.

***Recommendation 3: Use Risk Analysis Methodology to Study Fraud<sup>1</sup>***

Working group members were supportive of one of the methodologies recommended for studying this issue, risk analysis. As Mr. Bauer put it, based on the assumption that people act rationally, do an examination of what types of fraud people are most likely to commit, given the relative costs and benefits. In that way, researchers can rank the types of fraud that are the easiest to commit at the least cost with the greatest effect, from most to least likely to occur. This might prove a more practical way of measuring the problems than trying to actually get a number of acts of fraud and/or intimidation occurring. Mr. Greenbaum added that one would want to examine what conditions surrounding an election would be most likely to lead to an increase in fraud. Mr. Rokita objected based on his belief that the passions of partisanship lead people to not act rationally in an election.

***Recommendation 4: Conduct Research Using Database Comparisons***

Picking up on a suggestion made by Spencer Overton and explained in the suggested methodology section, Mr. Hearne recommended studying the issue using statistical database matching. Researchers should compare the voter roll and the list of people who actually voted to see if there are “dead” and felon voters. Because of the inconsistent quality of the databases, however, a political scientist would need to work in an appropriate margin of error when using such a methodology.

***Recommendation 5: Conduct a Study of Deceptive Practices***

The working group discussed the increasing use of deceptive practices, such as flyers with false and/or intimidating information, to suppress voter participation. A number of

---

<sup>1</sup> See Appendix C, and section on methodology

groups, including the Department of Justice, the EAC, and organizations such as the Lawyers Committee for Civil Rights, keep phone logs regarding complaints of such practices, which may be available for review and analysis. This is also an area in which there is often tangible evidence, such as copies of the flyers and postcards themselves. All of this information should be reviewed and analyzed to see how such practices are being conducted and what can be done about them.

***Recommendation 6: Study Use of HAVA Administrative Complaint Procedure As Vehicle for Measuring Fraud and Intimidation***

The EAC should study the extent to which states are actually utilizing the administrative complaint procedure mandated by HAVA. In addition, the EAC should study whether data collected through the administrative complaint procedure can be used as another source of information for measuring fraud and intimidation.

***Recommendation 7: Examine the Use of Special Election Courts***

Given that many state and local judges are elected, it may be worth exploring whether special election courts that are running before, during and after election day would be an effective means of disposing with complaints and violations in an expeditious manner. Pennsylvania employs such a system, and the EAC should consider investigating how well it is working to deal with fraud and intimidation problems.



## Key Working Group Observations and Concerns

### Working Group Observations

1. ***The main problems today are structural barriers to voting and administrative error.*** Mr. Perez observed that, in accordance with the research, the biggest issues today are structural barriers to voting, not stealing votes. Election administrators share this view. Election fraud is negligible, and to the extent it occurs, it needs to be prosecuted with stronger criminal laws. The biggest problem is properly preparing people, which is the responsibility of election administrators.
2. ***Most fraud and intimidation is happening outside of the polling place.*** Mr. Greenbaum observed that with respect to both voter fraud and voter suppression, such as deceptive practices and tearing up voter registration forms, most of that is taking place outside of the polling place.
3. ***This issue cannot be addressed through one study or one methodology alone.*** Mr. Weinberg observed that since there is such a variety in types of fraud and intimidation, one solution will not fit all. It will be impossible to obtain data or resolve any of these problems through a single method.
4. ***The preliminary research conducted for this project is extremely valuable.*** Several of the working group members complimented the quality of the research done and although it is only preliminary, thought it would be useful and informative in the immediate future.
5. ***The Department of Justice is exploring expanding its reach over voter suppression activities.*** In the context of the conversation about defining voter intimidation, Mr. Donsanto pointed out that while voter intimidation was strictly defined by the criminal law, his section is beginning to explore the slightly different concept of vote suppression, and how to pursue it. He mentioned the phone-jamming case in New Hampshire as an initial success in this effort. He noted that he believes that vote suppression in the form of deceptive practices ought to be a crime and the section is exploring ways to go after it within the existing statutory construct. Mr. Bauer raised the example of a party sending people dressed in paramilitary outfits to yell at people as they go to the polls, telling them they have to show identification. Mr. Donsanto said that under the laws he has to work with today, such activity is not considered corrupt. He said that his lawyers are trying to “bend” the current laws to address aggravated cases of vote suppression, and the phone-jamming case is an example of that. Mr. Donsanto said that within the Department, the term vote “suppression” and translating it into a crime is a “work in progress.”

6. **Registration fraud does not translate into vote fraud.** Ms. Rogers, Mr. Donsanto and others stated that although phony voter registration applications turned in by people being paid by the form was a problem, it has not been found in their experience to lead to fraudulent voters at the polls. Ms. Rogers said such people were motivated by money, not defrauding the election.
7. **Handling of voter fraud and intimidation complaints varies widely across states and localities.** Ms. Rogers and others observed that every state has its own process for intake and review of complaints of fraud and intimidation, and that procedures often vary within states. The amount of authority secretaries of state have to address such problems also is different in every state. Mr. Weinberg stated he believed that most secretaries of state did not have authority to do anything about these matters. Participants discussed whether secretaries ought to be given greater authority so as to centralize the process, as HAVA has mandated in other areas.

### Working Group Concerns

1. Mr. Rokita questioned whether the purpose of the present project ought to be on assessing the level of fraud and where it is, rather than on developing methods for making such measurements. He believed that methodology should be the focus, “rather than opinions of interviewees.” He was concerned that the EAC would be in a position of “adding to the universe of opinions.”
2. Mr. Rokita questioned whether the “opinions” accumulated in the research “is a fair sampling of what’s out there.” Ms. Wang responded that one of the purposes of the research was to explore whether there is a method available to actually quantify in some way how much fraud there is and where it is occurring in the electoral process. Mr. Rokita replied that “Maybe at the end of the day we stop spending taxpayer money or it’s going to be too much to spend to find that kind of data. Otherwise, we will stop it here and recognize there is a huge difference of opinion on that issue of fraud, when it occurs is obtainable, and that would possibly be a conclusion of the EAC.” Ms. Sims responded that she thought it would be possible to get better statistics on fraud and there might be a way of “identifying at this point certain parts in the election process that are more vulnerable, that we should be addressing.”
3. Mr. Rokita stated that, “We’re not sure that fraud at the polling place doesn’t exist. We can’t conclude that.”
4. Mr. Rokita expressed concern about working with a political scientist. He believes that the “EAC needs to be very careful in who they select, because all the time and effort and money that’s been spent up to date and would be spent in the future could be invalidated by a wrong selection in the eyes of some group.”

**NEXIS Charts**

DRAFT

**Case Charts**

DRAFT

**Appendix 1**  
**List of Individuals Interviewed**

Wade Henderson, Executive Director, Leadership Conference for Civil Rights

Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

William Groth, attorney for the plaintiffs in the Indiana voter identification litigation

Lori Minnite, Barnard College, Columbia University

Neil Bradley, ACLU Voting Rights Project

Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

Pat Rogers, attorney, New Mexico

Rebecca Vigil-Giron, Secretary of State, New Mexico

Sarah Ball Johnson, Executive Director of the State Board of Elections, Kentucky

Stephen Ansolobhere, Massachusetts Institute of Technology

Chandler Davidson, Rice University

Tracey Campbell, author, *Deliver the Vote*

Douglas Webber, Assistant Attorney General, Indiana, (defendant in the Indiana voter identification litigation)

Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

Jason Torchinsky, Assistant General Counsel, American Center for Voting Rights

Robin DeJarnette, Executive Director, American Center for Voting Rights

Joseph Rich, former Director of the Voting Section, Civil Rights Division, U.S. Department of Justice

Joseph Sandler, Counsel to the Democratic National Committee

John Ravitz, Executive Director, New York City Board of Elections

John Tanner, Director, Voting Section, Civil Rights Division, U.S. Department of Justice

Kevin Kennedy, Executive Director of the State Board of Elections, Wisconsin  
Evelyn Stratton, Justice, Supreme Court of Ohio

Tony Sirvello, Executive Director, International Association of  
Clerks, Recorders, Election Officials and Treasurers

Harry Van Sickle, Commissioner of Elections, Pennsylvania

Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice

Sharon Priest, former Secretary of State, Arkansas

**DRAFT**

**Appendix 2**  
**List of Literature Reviewed**

**Reports**

People for the American Way and the NAACP, "The Long Shadow of Jim Crow," December 6, 2004.

Laughlin McDonald, "The New Poll Tax," *The American Prospect* vol. 13 no. 23, December 30, 2002.

Wisconsin Legislative Audit Bureau, "An Evaluation: Voter Registration Elections Board" Report 05-12, September, 2005.

Milwaukee Police Department, Milwaukee County District Attorney's Office, Federal Bureau of Investigation, United States Attorney's Office "Preliminary Findings of Joint Task Force Investigating Possible Election Fraud," May 10, 2005.

National Commission on Federal Election Reform, "Building Confidence in U.S. Elections," Center for Democracy and Election Management, American University, September 2005.

The Brennan Center for Justice at NYU School of Law and Spencer Overton, Commissioner and Law Professor at George Washington University School of Law "Response to the Report of the 2005 Commission on Federal Election Reform," September 19, 2005.

Chandler Davidson, Tanya Dunlap, Gale Kenny, and Benjamin Wise, "Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – or Both?" A Report to the Center for Voting Rights & Protection, September, 2004.

Alec Ewald, "A Crazy Quilt of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law," The Sentencing Project, November 2005.

American Center for Voting Rights "Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election," August 2, 2005.

The Advancement Project, "America's Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy" November 7, 2001

The Brennan Center and Professor Michael McDonald "Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General," The Brennan Center for Justice at NYU School of Law, December 2005.

Democratic National Committee, "Democracy at Risk: The November 2004 Election in Ohio," DNC Services Corporation, 2005

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2002."

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2003."

Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2004."

Craig Donsanto, "The Federal Crime of Election Fraud," Public Integrity Section, Department of Justice, prepared for Democracy.Ru, n.d., at [http://www.democracy.ru/english/library/international/eng\\_1999\\_11.html](http://www.democracy.ru/english/library/international/eng_1999_11.html)

People for the American Way, Election Protection 2004, Election Protection Coalition, at <http://www.electionprotection2004.org/edaynews.htm>

Craig Donsanto, "Prosecution of Electoral Fraud Under United State Federal Law," *IFES Political Finance White Paper Series*, IFES, 2006.

General Accounting Office, "Elections: Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote," Report to Congressional Requesters, September 2005.

Lori Minnite and David Callahan, "Securing the Vote: An Analysis of Election Fraud," Demos: A Network of Ideas and Action, 2003.

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

### **Books**

John Fund, *Stealing Elections: How Voter Fraud Threatens Our Democracy*, Encounter Books, 2004.

Andrew Gumbel, *Steal this Vote: Dirty Elections and the Rotten History of Democracy in American*, Nation Books, 2005.

Tracy Campbell, *Deliver the Vote: A History of Election Fraud, An American Political Tradition – 1742-2004*, Carroll & Graf Publishers, 2005.

David E. Johnson and Jonny R. Johnson, *A Funny Thing Happened on the Way to the White House: Foolhardiness, Folly, and Fraud in the Presidential Elections, from Andrew Jackson to George W. Bush*, Taylor Trade Publishing, 2004.



Mark Crispin Miller, *Fooled Again*, Basic Books, 2005.

**Legal**

*Indiana Democratic Party vs. Rokita*, U.S. District Court Southern District of Indiana (Indianapolis) 1:05-cv-00634, U.S. Court of Appeals, 7<sup>th</sup> Circuit 06-2218

*Common Cause of Georgia vs. Billups*, U.S. District Court, Northern District of Georgia (Rome) 4:05-cv-00201-HLM U.S. Court of Appeals, 11<sup>th</sup> Circuit 05-15784

U.S. Department of Justice Section 5 Recommendation Memorandum (regarding HB 244), August 25, 2005 at <http://www.votingrights.org/news/downloads/Section%205%20Recommendation%20Memorandum.pdf>

DRAFT

### **Appendix 3**

## **Excerpt from “Machinery of Democracy,” a Brennan Center Report**

### **APPENDIX C**

#### **BRENNAN CENTER TASK FORCE ON VOTING SYSTEM SECURITY, LAWRENCE NORDEN, CHAIR**

Excerpted from pp. 8-19

### **METHODOLOGY**

The Task Force concluded, and the peer review team at NIST agreed, that the best approach for comprehensively evaluating voting system threats was to: (1) identify and categorize the potential threats against voting systems, (2) prioritize these threats based upon an agreed upon metric (which would tell us how difficult each threat is to accomplish from the attacker's point of view), and (3) determine, utilizing the same metric employed to prioritize threats, how much more difficult each of the catalogued attacks would become after various sets of countermeasures are implemented.

This model allows us to identify the attacks we should be most concerned about (*i.e.*, the most practical and least difficult attacks). Furthermore, it allows us to quantify the potential effectiveness of various sets of countermeasures (*i.e.*, how difficult the least difficult attack is after the countermeasure has been implemented). Other potential models considered, but ultimately rejected by the Task Force, are detailed in Appendix B.

### **IDENTIFICATION OF THREATS**

The first step in creating a threat model for voting systems was to identify as many potential attacks as possible. To that end, the Task Force, together with the participating election officials, spent several months identifying voting system vulnerabilities. Following this work, NIST held a Voting Systems Threat Analysis Workshop on October 7, 2005. Members of the public were invited to write up and post additional potential attacks. Taken together, this work produced over 120 potential attacks on the three voting systems. They are detailed in the catalogs annexed.<sup>20</sup> Many of the attacks are described in more detail at <http://vote.nist.gov/threats/papers.htm>.

The types of threats detailed in the catalogs can be broken down into nine categories: (1) the insertion of corrupt software into machines prior to Election Day; (2) wireless and other remote control attacks on voting machines on Election Day; (3) attacks on tally servers; (4) miscalibration of voting machines; (5) shut off of voting machine features intended to assist voters; (6) denial of service attacks; (7) actions by corrupt poll workers or others at the polling place to affect votes cast; (8) vote buying schemes; (9) attacks on ballots or VVPT. Often, the actual attacks

involve some combination of these categories. We provide a discussion of each type of attack in “Categories of Attacks,” *infra* at pp. 24–27.

### **PRIORITIZING THREATS: NUMBER OF INFORMED PARTICIPANTS AS METRIC**

Without some form of prioritization, a compilation of the threats is of limited value. Only by prioritizing these various threats could we help election officials identify which attacks they should be most concerned about, and what steps could be taken to make such attacks as difficult as possible. As discussed below, we have determined the level of difficulty for each attack where the attacker is attempting to affect the outcome of a close statewide election.

There is no perfect way to determine which attacks are the least difficult, because each attack requires a different mix of resources – well-placed insiders, money, programming skills, security expertise, *etc.* Different attackers would find certain resources easier to acquire than others. For example, election fraud committed by local election officials would always involve well-placed insiders and a thorough understanding of election procedures; at the same time, there is no reason to expect such officials to have highly skilled hackers or first-rate programmers working with them. By contrast, election fraud carried out by a foreign government would likely start with plenty of money and technically skilled attackers, but probably without many conveniently placed insiders or detailed knowledge of election procedures.

Ultimately, we decided to use the “number of informed participants” as the metric for determining attack difficulty. An attack which uses fewer participants is deemed the easier attack.

We have defined “informed participant” as someone whose participation is needed to make the attack work and who knows enough about the attack to foil or expose it. This is to be distinguished from a participant who unknowingly assists the attack by performing a task that is integral to the attack’s successful execution without understanding that the task is part of an attack on voting systems.

The reason for using the security metric “number of informed participants” is relatively straightforward: the larger a conspiracy is, the more difficult it would be to keep it secret. Where an attacker can carry out an attack by herself, she need only trust herself. On the other hand, a conspiracy that requires thousands of people to take part (like a vote-buying scheme) also requires thousands of people to keep quiet. The larger the number of people involved, the greater the likelihood that one of them (or one who was approached, but declined to take part) would either inform the public or authorities about the attack, or commit some kind of error that causes the attack to fail or become known.

Moreover, recruiting a large number of people who are willing to undermine the integrity of a statewide election is also presumably difficult. It is not hard to imagine two or three people agreeing to work to change the outcome of an election. It seems far less likely that an attacker could identify and employ hundreds or thousands of similarly corrupt people without being discovered.

We can get an idea of how this metric works by looking at one of the threats listed in our catalogs: the vote-buying threat, where an attacker or attackers pay individuals to vote for a particular candidate. This is Attack Number 26 in the PCOS Attack Catalog<sup>22</sup> (though this attack would not be substantially different against DREs or DREs w/ VVPT).<sup>23</sup> In order to work under our current types of voting systems, this attack requires (1) at least one person to purchase votes, (2) many people to agree to sell their votes, and (3) some way for the purchaser to confirm that the voters she pays actually voted for the candidate she supported. Ultimately, we determined that, while practical in smaller contests, a vote-buying attack would be an exceptionally difficult way to affect the outcome of a statewide election. This is because, even in a typically close statewide election, an attacker would need to involve thousands of voters to ensure that she could affect the outcome of a statewide race.<sup>24</sup>

For a discussion of other metrics we considered, but ultimately rejected, see Appendix C.

## **DETERMINING NUMBER OF INFORMED PARTICIPANTS**

### **DETERMINING THE STEPS AND VALUES FOR EACH ATTACK**

The Task Force members broke down each of the catalogued attacks into its necessary steps. For instance, Attack 12 in the PCOS Attack Catalog is “Stuffing Ballot Box with Additional Marked Ballots.”<sup>25</sup> We determined that, at a minimum, there were three component parts to this attack: (1) stealing or creating the ballots and then marking them, (2) scanning marked ballots through the PCOS scanners, probably before the polls opened, and (3) modifying the poll books in each location to ensure that the total number of votes in the ballot boxes was not greater than the number of voters who signed in at the polling place.

Task Force members then assigned a value representing the minimum number of persons they believed would be necessary to accomplish each goal. For PCOS Attack 12, the following values were assigned:<sup>26</sup>

**Minimum number required to steal or create ballots: 5 persons total.<sup>27</sup>**

**Minimum number required to scan marked ballots: 1 per polling place attacked.**

**Minimum number required to modify poll books: 1 per polling place attacked.<sup>28</sup>**

After these values were assigned, the Brennan Center interviewed several election officials to see whether they agreed with the steps and values assigned to each attack.<sup>29</sup> When necessary, the values and steps were modified. The new catalogs, including attack steps and values, were then reviewed by Task Force members. The purpose of this review was to ensure, among other things, that the steps and values were sound.

These steps and values tell us how difficult it would be to accomplish a *single attack in a single polling place*. They do not tell us how many people it would take to change the outcome of an election successfully – that depends, of course, on specific facts about the jurisdiction: how many votes are generally recorded in each polling

place, how many polling places are there in the jurisdiction, and how close is the race? For this reason, we determined that it was necessary to construct a hypothetical jurisdiction, to which we now turn.

**NUMBER OF INFORMED PARTICIPANTS NEEDED TO CHANGE STATEWIDE ELECTION**

We have decided to examine the difficulty of each attack in the context of changing the outcome of a reasonably close statewide election. While we are concerned by potential attacks on voting systems in any type of election, we are most troubled by attacks that have the potential to affect large numbers of votes. These are the attacks that could actually change the outcome of a statewide election with just a handful of attack participants.

We are less troubled by attacks on voting systems that can only affect a small number of votes (and might therefore be more useful in local elections). This is because there are many non-system attacks that can also affect a small number of votes (*i.e.*, sending out misleading information about polling places, physically intimidating voters, submitting multiple absentee ballots, *etc.*). Given the fact that these non-system attacks are likely to be less difficult in terms of number of participants, financial cost, risk of detection, and time commitment, we are uncertain that an attacker would target *voting machines* to alter a small number of votes.

In order to evaluate how difficult it would be for an attacker to change the outcome of a statewide election, we created a composite jurisdiction. The composite jurisdiction was created to be representative of a relatively close statewide election. We did not want to examine a statewide election where results were so skewed toward one candidate (for instance, the re-election of Senator Edward M. Kennedy in 2000, where he won 73% of the vote<sup>30</sup>), that reversing the election results would be impossible without causing extreme public suspicion. Nor did we want to look at races where changing only a relative handful of votes (for instance, the Governor's race in Washington State in 2004, which was decided by a mere 129 votes<sup>31</sup>) could affect the outcome of an election; under this scenario, many of the potential attacks would involve few people, and therefore look equally difficult.

We have named our composite jurisdiction "the State of Pennasota." The State of Pennasota is a composite of ten states: Colorado, Florida, Iowa, Ohio, New Mexico, Pennsylvania, Michigan, Nevada, Wisconsin and Minnesota. These states were chosen because they were the ten "battleground" states that Zogby International consistently polled in the spring, summer, and fall 2004.<sup>32</sup> These are statewide elections that an attacker would have expected, ahead of time, to be fairly close.

We have also created a composite election, which we label the "Governor's Race" in Pennasota. The results of this election are a composite of the actual results in the same ten states in the 2004 Presidential Election.

We have used these composites as the framework by which to evaluate the difficulty of the various catalogued attacks.<sup>33</sup> For instance, we know a ballot-box stuffing attack would require roughly five people to create and mark fake ballots, as

well as one person per polling place to stuff the boxes, and one person per polling place to modify the poll books. But, in order to determine how many informed participants would be needed to affect a statewide race, we need to know how many polling places would need to be attacked.

The composite jurisdiction and composite election provide us with information needed to answer these questions: *i.e.*, how many extra votes our attackers would need to add to their favored candidate's total for him to win, how many ballots our attackers can stuff into a particular polling place's ballot box without arousing suspicion (and related to this, how many votes are generally cast in the average polling place), how many polling places are there in the state, *etc.* We provide details about both the composite jurisdiction and election in the section entitled "Governor's Race, State of Pennasota, 2007," *infra* at pp 20-27.

### LIMITS OF INFORMED PARTICIPANTS AS METRIC

Of the possible metrics we considered, we believe that measuring the number of people who know they are involved in an attack (and thus could provide evidence of the attack to the authorities and/or the media) is the best single measure of attack difficulty; as already discussed, we have concluded that the more people an attacker is forced to involve in his attack, the more likely it is that one of the participants would reveal the attack's existence and foil the attack, perhaps sending attackers to jail. However, we are aware of a number of places where the methodology could provide us with questionable results.

By deciding to concentrate on size of attack team, we mostly ignore the need for other resources when planning an attack. Thus, a software attack on DREs which makes use of steganography<sup>34</sup> to hide attack instruction files (*see* "DRE w/ VVPT Attack No.1a" discussed in greater detail, *infra* at pp. 62-65) is considered easier than an attack program delivered over a wireless network at the polling place (*see* discussion of wireless networks, *infra* at pp. 85-91). However, the former attack probably requires a much more technologically sophisticated attacker.

Another imperfection with this metric is that we do not have an easy way to represent how much choice the attacker has in finding members of his attack team.

Thus, with PCOS voting, we conclude that the cost of subverting a routine audit of ballots is roughly equal to the cost of intercepting ballot boxes in transit and substituting altered ballots (*see* discussion of PCOS attacks, *infra* at pp. 77-83). However, subverting the audit team requires getting a specific set of trusted people to cooperate with the attacker. By contrast, the attacker may be able to decide which precincts to tamper with based on which people he has already recruited for his attack.

In an attempt to address this concern, we considered looking at the number of "insiders" necessary to take part in each attack. Under this theory, getting five people to take part in a conspiracy to attack a voting system might not be particularly difficult. But getting five well-placed county election officials to take part in the attack would be (and should be labeled) the more difficult of the two attacks. Because, for the most part, the low-cost attacks we have identified do not necessarily involve well placed insiders (but could, for instance, involve one of many people with access to commercial off the shelf software ("COTS") during development

or at the vendor), we do not believe that using this metric would have substantially changed our analysis.<sup>35</sup>

Finally, these attack team sizes do not always capture the logistical complexity of an attack. For example, an attack on VVPT machines involving tampering with the voting machine software and also replacing the paper records in transit requires the attacker to determine what votes were falsely produced by the voting machine and print replacement records in time to substitute them. While this is clearly possible, it raises a lot of operational difficulties – a single failed substitution leaves the possibility that the attack would be detected during the audit of ballots.

We have tried to keep these imperfections in mind when analyzing and discussing our least difficult attacks.

We suspect that much of the disagreement between voting officials and computer security experts in the last several years stems from a difference of opinion in prioritizing the difficulty of attacks. Election officials, with extensive experience in the logistics of handling tons of paper ballots, have little faith in paper and understand the kind of breakdowns in procedures that lead to traditional attacks like ballot box stuffing; in contrast, sophisticated attacks on computer voting systems appear very difficult to many of them. Computer security experts understand sophisticated attacks on computer systems, and recognize the availability of tools and expertise that makes these attacks practical to launch, but have no clear idea how they would manage the logistics of attacking a paper-based system. Looking at attack team size is one way to bridge this difference in perspective.

## **EFFECTS OF IMPLEMENTING COUNTERMEASURE SETS**

The final step of our threat analysis is to measure the effect of certain countermeasures against the catalogued attacks. How much more difficult would the attacks become once the countermeasures are put into effect? How many more informed participants (if any) would be needed to counter or defeat these countermeasures?

Our process for examining the effectiveness of a countermeasure mirrors the process for determining the difficulty of an attack: we first asked whether the countermeasure would allow us to detect an attack with near certainty. If we agreed that the countermeasure would expose the attack, we identified the steps that would be necessary to circumvent or defeat the countermeasure. For each step to defeat the countermeasure, we determined the number of additional informed participants (if any) that an attacker would need to add to his team. As with the process for determining attack difficulty, the Brennan Center interviewed numerous election officials to see whether they agreed with the steps and values assigned. When necessary, the values and steps for defeating the countermeasures were altered to reflect the input of election officials.

## **COUNTERMEASURES EXAMINED**

### **BASIC SET OF COUNTERMEASURES**

The first set of countermeasures we looked at is the “Basic Set” of countermeasures. This Basic Set was derived from security survey responses<sup>36</sup> we received

from county election officials around the country, as well as additional interviews with more than a dozen current and former election officials. Within the Basic Set of countermeasures are the following procedures:

### **Inspection**

The jurisdiction is not knowingly using any uncertified software that is subject to inspection by the Independent Testing Authority (often referred to as the “ITA”).<sup>37</sup>

### **Physical Security for Machines**

- Ballot boxes (to the extent they exist) are examined (to ensure they are empty) and locked by poll workers immediately before the polls are opened.
- Before and after being brought to the polls for Election Day, voting systems for each county are locked in a single room, in a county warehouse.
- The warehouse has perimeter alarms, secure locks, video surveillance and regular visits by security guards.
- Access to the warehouse is controlled by sign-in, possibly with card keys or similar automatic logging of entry and exit for regular staff.
- Some form of “tamper evident” seals are placed on machines before and after each election.
- The machines are transported to polling locations five to fifteen days before Election Day.

### **Chain of Custody/Physical Security of Election Day Records**

- At close of the polls, vote tallies for each machine are totaled and compared with number of persons that have signed the poll books.
- A copy of totals for each machine is posted at each polling place on Election Night and taken home by poll workers to check against what is posted publicly at election headquarters, on the web, in the papers, or elsewhere.<sup>38</sup>
- All audit information (*i.e.*, Event Logs, VVPT records, paper ballots, machine printouts of totals) that is not electronically transmitted as part of the unofficial upload to the central election office, is delivered in official, sealed and hand-delivered information packets or boxes. All seals are numbered and tamper-evident.
- Transportation of information packets is completed by two election officials representing opposing parties who have been instructed to remain in joint custody of the information packets or boxes from the moment it leaves the precinct to the moment it arrives at the county election center.



- Each polling place sends its information packets or boxes to the county election center separately, rather than having one truck or person pick up this data from multiple polling locations.
- Once the sealed information packets or boxes have reached the county election center, they are logged. Numbers on the seals are checked to ensure that they have not been replaced. Any broken or replaced seals are logged. Intact seals are left intact.
- After the packets and/or boxes have been logged, they are provided with physical security precautions at least as great as those listed for voting machines, above. Specifically, for Pennasota, we have assumed the room in which the packets are stored have perimeter alarms, secure locks, video surveillance and regular visits by security guards and county police officers; and access to the room is controlled by sign-in, possibly with card keys or similar automatic logging of entry and exit for regular staff.

#### Testing<sup>39</sup>

- An Independent Testing Authority has certified the model of voting machine used in the polling place.
- Acceptance Testing<sup>40</sup> is performed on machines at time, or soon after they are received by County.
- Pre-election Logic and Accuracy<sup>41</sup> testing is performed by the relevant election official.
- Prior to opening the polls, every voting machine and vote tabulation system is checked to see that it is still configured for the correct election, including the correct precinct, ballot style, and other applicable details.

#### REGIMEN FOR AUTOMATIC ROUTINE AUDIT PLUS BASIC SET OF COUNTERMEASURES.

The second set of countermeasures is the Regimen for an Automatic Routine Audit Plus Basic Set of Countermeasures.

Some form of routine auditing of voter-verified paper records occurs in 12 states, to test the accuracy of electronic voting machines. They generally require between 1 and 10% of all precinct voting machines to be audited after each election. <sup>42</sup>

Jurisdictions can implement this set of countermeasures only if their voting systems produce some sort of voter-verified paper record of each vote. This could be in the form of a paper ballot, in the case of PCOS, or a voter-verified paper trail (“VVPT”), in the case of DREs.

We have assumed that jurisdictions take the following steps when conducting an Automatic Routine Audit (when referring to this set of assumptions “Regimen for an Automatic Routine Audit”):

### **The Audit**

- Leaders of the major parties in each county are responsible for selecting a sufficient number of audit-team members to be used in that county.<sup>43</sup>
- Using a highly transparent random selection mechanism (see point ii, below), the voter-verified paper records for between a small percentage of all voting machines in the State are selected for auditing.
- Using a transparent random selection method, auditors are assigned to the selected machines (two or three people, with representatives of each major political party, would comprise each audit team).
- The selection of voting machines, and the assignment of auditors to machines, occurs immediately before the audits take place. The audits take place as soon after polls close as possible – for example, at 9 a.m. the morning after polls close.
- Using a transparent random selection method, county police officers, security personnel and the video monitor assigned to guard the voter-verified records are chosen from a large pool of on-duty officers and employees on election night.
- The auditors are provided the machine tallies and are able to see that the county tally reflects the sums of the machine tallies before the start of the inspection of the paper.
- The audit would include a tally of spoiled ballots (in the case of VVPT, the number of cancellations recorded), overvotes, and undervotes.

### **Transparent Random Selection Process**

In this report, we have assumed that random auditing procedures are in place for both the Regimen for an Automatic Routine Audit and Regimen for Parallel Testing. We have further assumed procedures to prevent a single, corrupt person from being able to fix the results. This implies a kind of transparent and public random procedure.

For the Regimen for an Automatic Routine Audit there are at least two places where transparent, random selection processes are important: in the selection of precincts to audit, and in the assignment of auditors to the precincts they will be auditing.

Good election security can employ Transparent Random Selection in other places with good effect:

- the selection of parallel testers from a pool of qualified individuals.
- the assignment of police and other security professionals from on-duty lists, to monitor key materials, for example, the VVPT records between the time that they arrive at election central and the time of the completion of the ARA.

If a selection process for auditing is to be trustworthy and trusted, ideally:

- The whole process will be publicly observable or videotaped;<sup>44</sup>
- The random selection will be publicly verifiable, *i.e.*, anyone observing will be able to verify that the sample was chosen randomly (or at least that the number selected is not under the control of any small number of people); and
- The process will be simple and practical within the context of current election practice so as to avoid imposing unnecessary burdens on election officials.

There are a number of ways that election officials can ensure some kind of transparent randomness. One way would be to use a state lottery machine to select precincts or polling places for auditing. We have included two potential examples of transparent random selection processes in Appendix F. These apply to the Regimen for Parallel Testing as well.

#### **REGIMEN FOR PARALLEL TESTING PLUS BASIC SET OF COUNTERMEASURES**

The final set of countermeasures we have examined is “Parallel Testing” plus the Basic Set of countermeasures. Parallel Testing, also known as election-day testing, involves selecting voting machines at random and testing them as realistically as possible during the period that votes are being cast.

#### **Parallel Testing**

In developing our set of assumptions for Parallel Testing, we relied heavily upon interviews with Jocelyn Whitney, Project Manager for Parallel Testing in the State of California, and conclusions drawn from this Report.<sup>45</sup> In our analysis, we assume that the following procedures would be included in the Parallel Testing regimen (when referring to this regimen “Regimen for Parallel Testing”) that we evaluate:

- At least two of each DRE model (meaning both vendor and model) would be selected for Parallel Testing;
- At least two DREs from each of the three largest counties would be parallel tested;
- Counties to be parallel tested would be chosen by the Secretary of State in a transparent and random manner.
- Counties would be notified as late as possible that machines from one of their precincts would be selected for Parallel Testing;<sup>46</sup>
- Precincts would be selected through a transparent random mechanism;
- A video camera would record testing;
- For each test, there would be one tester and one observer;

- Parallel Testing would occur at the polling place;
- The script for Parallel Testing would be generated in a way that mimics voter behavior and voting patterns for the polling place;
- At the end of the Parallel Testing, the tester and observer would reconcile vote totals in the script with vote totals reported on the machine.

### **Transparent Random Selection Process**

We further assume that the same type of transparent random selection process that would be used for the Regimen for Automatic Routine Audit would also be employed for the Regimen for Parallel Testing to determine which machines would be subjected to testing on Election Day.

## **APPENDIX C**

### **ALTERNATIVE SECURITY METRICS CONSIDERED**

#### **Dollars Spent**

The decision to use the number of informed participants as the metric for attack level difficulty came after considering several other potential metrics. One of the first metrics we considered was the dollar cost of attacks. This metric makes sense when looking at attacks that seek financial gain – for instance, misappropriating corporate funds. It is not rational to spend \$100,000 on the misappropriation of corporate funds if the total value of those funds is \$90,000. Ultimately, we rejected this metric as the basis for our analysis because the dollar cost of the attacks we considered were dwarfed by both (1) current federal and state budgets, and (2) the amounts currently spent legally in state and federal political campaigns.

#### **Time of Attack**

The relative security of safes and other safety measures are often rated in terms of “time to defeat.” This was rejected as metric of difficulty because it did not seem relevant to voting systems. Attackers breaking into a house are concerned with the amount of time it might take to complete their robbery because the homeowners or police might show up. With regard to election fraud, many attackers may be willing to start months or years before an election if they believe they can control the outcome. As discussed *supra* at pp. 35–48, attackers may be confident that they can circumvent the independent testing authorities and other measures meant to identify attacks, so that the amount of time an attack takes becomes less relevant.

**Appendix 4**  
**Voting Fraud-Voter Intimidation Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State  
Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State  
Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, Texas

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law  
Leader of Election Protection Coalition

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, District of Columbia  
National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP  
Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner Member, Lathrop & Gage, St Louis, Missouri  
National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S. Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice

<sup>i</sup> Department of Justice's Activities to Address Past Election-Related Voting Irregularities, General Accounting Office, October 14, 2004, GAO-04-1041R

<sup>ii</sup> The MyVote1 Project Final Report, Fels Institute of Government, University of Pennsylvania, November 1, 2005, Pg. 12

<sup>iii</sup> Department of Justice's Activities to Address Past Election-Related Voting Irregularities, General Accounting Office, October 14, 2004, GAO-04-1041R, p. 4. This same report criticizes some of the procedures the Section used for these systems and urged the Department to improve upon them in time for the 2004 presidential election. No follow-up report has been done since that time to the best of our knowledge.

<sup>iv</sup> "Department Of Justice To Hold Ballot Access and Voting Integrity Symposium," U.S. Department of Justice press release, August 2, 2005


<sup>v</sup> Craig C. Donsanto, Prosecution of Electoral Fraud Under United States Federal Law," IFES Political Finance White Paper Series, 2006, p. 29

<sup>vi</sup> Ana Henderson and Christopher Edley, Jr., Voting Rights Act Reauthorization: Research-Based Recommendations to Improve Voting Access, Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, University of California at Berkeley, School of Law, 2006, p. 29

DRAFT

**Deliberative Process  
Privilege**

Jeannie Layson /EAC/GOV  
11/15/2006 01:22 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Draft fraud and intimidation report 

Here's my suggestions...



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

008262

**EAC REPORT ON VOTER FRAUD AND VOTER INTIMIDATION STUDY****INTRODUCTION**

Voter fraud and intimidation is a phrase familiar to many voting-aged Americans. However, it means different things to different people. Voter fraud and intimidation is a phrase used to refer to crimes, civil rights violations, and, at times, even the correct application of state or federal laws to the voting process. Past study of this topic has been as varied as its perceived meaning. In an effort to help understand the realities of voter fraud and voter intimidation in our elections, the U.S. Election Assistance Commission (EAC) has begun this, phase one, of a comprehensive study on election crimes. In this phase of its examination, EAC has developed a definition of election crimes and adopted some research methodology on how to assess the true-existence and enforcement of election crimes in this country.

**PURPOSE AND METHODOLOGY OF THE EAC STUDY**

Section 241 of the Help America Vote Act of 2002 (HAVA) calls on the U.S. Election Assistance Commission (EAC) to research and study various issues related to the administration of elections. During Fiscal Year 2006, EAC began projects to research several of the listed topics. These topics for research were chosen in consultation with the EAC Standards Board and Board of Advisors. Voter fraud and voter intimidation was a topic that the EAC as well as its advisory boards felt were important to study to help improve the administration of elections for federal office.

EAC began this study with the intention of identifying a common understanding of voter fraud and intimidation and devising a plan for a comprehensive study of these issues. This study was not intended to be a comprehensive review of existing voter fraud and voter intimidation actions, laws, or prosecutions. ~~That~~ To conduct that type of extensive research, a is well beyond the basic understanding that had to be first be established regarding what is commonly referred to as voter fraud and voter intimidation. Once that understanding was reached, a definition had to be crafted to refine and in some cases limit the scope of what reasonably can be researched and studied as evidence of voter fraud and voter intimidation. That definition will serve as the basis for recommending a plan for a comprehensive study of the area.

To accomplish these tasks, EAC employed two consultants, who worked with ~~who along with~~ EAC staff and interns to conducted the research that forms the basis of this report. Consultants were chosen based upon their experience with the topic. ~~In addition,~~ consultants were and to chosen to assure a bipartisan representation in this study. The consultants and EAC staff were charged (1) to research the current state of information on the topics of voter fraud and voter intimidation; (2) to develop a uniform definition of voter fraud and voter intimidation; and (3) to propose recommended strategies for researching this subject.



EAC consultants reviewed existing studies, articles, reports and case law on voter fraud and intimidation. ~~In addition, EAC consultants~~ and conducted interviews with selected experts in the field. ~~Last, EAC consultants and staff~~ then presented their study initial findings to a working group that provided feed-back. The working group participants were:

**The Honorable Todd Rokita**  
Indiana Secretary of State  
Member, EAC Standards Board and the  
Executive Board of the Standards Board

**Kathy Rogers**  
Georgia Director of Elections, Office of  
the Secretary of State  
Member, EAC Standards Board

**J.R. Perez**  
Guadalupe County Elections  
Administrator, Texas

**Barbara Arnwine**  
Executive Director, Lawyers Committee  
for Civil Rights under Law  
Leader of Election Protection Coalition

**Benjamin L. Ginsberg**  
Partner, Patton Boggs LLP  
Counsel to national Republican  
campaign committees and Republican  
candidates

**Robert Bauer**  
Chair of the Political Law Practice at the  
law firm of Perkins Coie, District of  
Columbia  
National Counsel for Voter Protection,  
Democratic National Committee

**Mark (Thor) Hearne II**  
Partner-Member, Lathrop & Gage, St  
Louis, Missouri  
National Counsel to the American  
Center for Voting Rights

**Barry Weinberg**  
Former Deputy Chief and Acting Chief,  
Voting Section, Civil Rights Division,  
U.S. Department of Justice

*Technical Advisor:*

**Craig Donsanto**  
Director, Election Crimes Branch, U.S.  
Department of Justice

Throughout the process, EAC staff assisted the consultants by providing statutes and cases on this subject as well as supervision on the direction, scope and product of this research.

The consultants drafted a report for EAC that included their summaries of existing laws, cases, studies and reports on voter fraud and intimidation as well as summaries of the interviews that they conducted. The draft report also provided a definition of voter fraud and intimidation and made certain recommendations developed by the consultants or by the working group on how to pursue further study of this subject. This document was vetted and edited by EAC staff to produce this final report.

## **EXISTING INFORMATION ABOUT FRAUD AND INTIMIDATION**

To begin our study of voter fraud and voter intimidation, EAC consultants reviewed the current body of information on voter fraud and intimidation. ~~What the world knows~~ The

information available about these issues comes largely from a very limited body of reports, articles, and books. There are volumes of case law and statutes in the various states that also impact our understanding of what actions or inactions are legally considered fraud or intimidation. Last, there is anecdotal information available through media reports and interviews with persons who have administered elections, prosecuted fraud, and studied these problems. All of these resources were used by EAC consultants to provide an introductory look at the available knowledge of voter fraud and voter intimidation.

### Reports and Studies of Voter Fraud and Intimidation

Over the years, there have been a number of studies conducted about the concepts of voter fraud and voter intimidation. EAC reviewed many of these studies and reports to develop a base-line understanding of the information that is currently available about voter fraud and voter intimidation. EAC consultants reviewed the following articles, reports and books, summaries of which are available in Appendix “\_\_\_”:

Formatted: Indent: First line: 0"

#### Articles and Reports

- People for the American Way and the NAACP, “The Long Shadow of Jim Crow,” December 6, 2004.
- Laughlin McDonald, “The New Poll Tax,” *The American Prospect* vol. 13 no. 23, December 30, 2002.
- Wisconsin Legislative Audit Bureau, “An Evaluation: Voter Registration Elections Board” Report 05-12, September, 2005.
- Milwaukee Police Department, Milwaukee County District Attorney’s Office, Federal Bureau of Investigation, United States Attorney’s Office “Preliminary Findings of Joint Task Force Investigating Possible Election Fraud,” May 10, 2005.
- National Commission on Federal Election Reform, “Building Confidence in U.S. Elections,” Center for Democracy and Election Management, American University, September 2005.
- The Brennan Center for Justice at NYU School of Law and Spencer Overton, Commissioner and Law Professor at George Washington University School of Law “Response to the Report of the 2005 Commission on Federal Election Reform,” September 19, 2005.
- Chandler Davidson, Tanya Dunlap, Gale Kenny, and Benjamin Wise, “Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – or Both?” A Report to the Center for Voting Rights & Protection, September, 2004.

- Alec Ewald, "A Crazy Quilt of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law," The Sentencing Project, November 2005.
- American Center for Voting Rights "Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election," August 2, 2005.
- The Advancement Project, "America's Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy" November 7, 2001
- The Brennan Center and Professor Michael McDonald "Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General," The Brennan Center for Justice at NYU School of Law, December 2005.
- Democratic National Committee, "Democracy at Risk: The November 2004 Election in Ohio," DNC Services Corporation, 2005
- Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2002."
- Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2003."
- Public Integrity Section, Criminal Division, United States Department of Justice, "Report to Congress on the Activities and Operations of the Public Integrity Section for 2004."
- Craig Donsanto, "The Federal Crime of Election Fraud," Public Integrity Section, Department of Justice, prepared for Democracy.Ru, n.d., at [http://www.democracy.ru/english/library/international/eng\\_1999-11.html](http://www.democracy.ru/english/library/international/eng_1999-11.html)
- People for the American Way, Election Protection 2004, Election Protection Coalition, at <http://www.electionprotection2004.org/edaynews.htm>
- Craig Donsanto, "Prosecution of Electoral Fraud under United State Federal Law," *IFES Political Finance White Paper Series*, IFES, 2006.
- General Accounting Office, "Elections: Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote," Report to Congressional Requesters, September 2005.

- Lori Minnite and David Callahan, "Securing the Vote: An Analysis of Election Fraud," Demos: A Network of Ideas and Action, 2003.
- People for the American Way, NAACP, Lawyers Committee for Civil Rights, "Shattering the Myth: An Initial Snapshot of Voter Disenfranchisement in the 2004 Elections," December 2004.

**Books**

- John Fund, *Stealing Elections: How Voter Fraud Threatens Our Democracy*, Encounter Books, 2004.
- Andrew Gumbel, *Steal this Vote: Dirty Elections and the Rotten History of Democracy in American*, Nation Books, 2005.
- Tracy Campbell, *Deliver the Vote: A History of Election Fraud, An American Political Tradition – 1742-2004*, Carroll & Graf Publishers, 2005.
- David E. Johnson and Jonny R. Johnson, *A Funny Thing Happened on the Way to the White House: Foolhardiness, Folly, and Fraud in the Presidential Elections, from Andrew Jackson to George W. Bush*, Taylor Trade Publishing, 2004.
- Mark Crispin Miller, *Fooled Again*, Basic Books, 2005.

During our review of these documents, we learned a great deal about the type of research that has been conducted in the past concerning voter fraud and voter intimidation. None of the studies or reports was based on a comprehensive study, survey or review of all allegations, prosecutions or convictions of state or federal crimes related to voter fraud or voter intimidation. Most reports focused on a limited number of case studies or instances of alleged voter fraud or intimidation. For example, "Shattering the Myth: An Initial Snapshot of Voter Disenfranchisement in the 2004 Elections," a report produced by the People for the American Way, focused exclusively on citizen reports of fraud or intimidation to the Election Protection (is this DOJ?) program during the 2004 presidential election. Similarly, reports produced annually by the Department of Justice, Public Integrity Division, deal exclusively with crimes reported to and prosecuted by the United States Attorneys and/or the Department of Justice through the Public Integrity Section.

It is also apparent from a review of these articles and books that there is no consensus on the pervasiveness of voter fraud and voter intimidation. Some reports, such as "Building Confidence in U.S. Elections," suggest that there is little or no evidence of extensive fraud in U.S. elections or of multiple voting. This conflicts directly with other reports, such as the "Preliminary findings of Joint Task Force Investigating Possible Election Fraud," produced by the Milwaukee Police Department, Milwaukee County District

Attorney's Office, FBI and U.S. Attorney's Office. That report cited evidence of more than 100 individual instances of suspected double-voting, voting in the name of persons who likely did not vote, and/or voting using a name believed to be fake.

Voter intimidation is also a topic of some debate. Generally, speaking, because there is little agreement on what constitutes actionable voter intimidation. Some studies and reports cover only intimidation that involves physical or financial threats, while others cover non-criminal intimidation, even legal practices, that they allege suppress suppression of the vote.

One point of agreement is that absentee voting and voter registration by third-party groups create opportunities for fraud. A number of studies cited circumstances in which voter registration drives have falsified voter registration applications or have destroyed voter registration applications of voters of a certain party. Others conclude that paying persons per voter registration application creates the opportunity and perhaps the incentive for fraud.

### Interviews with Experts

In addition to reviewing prior studies and reports on voter fraud and intimidation, EAC consultants interviewed a number of persons regarding their experiences and research of voter fraud and voter intimidation. Persons interviewed included:

**Wade Henderson**

Executive Director,  
Leadership Conference for Civil Rights

**Pat Rogers**

Attorney, New Mexico

**Wendy Weiser**

Deputy Director,  
Democracy Program, The Brennan  
Center

**Rebecca Vigil-Giron**

Secretary of State, New Mexico

**William Groth**

Attorney for the plaintiffs in the Indiana  
voter identification litigation

**Sarah Ball Johnson**

Executive Director,  
State Board of Elections, Kentucky

**Lori Minnite**

Barnard College, Columbia University

**Stephen Ansolobhere**

Massachusetts Institute of Technology

**Neil Bradley**

ACLU Voting Rights Project

**Chandler Davidson**

Rice University

**Nina Perales**

Counsel,  
Mexican American Legal Defense and  
Education Fund

**Tracey Campbell**

Author, *Deliver the Vote*

**Douglas Webber**

Assistant Attorney General, Indiana

**Heather Dawn Thompson**  
Director of Government Relations,  
National Congress of American Indians

**Kevin Kennedy**  
Executive Director  
State Board of Elections, Wisconsin

**Jason Torchinsky**  
Assistant General Counsel,  
American Center for Voting Rights

**Evelyn Stratton**  
Justice  
Supreme Court of Ohio

**Robin DeJarnette**  
Executive Director,  
American Center for Voting Rights

**Tony Sirvello**  
Executive Director  
International Association of Clerks,  
Recorders, Election Officials and  
Treasurers

**Harry Van Sickle**  
Commissioner of Elections,  
Pennsylvania

**Joseph Rich**  
Former Director  
Voting Section, Civil Rights Division  
U.S. Department of Justice

**Joseph Sandler**  
Counsel  
Democratic National Committee

**Craig Donsanto**  
Director, Public Integrity Section  
U.S. Department of Justice

**John Ravitz**  
Executive Director  
New York City Board of Elections

**John Tanner**  
Director  
Voting Section, Civil Rights Division  
U.S. Department of Justice

**Sharon Priest**  
Former Secretary of State, Arkansas

These interviews in large part confirmed the conclusions that were gleaned from the articles, reports and books that were analyzed. For example, the interviewees largely agreed that absentee balloting is subject to the greatest proportion of fraudulent acts, followed by vote buying and voter registration fraud. They similarly pointed to voter registration drives by third-party groups as a source of fraud, particularly when the workers are paid per registration. Many asserted that impersonation of voters is probably the least frequent type of fraud, ~~citing as reasons that~~ because it was the most likely type of fraud to be discovered and due to the stiff ~~that there are stiff~~ penalties associated with this type of fraud.

Interviewees differed on what they believe constitutes actionable voter intimidation. Law enforcement and prosecutorial agencies tend to look to the criminal definitions of voter intimidation, which generally require some threat of physical or financial harm. On the other hand, voter rights advocates tended to point to activities such as challenger laws, voter identification laws, ~~the location of polling place~~ locations, and distribution of voting machines as activities that can constitute voter intimidation.

Those interviewed also expressed opinions on the enforcement of voter fraud and voter intimidation laws. States have varying authorities to enforce these laws. In some states, enforcement is left to the county or district attorney, and in others enforcement is managed by the state’s attorney general. Regardless, voter fraud and voter intimidation are difficult to prove and require resources and time that many local law enforcement and prosecutorial agencies do not have. Federal law enforcement and prosecutorial agencies have more time and resources but have limited jurisdiction and. ~~They can only prosecute crimes related to elections involving federal candidates.~~ Those interviewed differed on the effectiveness of the current system of enforcement, including those ~~that~~ who allege that prosecutions are not sufficiently aggressive and those ~~that~~ who feel that the current laws are sufficient for prosecuting fraud and intimidation.

A summary of the each of the interviews conducted is attached as Appendix “ \_\_\_ ”.

### Case Law and Statutes

Consultants reviewed ~~over~~ more than 40,000 cases that were identified using a series of search terms related to voter fraud and voter intimidation. The majority of these cases came from appeal courts. This is not a ~~surprising situation~~, since most cases that are publicly reported come from courts of appeal. Very few cases that are decided at the district court level are reported for public review.

Very few of the identified cases were applicable to this study. Of those that were applicable, no apparent thematic pattern emerged. However, it did seem (WHY DID IT “SEEM” THIS WAY? IS THERE EVIDENCE?) that the greatest number of cases reported on fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

A listing of the cases reviewed in this study is attached as Appendix “ \_\_\_ ”.

### Media Reports

EAC consultants reviewed thousands of media reports concerning a wide variety of potential voter fraud or voter intimidation, including:

- absentee ballot fraud,
- voter registration fraud,
- voter intimidation and suppression,
- deceased voters,
- multiple voting,
- felons voting,
- non-citizens voting,
- vote buying,
- deceptive practices, and

- fraud by election officials.

While these reports showed that there were a large number of allegations of voter fraud and voter intimidation, they provided much less information as to whether the allegations were ever formalized as complaints to law enforcement, whether charges were filed, whether prosecutions ensued, and whether any convictions were made. The media reports were enlightening as to the pervasiveness of complaints of fraud and intimidation throughout the country, the correlation between fraud allegations and the perception that the state was a “battleground” or “swing” state, and the fact that there were reports of almost all types of voter fraud and voter intimidation. However, these reports do not provide much data for analysis as to the number of complaints, charge and prosecutions of voter fraud and intimidation throughout the country.

## DEFINITION OF ELECTION CRIMES

From our study of available information on voter fraud and voter intimidation, we have learned that these terms mean many things to many different people. These terms are used casually to refer to anything from vote buying to refusing to register a voter to falsifying voter registration applications. Upon further inspection, however, it is apparent that there is no common understanding or agreement of what is and what is not constitutes “voter fraud” and “voter intimidation.” Some think of voter fraud and voter intimidation only as criminal acts, while others include actions that may constitute civil wrongs, civil rights violations, and even legal and appropriate activities. ~~In order to~~ To arrive come up with a common definition and list of activities that can be studied, EAC assessed the appropriateness of the terminology that is currently in use and applied certain factors to limit the scope and reach of what can and will be studied by EAC in the future.

### New Terminology

The phrase “voter fraud” is really a misnomer for a concept that is much broader. “Fraud” is a concept that connotes an intentional act of deception, which may constitute either a criminal act or civil tort depending upon the willfulness of the act.

**Fraud, n. 1.** A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. • Fraud is usu. a tort, but in some cases (esp. when the conduct is willful) it may be a crime.

Black’s Law Dictionary, Eighth Edition, p. 685.

A “voter” is a person who is eligible to and engages in the act of voting. Black’s Law Dictionary, Eighth Edition, p. 1608. Using these terms to form a definition of “voter fraud,” it means fraudulent or deceptive acts committed by the voter or in which the voter is the victim. Thus, a voter who intentionally provides false information on a voter registration application or intentionally impersonates another registered voter and attempts to vote for that person would be committing “voter fraud.” Similarly, a person



who knowingly provides false information to a voter about the location of the voter's polling place commits fraud on the voter.

The phrase "voter fraud" does not capture a myriad of other criminal acts that are related to elections which are not perpetrated by the voter and/or do not involve an act of deception. For example, "voter fraud" does not capture actions or willful inaction by candidates and election workers. When an election official willfully and knowingly refuses to register to vote a ~~non~~ otherwise-legally eligible person it is a crime. This is a crime that involves neither the voter nor an act of deception.

To further complicate matters, the phrases "voter fraud" and "voter intimidation" are used to refer to actions or inactions that are criminal as well as those that are potentially civil wrongs and even those that are legal. Obviously, criminal acts and civil wrongs are pursued in a very different manner. Criminal acts are prosecuted by the local, state or federal government. Generally, civil wrongs are prosecuted by the individual who believes that they were harmed. In some cases, when civil rights are involved, the civil division of the Department of Justice may become involved.

The goal of this study was to develop a common definition of what is generically referred to as "voter fraud" and "voter intimidation" that would serve as the basis of a future, comprehensive study of the existence of these problems. In order to meet that goal, we recognize that the current terminology does not accurately represent the spectrum of activities that we desire to study. Furthermore, we recognize that the resources, both financial and human capital, needed to study allegations and prosecutions of criminal acts, suits involving civil torts, and allegations of potential voter suppression through the use of legal election processes are well beyond the resources available to EAC. As such, EAC has defined "election crimes," a phrase that captures all crimes related to the voter registration and voting processes.

#### **What is an Election Crime for Purposes of this Study**

Election crimes are intentional acts or willful failures to act, prohibited by state or federal law, that are designed to cause ineligible persons to participate in the election process, eligible persons to be excluded from the election process, ineligible votes to be cast in an election, eligible votes not to be cast or counted, or other interference with or invalidation of election results. Election crimes generally fall into one of four categories: acts of deception, acts of coercion, acts of damage or destruction, and failures or refusals to act.

Generally speaking, election crimes can be committed by voters, candidates, election officials, or any other members of the public ~~that~~ who desire to criminally impact the result of an election. However, crimes that are based upon ~~knowing~~ intentional or willful failure to act assume that a duty to act exists. Election officials have affirmative duties to act with regard to elections. By and large, other groups and individuals do not have such duties.

The victim of an election crime can be a voter, a group of voters, an election official, a candidate, or the public, in general. Election crimes can occur during any stage of the election process, including but not limited to qualification of candidates; voter registration; campaigning; voting system preparation and programming; voting either early, absentee, or election day; vote tabulation; recounts; and recalls.

The following are examples of activities that may constitute election crimes. This list is not intended to be exhaustive, but is representative of what states and the federal government consider criminal activity related to elections.

*Acts of Deception*

- o Knowingly causing to be mailed or distributed, or knowingly mailing or distributing, literature that includes false information about the voter's precinct or polling place, ~~regarding~~ the date and time of the election or ~~regarding~~ a candidate;
- o Possessing an official ballot outside the voting location, unless the person is an election official or other person authorized by law or local ordinance ~~to possess~~ a ballot outside of the polling location;
- o Making, or knowingly possessing, a counterfeit of an official election ballot;
- o Signing a name other than his/her own to a petition proposing an initiative, referendum, recall, or nomination of a candidate for office;
- o Knowingly signing more than once for the proposition, question, or candidate at one election;
- o Signing a petition proposing an initiative or referendum when the signer is not a qualified voter.
- o Voting or attempting to vote in the name of another person;
- o Voting or attempting to vote more than once ~~at~~ during the same election;
- o Intentionally making a false affidavit, swearing falsely, or falsely affirming under an oath required by a statute regarding their voting status, including when registering to vote, requesting an absentee ballot or presenting to vote in person;
- o Registering to vote without being entitled to register;
- o Knowingly making a material false statement on an application for voter registration or re-registration; and
- o Voting or attempting to vote in an election after being disqualified or when the person knows that he/she is not eligible to vote.

*Acts of Coercion*

- o Using, threatening to use, or causing to be used force, coercion, violence, restraint, or inflicting, threatening to inflict, or causing to be inflicted damage harm, or loss, upon or against another person to induce or compel that person to vote or refrain from voting or to register or refrain from registering to vote;
- o Knowingly paying, offering to pay, or causing to be paid money or other thing of valuable thing to a person to vote or refrain from voting for a candidate or for or against an election proposition or question;

- Knowingly soliciting or encouraging a person who is not qualified to vote in an election;
- Knowingly challenging a person's right to vote without probable cause or on fraudulent grounds, or engaging in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voter from voting or delay the process of voting;
- As an employer, attempting by coercion, intimidation, threats to discharge or to lessen the remuneration of an employee, to influence his/her vote in any election, or who requires or demands an examination or inspection by himself/herself or another of an employee's ballot;
- Soliciting, accepting, or agreeing to accept money or other valuable thing in exchange for signing or refraining from signing a petition proposing an initiative;
- Inducing or attempting to induce an election official to fail in the official's duty by force, threat, intimidation, or offers of reward;
- Directly or through any other person advancing, paying, soliciting, or receiving or causing to be advanced, paid, solicited, or received, any money or other valuable consideration to or for the use of any person in order to induce a person not to become or to withdraw as a candidate for public office; and
- Soliciting, accepting, or agreeing to accept money or other thing of valuable thing e in exchange for registering to vote.

***Acts of Damage or Destruction***

- Removing or destroying any of the supplies or other conveniences placed in the voting booths or compartments ~~for the purpose of enabling the voter to vote his or her ballot;~~
- Removing, tearing down, or defacing election materials, instructions or ballots;
- Fraudulently altering or changing the vote of any elector, by which such elector is prevented from voting as ~~the~~ the person intended;
- Knowingly removing, altering, defacing or covering any political sign of any candidate for public office for a prescribed period prior to and following the election;
- Intentionally changing, attempting to change, or causing to be changed an official election document including ballots, tallies, and returns; and
- Intentionally delaying, attempting to delay, or causing to be delayed the sending of certificate, register, ballots, or other materials whether original or duplicate, required to be sent by jurisdictional law.

***Failure or Refusal to Act***

- Intentionally failing to perform an election duty, or knowingly committing an unauthorized act with the intent to effect the election;
- Knowingly permitting, making, or attempting to make a false count of election returns;
- Intentionally concealing, withholding, or destroying election returns or attempts to do so;

- o Marking a ballot by folding or physically altering the ballot so as to recognize the ballot at a later time;
- o Attempting to learn or actually and unlawfully learning how a voter marked a ballot;
- o Distributing or attempting to distribute election material knowing it to be fraudulent;
- o Knowingly refusing to register a person who is entitled to register under the rules of that jurisdiction; and
- o Knowingly removing the eligibility status of a voter who is eligible to vote; and
- o Knowingly refusing to allow an eligible voter to cast his/her ballot.

Formatted: Bullets and Numbering

### What is not an Election Crime for Purposes of this Study

There are some actions or inactions that may constitute crimes or civil wrongs that we do not include in our definition of “election crimes.” All crimes or civil violations related to campaign finance reporting either at the state or federal level are not “election crimes” for purposes of this study and any future study conducted by EAC. Similarly, criminal acts that are unrelated to elections, voting, or voter registration are not “election crimes,” even when those offenses occur in a polling place, voter registration office, or a candidate’s office or appearance. For example, an assault or battery that results from a fight in a polling place or at a candidate’s office is not an election crime. Similarly, violations of ethical provisions such as the Hatch Act are not “election crimes.” Last, and actions that do not rise to the level of criminal activity, ~~that such as~~ is a misdemeanor, relative felony or felony, are not “election crimes.”

## RECOMMENDATIONS ON HOW TO STUDY ELECTION CRIMES

As a part of its study, EAC sought recommendations on ways that EAC can study research the existence of election crimes. EAC consultants, the working groups and some of the persons interviewed developed recommendations. ~~In addition, the working group and some of the persons interviewed~~ as a part of this study provided the following recommendations.

### *Recommendation 1: Conduct More Interviews*

Future activity in this area should include conducting additional interviews. In particular, more election officials from all levels of government, parts of the country, and political parties should be interviewed. It would also be especially beneficial to talk to ~~people in~~ law enforcement officials, specifically federal District Election Officers (“DEOs”) and local district attorneys, as well as civil and criminal defense attorneys.

### *Recommendation 2: Follow Up on Media Research*

The media search conducted for this phase of the research was based on a list of search terms agreed upon by EAC consultants. Thousands of articles were reviewed and hundreds analyzed. Many of the articles contained allegations of fraud or intimidation.

Similarly, many of the articles contained information about investigations into such activities or even charges brought. (THIS SENTENCE CONTRADICTS WHAT WAS SAID EARLIER ABOUT THE LACK OF MEDIA ARTICLES ON FOLLOW UP.) Additional media research should be conducted to determine what, if any, resolutions or further activity there was in each case.

***Recommendation 3: Follow Up on Allegations Found in Literature Review***

Many of the allegations made in the reports and books that were analyzed and summarized by EAC consultants were not substantiated and were certainly limited by the date of publication of those pieces. Despite this, such reports and books are frequently cited by various interested parties as evidence of fraud or intimidation. Further research should include follow up on the allegations discovered in the literature review.

***Recommendation 4: Review Complaints Filed With “MyVote1” Voter Hotline***

During the 2004 election and the statewide elections of 2005, the University of Pennsylvania led a consortium of groups and researchers in conducting the MyVote1 Project. This project involved using a ~~1-800 toll-free~~ voter hotline where that voters could call for poll locations, be transferred to a local hotline, or leave a recorded message with a complaint. In 2004, this resulted in ~~over more than~~ 200,000 calls received and ~~over more than~~ 56,000 recorded complaints.

Further research should be conducted using the MyVote1 data with the cooperation of the project leaders. While perhaps not a fully scientific survey given the self-selection of the callers, the information regarding ~~200,000~~ 56,000 complaints may provide a good deal of insight into the problems voters may have experienced, especially those in the nature of issues regarding intimidation or suppression.

***Recommendation 5: Further Review of Complaints Filed With U.S. Department of Justice***

~~Although a~~ According to a recent GAO report, the Voting Section of the Civil Rights Division of the Department of Justice has a variety in ways it tracks complaints of voter intimidation. Attempts should be made to obtain relevant data, including the telephone logs of complaints and information from the Interactive Case Management (ICM) system. Further research should also include a review and analysis of the DOJ/OPM observer and “monitor field reports” (NOT SURE WHAT THIS MEANS) from Election Day.

***Recommendation 6: Review Reports Filed By District Election Officers***

Further research should include a review of the reports that must be filed by every District Election Officer to the Public Integrity Section of the Criminal Division of the Department of Justice. The DEOs play a central role in receiving reports of voter fraud and investigating and pursuing them. Their reports back to the Department would likely

provide tremendous insight into what actually transpired during the last several elections. Where necessary, information could be redacted or made confidential.

***Recommendation 7: Attend Ballot Access and Voting Integrity Symposium***

Further activity in this area should include attending the next Ballot Access and Voting Integrity Symposium. At this conference, prosecutors serving as District Election Officers in the 94 U.S. Attorneys' Offices obtain annual training on fighting election fraud and voting rights abuses. These conferences are sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, and feature presentations by Civil Rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. By attending the symposium researchers could learn more about the following: how District Election Officers are trained; how information about previous election and voting issues is presented; and how the Voting Rights Act, the criminal laws governing election fraud and intimidation, the National Voter Registration Act, and the Help America Vote Act are described and explained to participants.

***Recommendation 8: Conduct Statistical Research***

EAC should measure voter fraud and intimidation using interviews, focus groups, and a survey and statistical analysis of the results of these efforts. The sample should be based on the following factors:

- Ten locations that are geographically and demographically diverse where there have historically been many reports of fraud and/or intimidation;
- Ten locations (geographically and demographically diverse) that have not had many reports of fraud and/or intimidation;

EAC should also conduct a survey of elections officials, district attorneys, and district election officers. (WHAT WOULD WE SURVEY THEM ABOUT?) The survey sample should be large in order to be able to get the necessary subsets, and it. The sample must include a random set of counties where there have and have not been a large number of allegations.

***Recommendation 9: Explore Improvements to Federal Law***

Future researchers should review federal law to explore ways to make it easier to impose either civil or criminal penalties for acts of intimidation that do not necessarily involve racial animus and/or a physical or economic threat.

***Recommendation 10: Use Observers to Collect Data on Election Day***

Use observers to collect data regarding fraud and intimidation at the polls in on Election Day. There may be some limitations to the ability to conduct this type of research, including difficulty gaining access to polling places for the purposes of observation.

***Recommendation 11: Study Absentee Ballot Fraud***

Because absentee ballot fraud constitutes a large portion of election crimes, a stand-alone study of absentee ballot fraud should be conducted. Researchers should look at actual cases to see how absentee ballot fraud schemes are conducted in an effort to provide recommendations on more effective measures for preventing them fraud when absentee ballots are used.

***Recommendation 12: Use Risk Analysis Methodology to Study Fraud***

Conduct an analysis of what types of fraud people are most likely to commit. Researchers ~~can~~ will use that risk analysis to rank the types of fraud based on the “ease of commission” (WHAT DOES THIS MEAN?) and the impact of the fraud.

***Recommendation 13: Conduct Research Using Database Comparisons***

Researchers should compare information on databases to determine whether the voter rolls contain deceased persons and felons. In addition, the voter rolls can then be compared with the list of persons who voted to determine whether a vote was recorded by someone who is deceased ~~voters~~ or if felons actually voted.

***Recommendation 14: Conduct a Study of Deceptive Practices***

The working group discussed the increasing use of deceptive practices, such as flyers and phone calls with false and/or intimidating information, to suppress voter participation. A number of groups, such as the Department of Justice, the EAC, and organizations such as the Lawyers Committee for Civil Rights, keep phone logs regarding complaints of such practices. These logs should be reviewed and analyzed to see how and where such practices are being conducted and what can be done about them.

***Recommendation 15: Study Use of HAVA Administrative Complaint Procedure as Vehicle for Measuring Fraud and Intimidation***

EAC should study the extent to which states are ~~actually~~ utilizing the administrative complaint procedure mandated by HAVA. In addition, the EAC should study whether data collected through the administrative complaint procedure can be used as another source of information for measuring fraud and intimidation.

***Recommendation 16: Examine the Use of Special Election Courts***

Given that many state and local judges are elected, it may be worth exploring whether special election courts should be established to handle fraud and intimidation complaints before, during, and after Election Day. Pennsylvania employs such a system and could investigate how well that system is working.

### Accepted Recommendations

There has never been a comprehensive study that gathered data regarding all claims, charges, and prosecutions of voting crimes. EAC feels that a comprehensive study is the most important research that it can offer the election community and the public. As such, EAC has adopted all or a part of six of the 16 recommendations made by EAC consultants and the working group.

While several of the other recommendations could be used to obtain more anecdotal information regarding election crimes, EAC believes that what is needed is a comprehensive survey and study of the information available from investigatory agencies, prosecutorial bodies and courts on the number and types of complaints, charges and prosecutions of election crimes. Additional media reviews, additional interviews and the use of observers to collect information from voters on Election Day will only serve to continue the use of anecdotal data to report on election crimes. Hard data on complaints, charges and prosecutions exists and we should gather and use that data, rather than rely on the perceptions of the media or the members of the public as to what might be fraud or intimidation.

Some of the recommendations are beyond the scope of the current study. While election courts may be a reasonable conclusion to reach after we determine ~~what~~the volume and type of election crimes ~~are~~ being reported, charged or prosecuted, it is premature to embark on an analysis of that solution without more information. Last, some of the recommendations do not support a comprehensive study of election crimes. While a risk analysis might be appropriate in a smaller scale study, EAC desires to conduct a broader survey to avoid the existing problem of anecdotal and limited scope of information.

In order to further its goal of developing a comprehensive data set regarding election crimes, EAC intends to engage in the following research activities in studying the existence and enforcement of election crimes:

#### *Survey Chief Election Officers Regarding Administrative Complaints*

Likely sources of complaints concerning voting crimes are the administrative complaint processes that states were required to establish as a part of complying with HAVA. Those complaint procedures were required to be in place prior to a state receiving any funds under HAVA. Citizens are permitted to file complaints under those procedures with the state's chief election official, and those complaints must be resolved within 60 days. The procedures also allow for alternative dispute resolution of claims.

In order to determine how many of these complaints allege the commission of election crimes, EAC will survey the states' chief election officers regarding complaints that have been filed, investigated, and resolved since January 1, 2004. EAC will use the definition of election crimes provided above in this report in its survey so that data regarding a uniform set of offenses ~~can~~will be collected.



***Survey State Election Crime Investigation Units Regarding Complaints Filed and Referred***

Several chief state election officials have developed investigation units focused on receiving, investigating, and referring complaints of election crimes. These units were established to bolster the abilities of state and local law enforcement to investigate allegations of election crimes. California, New York and Florida are just three examples of states that have these types of units.

EAC will use a survey instrument to gather information on the numbers and types of complaints that have been received by, investigated, and ultimately referred to local or state law enforcement by election crime investigation units since January 1, 2004. This These data will help us understand the pervasiveness of perceived fraud, as well as the number of claims that state election officials felt were meritorious of being referred to local and state law enforcement or prosecutorial agencies for further action.

***Survey Law Enforcement and Prosecutorial Agencies Regarding Complaints and Charge of Voting Crimes***

While voters, candidates and citizens may call national hotlines or the news media to report allegations of election crimes, it is those complaints that are made to law enforcement that can be investigated and ultimately prosecuted. Thus, it is critical to the study of election crimes to obtain statistics regarding the number and types of complaints that are made to law enforcement, how many of those complaints result in the perpetrator being charged or indicted, and how many of those charges or indictments result in pleas or convictions.

Thus, EAC will survey law enforcement and prosecutorial agencies at the local, state and federal level to determine the number and types of complaints, charges or indictments, and pleas or convictions of election crimes since January 1, 2004. In addition, EAC will seek to obtain an understanding of why some complaints are not charged or indicted and why some charges or indictments are not prosecuted.


***Analyze Survey Data in Light of State Laws and Procedures***

Once a reliable data set concerning the existence and enforcement of election crimes is assembled, a real analysis of the effectiveness of fraud prevention measures can be conducted. For example, data can be analyzed to determine if criminal activities related to elections are isolated to certain areas or regions of the country. Data collected from the election official surveys can be compared to the data regarding complaints, charges and prosecutions gathered from the respective law enforcement and prosecutorial agencies in each jurisdiction. The effect and/or effectiveness of provisions such as voter identification laws and challenger provisions can be assessed based on hard data from areas where these laws exist. Last, analyses such as the effectiveness of enforcement can be conducted in light of the resources available to the effort.

## CONCLUSION

Election crimes are nothing new to our election process. The pervasiveness of these crimes and the fervor with which they have been enforced has created a great deal of debate among academics, election officials, ~~and political pundits and voters~~. Past studies of these issues have been limited in scope and some have been riddled with bias. These are issues that deserve comprehensive and nonpartisan review. EAC, through its clearinghouse role, will collect and analyze data on election crimes throughout the country. These data not only will tell us what types of election crimes are committed and where fraud exists, but also inform us of what factors impact the existence, prevention, and prosecution of election crimes.

Jeannie Layson /EAC/GOV  
10/19/2006 02:45 PM

To Margaret Sims/EAC/GOV@EAC  
cc bwhitener@eac.gov, ggilmour@eac.gov,  
jthompson@eac.gov, twilkey@eac.gov  
bcc  
Subject Re: Media inquiry RE: fraud research 

I think that distinction comes a little too late, as the commissioners have been referring to any future report as one that would be produced by EAC. Hence, the effort to explain the difference b/w data provided/produced by consultants.

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

Margaret Sims /EAC/GOV

To Jeannie Layson/EAC/GOV@EAC  
cc bwhitener@eac.gov, ggilmour@eac.gov, jthompson@eac.gov, twilkey@eac.gov  
10/19/2006 01:55 PM  
Subject Re: Media inquiry RE: fraud research [Link](#)

I don't know that we can say that EAC will produce a report on the subject in the near future. We will have the consultants' report to EAC, which I don't believe constitutes an EAC report/statement. The consultants' report never was intended to be the definitive study of voting fraud/voter intimidation that the news media and others seem to be seeking. One of the primary goals of the report was to provide recommendations for future EAC action/direction of study. In order to do this, the consultants did some preliminary research to get an idea of what problems were occurring. I don't know how soon EAC will decide which recommendations, if any, to pursue. --- Peggy

Jeannie Layson /EAC/GOV

To twilkey@eac.gov, jthompson@eac.gov, psims@eac.gov, ggilmour@eac.gov  
cc bwhitener@eac.gov  
10/18/2006 11:09 AM  
Subject Media inquiry RE: fraud research

008282

Hello everyone,

Brian Friel of the National Journal has posed the following questions regarding the fraud report. Since we know this is something everyone on the Hill will definitely read, I want to make sure everyone agrees with these responses. I need to get this info to him by noon tomorrow.

Tom -- do you want me to run this language by the commissioners?


1. Are there any plans to release voter fraud report since several groups have called for its release; or if there is some procedure that would be necessary for EAC to determine that it should be released? The status report created by EAC staff was presented to EAC's Board of Advisors and Standards Board to provide an update on the research project. This meeting was open to the public. As a small agency of only 23 employees, including four commissioners, it is necessary for EAC to contract with third parties and experts to conduct research. The information provided by third parties is used by staff to develop EAC final policy or reports. No documents, drafts, or recommendations presented to EAC by third parties constitute official EAC policy. Currently, EAC staff is reviewing the data presented regarding voter fraud and intimidation and will produce a final report in the near future.

Is the fourth position still vacant and does this impact the decision for release of the report. There is a vacancy on the commission, but the vacancy has not impacted the timeline for releasing the fraud 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](http://www.eac.gov)

008283

Karen Lynn-Dyson/EAC/GOV  
09/02/2005 04:19 PM

To Karen Lynn-Dyson/EAC/GOV@EAC, Nicole  
Mortellito/CONTRACTOR/EAC/GOV@EAC  
cc jthompson@eac.gov, nmortellito@eac.gov, sda@mit.edu,  
"Job Serebrov" <serebrov@sbcglobal.net>,  
twilkey@eac.gov, wang@tcf.org  
bcc  
Subject Re: Kick off activities for the EAC Voting fraud/voter  
intimidation project 

All-

In anticipation of our 45-minute conference call scheduled for Tuesday, September 6 at 4:00 PM, I would ask the three consultants ( Steve, Job and Tova) to come prepared to talk about the following:

The major topics and issues which you see as needing immediate attention, definition, delineation, etc.  
Rough timelines and timeframes for addressing these major issues and topics  
Your major roles and responsibilities and the timelines you envision for meeting your major deliverables

We all realize that this conversation is just a start; I look forward to this beginning and to framing the tasks that lie ahead of us between now and September 30.

Have a wonderful holiday!!

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

008284

Karen Lynn-Dyson/EAC/GOV

08/23/2005 05:44 PM

To Thomas R. Wilkey/EAC/GOV@EAC, sda@mit.edu,  
wang@tcf.org, serebrov@sbcglobal.net

cc Margaret Sims/EAC/GOV@EAC

bcc Juliet E. Thompson/EAC/GOV

Subject Kick off activities for the EAC Voting fraud/voter intimidation  
project

Greetings-

Tom Wilkey and I have just completed a series of very informative and productive conversations with each of you and are anxious to move to the next step of this process.

We hope to assemble our consultant team on this project, within the next three weeks and are presently awaiting final approval of your contracts from our Commissioners. We anticipate this will take place in the next week to ten days.

We would like to assemble the team- Steve Ansolabehere of MIT, Tova Wang from The New Century Foundation and Job Serebrov, who has worked extensively on these issues for the State of Arkansas, during the week of September 11. Please get back to us with some tentative dates during that week that might work with your schedule.

We look forward to working with all of you and appreciate your efforts on behalf of the EAC.

Regards-

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

008285

**Karen Lynn-Dyson/EAC/GOV**

08/17/2005 04:29 PM

**To** Nicole Mortellito/CONTRACTOR/EAC/GOV@EAC

**cc** Thomas R. Wilkey/EAC/GOV@EAC, Margaret  
Sims/EAC/GOV@EAC, Diana Scott/EAC/GOV@EAC, Juliet  
E. Thompson/EAC/GOV@EAC

**bcc**

**Subject** Statement of Work to be circulated to the voting fraud/voter  
intimidation consultant candidates

Nicole-

Attached please find the Statement of Work which should be sent to each of the three candidates who are being considered for the consulting position:

Steve A.  
Tova W.  
Job S.

Please be certain they are sent separately and not collectively to all three and that it is sent by COB today.

Thanks so much for your help.

K



voterfraud project consultants.doc

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

008286

## **Statement of Work**

### **Assistance with developing an Election Assistance Commission (EAC) Voting Fraud and Voter Intimidation Project**

#### **Background**

Section 241 of HAVA enumerates a number of periodic studies of election administration issues in which the U.S. Election Assistance Commission may elect to engage. In general “On such periodic basis as the Commission may determine, the Commission shall conduct and make available to the public studies regarding the election administration issues described in subsection (b)”

Sections 241(b) (6) and (7) list the following election administration issues:

(6) Nationwide statistics and methods of identifying, deterring and investigating voting fraud in election for Federal offices.

(7) Identifying, deterring and investigating methods of voter intimidation.

Building on this HAVA reference to studies of voting fraud and voter intimidation, the EAC Board of Advisors has indicated that further study of these issues to determine how the EAC might respond to them is a high priority.

The U.S. Election Assistance Commission (EAC) seeks to identify one or more senior-level project consultants to develop various project activities and studies related to voting fraud and voter intimidation affecting Federal elections.

The consultant(s) must of have knowledge of voting fraud and voter intimidation along with an understanding of the complexities, nuances and challenges which surround the topics. The EAC is particularly interested in candidates with experience in elections, with public policy and with the law. The consultant (s) must be able to demonstrate an ability to approach the issues of voting fraud and voter intimidation in a balanced, nonpartisan fashion.



## **Duties**

The consultant(s), whose contract would run for the period September-February, 2005, would be responsible for the following.

1. Identifying what constitutes voting fraud and voter intimidation affecting Federal elections.
2. Performing background research, including Federal and state-by state administrative and case law review related to voting fraud and voter intimidation, and a review of current voting fraud and voter intimidation activities taking place with key government agencies, civic and advocacy organizations. A written summary of this research, and a copy of any source documentation used, will be presented to EAC.
3. Identifying, in consultation with EAC, and convening a working group of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation. The working group's goals and objectives and meeting agendas will be vetted with key EAC staff.
4. Developing a project scope of work and a project work plan related to voting fraud and voter intimidation. The consultants (s) will develop a draft scope of work and project work plan for EAC's consideration based on research into the topics, the deliberations and findings of the working group, and the consultants' understanding of EAC's mission and agency objectives.
5. Authoring a report summarizing the key findings of this preliminary study of voting fraud and voter intimidation. The report will also include suggestions for specific activities that EAC may undertake to address these topics.

From this initial research and exploration of these topics the consultant (s) may be retained to help oversee follow-on research projects and contracts EAC may pursue on the topics of voting fraud and voter intimidation.

## **Special Considerations**

Work for Hire. The services performed under the terms of this agreement are considered "work for hire," and any intellectual property or deliverables, including but not limited to, research, policies, procedures, manuals, and other works submitted; or which are specified to be delivered; or which are developed or produced and paid for by EAC, shall be owned exclusively by EAC, including copyright. EAC or its assignees have the exclusive right to reproduce all work products from this agreement without further payment to the Contractor.

## Terms and Conditions

The period of performance for this consulting contract is six months, with a fixed price ceiling of \$XXXXXX for labor. The consultant (s) is expected to work at least 200 hours in performing this work. The EAC estimates that the most efficient distribution of these hours would be as follows: XXXXXX. The period of performance and level of effort can be revised in writing by mutual agreement of the EAC and the consultant, as required.

The Consultant is required to travel to the EAC Washington, D.C. offices on a periodic, as needed basis, throughout the duration of the contract. The Consultant will be reimbursed, at the Federal government rates, for hotel and ground transportation costs, other approved incidental expenses, and per diem costs while working on-site at the EAC offices. An estimated \$XXXXXX has been allocated for reimbursement for travel and other allowable expenses.

## Invoicing

Invoices may be submitted monthly in equal payments for labor. Expenses claimed for reimbursement shall be itemized with appropriate receipts provided. Invoices shall be delivered to Ms. Diana Scott, Administrative Officer, U.S. Election Assistance Commission, 1225 New York Avenue, N.W., Suite 1100, Washington DC 20005.

## Deliverables and Timetable

| Deliverable   | Due Date         |
|---|------------------|
| Draft project work plan (Phase I)   | ASAP after award |
| Progress Reports to Contracting Officer's Representative (COR)  | Monthly          |
| A written summary of background research on voting fraud and voter intimidation.                        | TBD              |
| Identifying and convening a working group knowledgeable about voting fraud and voter intimidation.      | TBD              |
| Developing a project scope of work and project work plan ( Phase II)                                    | TBD              |
| Summary report describing key findings of this preliminary study of voting fraud and voter intimidation | TBD              |
|   |                  |

Karen Lynn-Dyson/EAC/GOV

08/16/2005 02:52 PM

To Carol A. Paquette/EAC/GOV@EAC, Diana  
Scott/EAC/GOV@EAC, Margaret Sims/EAC/GOV@EAC  
cc Juliet E. Thompson/EAC/GOV@EAC, Nicole  
Mortellito/CONTRACTOR/EAC/GOV@EAC

bcc

Subject Finishing touches on the Statement of Work for the Voter  
Fraud/Intimidation consultants

History  This message has been replied to

All-

This morning the Commissioners approved the Statement of Work for the Voter Fraud/Voter Intimidation project consultants, with the caveat that some additional language would be added and the SOW polished up.

Tom, Peg and I are scheduled to interview the first candidate tomorrow morning at 10:00 am and will need your edits to this SOW by COB today.

I am attaching the item again, just in case you don't have a copy. Since I have an appointment out of the office and will be leaving at 4:00 today, I ask that you get your changes and edits to Nicole so that she may enter them and get the revised copy to the candidate first thing in the morning .

Thanks for your input on this.



voterfraud project consultants.2.doc

K

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

008290

## **Statement of Work**

### **Assistance with developing an Election Assistance Commission (EAC) Voter Fraud and Voter Intimidation Project**

#### **Background**

Section 241 of HAVA enumerates a number of periodic studies of Election Administrations issues in which the U.S. Election Assistance Commission may elect to engage. In general “On such periodic basis as the Commission may determine, the Commission shall conduct and make available to the public studies regarding the election administration issues described in subsection (b), with the goal of promoting methods of voting and administering elections....”

Specifically, Section 241b 6 and 7 describes Election administration issues such as:

6. Nationwide statistics and methods of identifying, deterring and investigating voting fraud in election for Federal offices and

7. Identifying, deterring and investigation methods of voter intimidation.

Building on this HAVA reference to studies of voter fraud and voter intimidation, the EAC Board of Advisors has indicated a priority interest in further study of these issues to determine how the EAC might respond to them.

The U.S. Election Assistance Commission (EAC) seeks to identify senior-level project consultants to develop various project activities and studies related to U.S. election voter fraud and voter intimidation.

The consultant(s) must of have knowledge of voter fraud and intimidation along with an understanding of the complexities, nuances and challenges which surround the topics. The EAC is particularly interested in candidates with experience in elections, with public policy and the law. The consultant (s) must be able to demonstrate an ability to approach the issues of voter fraud and intimidation in a balanced, nonpartisan fashion.

## **Duties**

The consultant (s), whose contract would run for the period September-February, 2005, would be responsible for the following.

1. Performing background research, including a state-by state administrative and case law review related to voter fraud and intimidation, and a review of current voter fraud and intimidation activities taking place with key government agencies, civic and advocacy organizations. This review will be summarized and presented to the EAC.
2. Identifying and convening a working group of key individuals and organizations knowledgeable about the topics of voter fraud and intimidation. The list of working group members and the methods used to identify the groups members will be shared with EAC staff prior to the confirmation of the working group. The working group's goals and objectives and meeting agendas will be vetted with key EAC staff.
3. Developing a project scope of work and a project work plan related to voter fraud and intimidation. Based on research into the topics, the deliberations and findings of the working group, and the consultants' understanding of the EAC's mission and agency objectives, the consultants will develop a draft scope of work and project work plan for the EAC's consideration.
4. Authoring a report summarizing the key findings of this preliminary study of voter fraud and intimidation. The report will also include suggestions for specific activities the EAC may undertake around these topics.

From this initial research and exploration of these topics the consultant (s) may be retained to help oversee follow-on research projects and contracts EAC may develop on the topics of voter fraud and intimidation.

## **Special Considerations**

Work for Hire Agreement (insert language)

## **Terms and Conditions**

The period of performance for this consulting contract is six months, with a fixed price ceiling of \$XXXXX for labor. The consultant (s) is expected to work at least 200 hours in performing this work. The EAC estimates that the most efficient distribution of these hours would be as follows: XXXXX. The period of performance and level of effort can be revised in writing by mutual agreement of the EAC and the consultant, as required.

Karen Lynn-Dyson/EAC/GOV

08/04/2005 05:01 PM

To Thomas R. Wilkey/EAC/GOV@EAC, Carol A. Paquette/EAC/GOV@EAC, Diana Scott/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC  
cc Nicole Mortellito/CONTRACTOR/EAC/GOV@EAC, Barbara A. Costopoulos/CONTRACTOR/EAC/GOV@EAC

bcc

Subject Finalizing a Statement of Work for consultants working on a voter fraud and intimidation project

Greetings-

Tom Wilkey and I are working to schedule a series of conference calls with three consultants we have identified to work with us to help us develop the voter fraud and voter intimidation project.

We have tentatively scheduled a series of telephone interviews with these three consultants (all of whom would be hired to work on this project) for August 17, 18 and 19.

Attached you will find a draft of a Statement of Work that has been developed for these consultants. Dan Murphy's contract was used as a template for this.

I've sent this document to you all because I need your edits and corrections to this document, based on your expertise either in contracting, human resources or the subject area.

Since Tom and I will be interviewing the candidates in two weeks, I'm hoping you can react to the document and get to Tom and Nicole your changes by mid-week next week.

I will then ask Nicole to send the draft statement of work to the three candidates, so they might refer to it, prior to our interviews.

Thanks for your input and assistance.



K voterfraud project consultants.doc

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

008293

## **Statement of Work**

### **Assistance with developing an Election Assistance Commission (EAC) Voter Fraud and Voter Intimidation Project**

#### **Background**

Section 241 of HAVA enumerates a number of periodic studies of Election Administrations issues in which the U.S. Election Assistance Commission may elect to engage. Specifically, Section 241b 6 and 7 describe Election administration issues such as:

6. Nationwide statistics and methods of identifying, deterring and investigating voting fraud in election for Federal offices and
7. Identifying, deterring and investigation methods of voter intimidation.

Building on this reference to studies of voter fraud and voter intimidation, the EAC Board of Advisors has indicated a priority interest in further study of this issue to determine how the EAC might respond to it.

The U.S. Election Assistance Commission (EAC) seeks to identify senior-level project consultants to develop various project activities and studies related to U.S. election voter fraud and voter intimidation.

The consultant(s) must of have knowledge of voter fraud and intimidation along with an understanding of the complexities, nuances and challenges which surround the topics. The EAC is particularly interested in candidates with experience in elections, with public policy and the law. The consultant (s) must be able to demonstrate an ability to approach the issues of voter fraud and intimidation in a balanced, nonpartisan fashion.

#### **Duties**

The consultant (s), whose contract would run for the period September-February, 2005, would be responsible for the following.

1. Performing background research, including a state-by state administrative and case law review related to voter fraud and intimidation, and a review of current voter fraud and intimidation activities taking place with key government agencies, civic and advocacy organizations. This review will be summarized and presented to the EAC.

2. Identifying and convening a working group of key individuals and organizations knowledgeable about the topics of voter fraud and intimidation. The list of working group members and the methods used to identify the groups members will be shared with EAC staff prior to the confirmation of the working group. The working group's goals and objectives and meeting agendas will be vetted with key EAC staff.
3. Developing a project scope of work and a project work plan related to voter fraud and intimidation. Based on research into the topics, the deliberations and findings of the working group, and the consultants' understanding of the EAC's mission and agency objectives, develop a draft scope of work and project work plan for the EAC's consideration.
4. Authoring a report summarizing the key findings of this preliminary study of voter fraud and intimidation. The report will also include suggestions for specific activities the EAC may undertake around these topics.

From this initial research and exploration of these topics the consultant (s) may be retained to help oversee follow-on research projects and contracts EAC may develop on the topics of voter fraud and intimidation.

### **Special Considerations**

The Consultants will be required to sign a Non-Disclosure Agreement???

The Consultants are also required to sign a Conflict of Interest declaration???

### **Terms and Conditions**

The period of performance for this consulting contract is six months, with a fixed price ceiling of \$XXXXXX for labor. The consultant (s) is expected to work at least 200 hours in performing this work. The EAC estimates that the most efficient distribution of these hours would be as follows: XXXXX. The period of performance and level of effort can be revised in writing by mutual agreement of the EAC and the consultant, as required.



Karen Lynn-Dyson/EAC/GOV

06/21/2005 01:27 PM

To Raymundo Martinez/EAC/GOV@EAC

cc Gracia Hillman/EAC/GOV@EAC, Paul  
DeGregorio/EAC/GOV@EAC, Thomas R.  
Wilkey/EAC/GOV@EAC, Juliet E.

bcc

Subject Your recommendations for consultants to help frame EAC's  
work on voter fraud and intimidation

Ray-

As was discussed yesterday- you will get me the names of consultants and organizations who you think will be good for us to consider employing as consultants to help us frame our work around voter fraud and intimidation.

Once I have a list of names and resumes, I will work with Tom Wilkey to come up with a recommendation of a consultant or consultants to use on this project.

Thanks for your input.

K

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

008296

Karen Lynn-Dyson/EAC/GOV

05/25/2005 12:55 PM

To Paul DeGregorio/EAC/GOV@EAC, Raymundo  
Martinez/EAC/GOV@EAC

cc Juliet E. Thompson/EAC/GOV@EAC

bcc

Subject Job Description for a Voter Fraud Project Consultant

Commissioners-

Attached please find a first draft of a short job description outlining EAC's expectations for a project consultant on voter fraud.

As you are aware, Julie has shared with me the resume of someone with an interest in the position. Ray has indicated that he participates in a legal list-serve group that has recently focused on voter fraud issues. This list-serve is probably a good place to "advertise" the consultant opportunity.

Let me know your thoughts on next steps. I look forward to getting this project up and running.

Regards-

K



voterfraud project manager.doc

Karen Lynn-Dyson

Research Manager

U.S. Election Assistance Commission

1225 New York Avenue , NW Suite 1100

Washington, DC 20005

tel:202-566-3123

008297

**Job Description****U.S. Election Assistance Commission (EAC) Voter Fraud Project Consultant**

The U.S. Election Assistance Commission (EAC) seeks to identify a senior-level project consultant to assist with the oversight and development of a study and possible project examining U.S. election voter fraud.

The consultant must have a knowledge of voter fraud and an understanding of the complexities, nuances and challenges which surround the topic. The EAC is particularly interested in candidates with experience in elections, with public policy and the law. The consultant must be able to demonstrate an ability to approach the issue of voter fraud in a balanced, nonpartisan fashion.


This consultant, whose contract would run for the period June-November, 2005, would be responsible for conceptualizing a project scope of work around the issue and from that, developing a statement of work for a research project around the topic.

In consultation with EAC staff, EAC Commissioners, and other key EAC stakeholders, the consultant will develop a project plan around voter fraud. The consultant will recommend certain EAC project activities related to voter fraud and will develop a scope of work for an EAC research study on voter fraud. The consultant will oversee and manage various processes related to EAC contracts awarded for work related to voter fraud.

EAC's consultant fees are competitive and are awarded based on the candidates' relevant background and experience.

**Deliberative Process  
Privilege**

Margaret Sims /EAC/GOV  
11/26/2006 09:39 PM


To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Draft Voter Fraud/Voter Intimidation Report 

Julie:

I reviewed our materials and refreshed my memory. The DOJ issues appear to be the only potential pitfalls in the consultants' interview summaries. The only other issue that arose during the course of the work was Secretary Rokita's objection to EAC doing the research. I think you have taken care of that in your paper. --- Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/17/2006 04:05 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: Draft Voter Fraud/Voter Intimidation Report 

Thanks so much for all of your help. Have a very Happy Thanksgiving.


-----  
Sent from my BlackBerry Wireless Handheld  
Margaret Sims  
----- Original Message -----

**From:** Margaret Sims  
**Sent:** 11/17/2006 02:54 PM  
**To:** Juliet Hodgkins  
**Subject:** Re: Draft Voter Fraud/Voter Intimidation Report

I'll need to refresh my memory. I'll take a look at them one more time and get back to you. Hope you enjoy your time out of the office, and have a happy turkey day. --- Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/17/2006 09:44 AM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: Draft Voter Fraud/Voter Intimidation Report 

Thanks for your comments.

Last night, I took the case charts and assembled into one 200 -page document. So, that is compiled. I have also amended to include Job and Tova's bios as appendix "1". I have established both your summaries and theirs into alternative appendixes and will talk to the commissioners about that. One question that I have is whether we would need to go through and "clean up" their summaries? I have compiled them into a single document (that is one for interviews and one for literature). Other than the

008299


DOJ issue, are there any other "problems" that you recall?

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

008300

**Deliberative Process  
Privilege**

Margaret Sims/EAC/GOV  
11/17/2006 02:54 PM


To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Draft Voter Fraud/Voter Intimidation Report 

History:  This message has been replied to

I'll need to refresh my memory. I'll take a look at them one more time and get back to you. Hope you enjoy your time out of the office, and have a happy turkey day. --- Peggy

Juliet E. Hodgkins/EAC/GOV

Juliet E. Hodgkins/EAC/GOV  
11/17/2006 09:44 AM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: Draft Voter Fraud/Voter Intimidation Report 

Thanks for your comments.

Last night, I took the case charts and assembled into one 200 -page document. So, that is compiled. I have also amended to include Job and Tova's bios as appendix "1". I have established both your summaries and theirs into alternative appendixes and will talk to the commissioners about that. One question that I have is whether we would need to go through and "clean up" their summaries? I have compiled them into a single document (that is one for interviews and one for literature). Other than the DOJ issue, are there any other "problems" that you recall?

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

008301

Margaret Sims/EAC/GOV  
10/11/2006 02:37 PM

To Jeannie Layson/EAC/GOV@EAC  
cc twilkey@eac.gov, Juliet E. Hodgkins/EAC/GOV@EAC,  
bwhitener@eac.gov  
bcc  
Subject Re: Voting Fraud-Voter Intimidation Report

The answer is tricky. The working group met *after the written report was submitted* for the board meetings, but *before the status report was formally presented* (orally) at the board meetings. --- Peggy

Jeannie Layson/EAC/GOV

Jeannie Layson/EAC/GOV  
10/11/2006 02:27 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: Voting Fraud-Voter Intimidation Report

So the answer is yes, they did meet after the status report was presented?

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

Margaret Sims/EAC/GOV  
10/11/2006 02:26 PM

To Jeannie Layson/EAC/GOV@EAC  
cc twilkey@eac.gov, Juliet E. Hodgkins/EAC/GOV@EAC,  
bwhitener@eac.gov  
Subject Re: Voting Fraud-Voter Intimidation Report

The status report was written on May 17, 2006 (the last day it could be submitted for the upcoming board meetings). The first and only meeting of the working group was May 18, 2006. --- Peggy

Jeannie Layson/EAC/GOV

Jeannie Layson/EAC/GOV  
10/11/2006 02:06 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: Voting Fraud-Voter Intimidation Report

008302


Yes, that is what prompted my question. So the answer is no -- they have not met since May 17?

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

008303




Margaret Sims /EAC/GOV  
10/11/2006 01:45 PM

To Jeannie Layson/EAC/GOV@EAC  
cc twilkey@eac.gov, Juliet E. Hodgkins/EAC/GOV@EAC,  
bwhitener@eac.gov  
bcc  
Subject Re: Voting Fraud-Voter Intimidation Report 

I would hope that we can refer to it as a status report on the research project (prepared by EAC staff based upon information available at the time from our consultants, Tova and Job). Calling it a preliminary report has given rise to some confusion. That confusion has led to complaints from project working group members and requests from outsiders, who mistakenly think that EAC has released the document written by our consultant that fully reports on the preliminary research into voting fraud and voter intimidation and makes recommendations for future EAC action. --- Peggy

Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV  
10/11/2006 12:33 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: Voting Fraud-Voter Intimidation Report 

Thanks for the update. Per legal, the preliminary report is absolutely public information which is why we had to give it to the reporter when he asked for it.

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

008304

Margaret Sims /EAC/GOV  
10/11/2006 12:34 PM

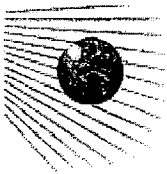
To Paul DeGregorio/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC, twilkey@eac.gov  
cc Amie J. Sherrill/EAC/GOV@EAC, Juliet E. Hodgkins/EAC/GOV@EAC, Bryan Whitener/EAC/GOV@EAC, Tamar Nedzar/EAC/GOV@EAC  
bcc

Subject Re: Voting Fraud-Voter Intimidation Report

Just a note to clarify that we are not releasing the preliminary report on voting fraud and voter intimidation (Tova & Job's report) because the draft report is going through EAC review. The only document we can offer at this time is the status report on the research project, which was delivered to our boards and which apparently is considered public information. The status report does not address any recommendations for future EAC action.

I am using some of my work at home time on the draft report. Hopefully, I can meet with Julie and Tamar next week. After that, we will have a better idea of when it will be ready for a Commissioner briefing. ---  
Peggy

Paul DeGregorio/EAC/GOV



Paul DeGregorio /EAC/GOV  
10/11/2006 10:20 AM

To Jeannie Layson/EAC/GOV@EAC  
cc Amie J. Sherrill/EAC/GOV@EAC, Margaret Sims/EAC/GOV@EAC  
Subject Re: Interview Request

Find a time that works. There's a story in today's St Louis PD that points to over 1000 suspect voter registrations.

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** Jeannie Layson  
**Sent:** 10/11/2006 10:15 AM  
**To:** Paul DeGregorio  
**Cc:** Amie Sherrill; Margaret Sims  
**Subject:** Interview Request

Mr. Chairman,

Will Lester of the Associated Press wants to interview you briefly via phone about the preliminary fraud report. I recommend you accomodate him, as he has dutifully covered EAC, and plans to include us in a story next week about the election lanscape. He has requested a copy of the preliminary report, which I am sending to him. He only needs a few minutes, and as we discussed, i think the message is that these are preliminary findings that we presented to our advisory boards to get their input. When the final report is

008305

complete, we will release it. You can also use some of the talking pts from your speech, such as the challenge related to the very definition of the term "fraud," as people define it differently. How about I set it up for noon?

The only question he asked that I don't know the answer to is when we expect the final report. Peg... please weigh in on this.

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

Margaret Sims/EAC/GOV  
09/27/2006 12:51 PM

To bwhitener@eac.gov  
cc Juliet E. Hodgkins/EAC/GOV@EAC, Karen  
Lynn-Dyson/EAC/GOV@EAC  
bcc  
Subject Status Report on Voting Fraud-Voter Intimidation Study

Bryan:

An electronic copy of the status report is attached, as requested for the USA Today inquiry. The status report includes the attachment listing the Working Group members. I suggest that you check to ensure that I have protected the copy against any manipulation, and protect it yourself if I have not, before sending it out to anyone. --- Peggy



EAC Boards VF-VI Status Report.doc

008307

**Deliberative Process  
Privilege**



**U.S. ELECTION ASSISTANCE COMMISSION**

**Status Report on the  
Voting Fraud-Voter Intimidation Research  
Project**

**May 17, 2006**

008308

## INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

## FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

## DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

## LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.

- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

### **Recommendations**

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

### **INTERVIEWS**

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

### **Common Themes**

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,



although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

#### **Common Recommendations:**

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots “for cause” only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the proposal in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

## NEWS ARTICLES

Consultants conducted a Nexis search of related news articles published between January 1, 2001 and January 1, 2006. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview of these articles provided by the consultants.

### **Absentee Ballots**

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

## **Voter Registration Fraud**

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota, and Wisconsin.

## **Voter Intimidation and Suppression**

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;

- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from “battleground” states. There were several such reports out of Florida, Ohio, and Pennsylvania.

### **“Dead Voters and Multiple Voting”**

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found five such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### **Vote Buying**

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia). There were more official investigations, indictments and convictions/pleas in this area.

### **Deceptive Practices**

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of completed voter registration applications. There were no reports of prosecutions or any other legal proceeding.

### **Non-citizen Voting**

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case, charges were filed against ten individuals. In another case, a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

### **Felon Voting**

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem was the large number of ineligible felons that remained on the voting list.

### **Election Official Fraud**

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one

instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### **Recommendation**

The consultants recommend that subsequent EAC research should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

## **CASE LAW RESEARCH**

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, the consultants found comparatively few applicable to this study. Of those that were applicable, the consultants found that no apparent thematic pattern emerges. However, it appears to them that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

### **Recommendation**

Because so few cases provided a picture of these current problems, consultants suggest that subsequent EAC research include a review of state trial-level decisions.

## **PROJECT WORKING GROUP**

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.) The working group is scheduled to convene at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

## **FINAL REPORT**

After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations. This report will include recommendations for future EAC research related to this subject matter. The draft report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment. Following this, a final report will be prepared.

**Attachment A**

**Voting Fraud-Voter Intimidation Project Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, TX

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

*(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)*

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.

Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice



**Margaret Sims/EAC/GOV**  
09/27/2006 12:18 PM

To pdegregorio@eac.gov  
cc  
bcc Juliet E. Hodgkins/EAC/GOV  
Subject Last Submission from Vote Fraud-Voter Intimidation  
Consultants

Dear Mr. Chairman:

The last submission from the Vote Fraud-Voter Intimidation Study consultants is dated August 8. At this time, EAC staff are reviewing all items submitted for the report to the Commission with an eye toward the best way of presenting the information to the Commissioners for their consideration. There has been some delay in this staff review process, for which I take full responsibility.

Peggy Sims  
Election Research Specialist

008320

Attorney-Client  
Privilege

Deliberative Process  
Privilege


Margaret Sims /EAC/GOV  
09/25/2006 03:39 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Definition of Voting Fraud and Voter Intimidation

I think this is the communication to which you referred this afternoon. --- Peggy

--- Forwarded by Margaret Sims/EAC/GOV on 09/25/2006 03:39 PM ---

Gavin S. Gilmour/EAC/GOV  
11/30/2005 10:19 AM

To Margaret Sims/EAC/GOV@EAC  
cc jthompson@eac.gov  
Subject Re: Definition of Voting Fraud and Voter Intimidation 

Peggy,

Per our discussion, I have some initial concerns regarding the definitions that have been proposed.

1. Fraud is a legal term of art. Fraud is an intentional act or omission (i.e. actual fraud or constructive fraud) of misrepresentation or deceit. There is no such thing as defacto fraud or quasi fraud. Fraud must be intentional.... negligence alone is not fraud.

The general definition of voter fraud must concise and universally applicable (this in the challenging part). After this definition is created and intellectually tested, one can then create examples and explanations. These would 1) apply the definition to the entire election process (from beginning to end) and (2) apply it to action by voters, 3rd parties and election officials. Through this process a determination may be made regarding whether three definitions are needed or just one.

2. The document has no definition of voter intimidation. What is voter intimidation and how does it differ from voter fraud? I assume this would also be an intentional act.

3. Definitions need to be concise and tight. Such definitions need to be able to be broken down into elements. Each of these elements must have clear, applicable and enforceable meaning. This can be a challenge. For example use of the term "any illegal act" is unclear, begs the question and suggests that fraud only occurs in the course of committing a related crime.

These are just my initial thoughts.

GG  
Gavin S. Gilmour  
Associate General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100  
Margaret Sims/EAC/GOV

Margaret Sims /EAC/GOV

008321

**Deliberative Process  
Privilege**

11/30/2005 09:28 AM

To jthompson@eac.gov, Gavin S. Gilmour/EAC/GOV@EAC  
cc

Subject Definition of Voting Fraud and Voter Intimidation

Attached discusses the definitions that Job and Tova would like to use. I have already taken issue with the exclusion of all voter registration shenanigans and the inclusion of administrative mistakes. Would be pleased to have your feedback and, if possible, your assistance for 15 minutes of a teleconference today (3:30 PM to 3:45 PM). --- Peggy



combined defining Fraud 11-18-05.doc

008322

## **Deliberative Process Privilege**

"Fraud" should be defined as any illegal act that has a clear and direct distorting impact on the election results. It includes adding illegal votes and tampering with vote counts as well as actions such as voter intimidation and deceptive practices that serve to subtract legal votes. Illegally keeping certain voters from voting has the same distorting effect on election outcomes as ineligible voters casting ballots or some form of modern ballot box stuffing. Fraud may involve wrongdoing by individual voters, election workers or organized groups such as campaigns or political parties.

Vote fraud usually breaks down into three categories---intentional fraud, de facto fraud, and quasi-fraud. Research and investigation of fraud should focus on those forms of fraud that are known to have had true impacts on election outcomes.

"Intentional fraud" includes acts that are intentionally planned. Such forms of fraud include the following:

- Absentee/mail ballot fraud, e.g. coercing another voter's choice, use of a false or other voter's name and signature, destruction or misappropriation of an absentee or mail-in ballot
- Ex-felons knowingly and willingly casting illegal ballots
- Knowingly and willingly misleading an ex-felon about his or her right to vote
- Voting more than once
- Noncitizen voting
- Intimidating practices e.g. intimidating signs, inappropriate police presence, abusive/threatening treatment by poll workers or others that deter voters from voting
- Deceptive practices e.g. providing false information to voters about the voting process, such as when and/or where to vote, who is eligible to vote
- Fraud by election administrators in the handling or counting of ballots, misrepresentation of vote tallies
- Vote buying
- Addition or destruction of cast ballots by elections officials
- Intentional wrongful removal of eligible voters from voter registration lists
- Knowingly falsifying registration information pertinent to eligibility to cast a vote, e.g. residence, criminal status, etc.

The second type of fraud is de facto fraud. This occurs when the intent to commit fraud is lacking, but the party or parties' actions results in fraud nonetheless. De facto fraud more often is a result of a misapplication of election statutes or the application of a long established practice or tradition in a way that contradicts the intent of the statute. Examples of de facto fraud include the abusive use of challengers to voter registrations or to voters' eligibility at the polls and wrongful purging of voter lists.


The last form of fraud, "quasi-fraud," is the most difficult to classify as such because the correct law (case law or legislative act) is applied but the result is to deprive voters of their electoral rights. This type of fraud is also the most difficult to catch because it requires both legal electoral expertise and almost always occurs on the day of the election. One example of this is Arkansas supreme court case law making election

statutes mandatory before an election but discretionary after. The discretion is left up to the county board of election commissioners. These are not elected but are either the chairs of the two main political parties or a person elected by the county central committee should the chair decide not to serve. The result is that election statutes are never enforced after the election. It therefore permits past patterns of fraud to persist.

Two areas that are of major concern but do not come within the purview of fraud for the purposes of this type of research are registration forms in the name of another or fake person(s), which from the evidence do not usually result in illegal votes; and electronic vote machine tampering, for which there is as of now no definitive evidence has taken place in a U.S. election.

**Deliberative Process  
Privilege**

Margaret Sims/EAC/GOV  
07/11/2006 12:05 PM

To Juliet E. Thompson-Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Fraud and Intimidation Study 


I think it is this one. --- Peggy



EAC Boards VF-VI Status Report.doc

Juliet E. Thompson-Hodgkins/EAC/GOV

Juliet E.  
Thompson-Hodgkins/EAC/GOV  
07/11/2006 11:38 AM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Re: Fraud and Intimidation Study 

Will you please send me a copy of the referenced report?

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

Margaret Sims/EAC/GOV  
07/11/2006 10:55 AM

To Juliet E. Thompson-Hodgkins/EAC/GOV@EAC  
cc "Tom Wilkey" <twilkey@eac.gov>  
Subject Re: Fraud and Intimidation Study

It sounds similar to the issues I had with the Donsanto interview. It was a classic example of the interviewers' interpreting what was said through their own biases.

It also is true that the original interview summaries failed to differentiate between the criminal definition of intimidation and the consultants use of the term.. The consultants have revised their definition to note that it goes beyond the legal definition, but we may need to repeat the statement where the DOJ interviews are referenced.

I have already brought the Donsanto matter to our contractors' attention. When they responded that they did not think they should redraft that section, I told them that the section will likely be edited. It appears that we will have to do the same with the reference to Tanner's interview.

Why don't we discuss this with Tanner (and Donsanto) after we have had a chance to review a

008325

consolidated draft of the final report? We can determine what clarifications or corrections are necessary at that time.

Peg

-----  
Sent from my BlackBerry Wireless Handheld  
Juliet E. Thompson-Hodgkins

**From:** Juliet E. Thompson-Hodgkins  
**Sent:** 07/11/2006 09:46 AM  
**To:** Margaret Sims  
**Subject:** Re: Fraud and Intimidation Study

His concerns are that there were inaccurate or false statements about DOJ on pages 5 and 6, that in his words demonstrated a lack of understanding of criminal law.

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

**Margaret Sims /EAC/GOV**  
07/11/2006 09:26 AM

To Juliet E. Thompson-Hodgkins/EAC/GOV@EAC  
cc

Subject Re: Fraud and Intimidation Study

Perhaps he was looking at the report that was delivered to the EAC boards. Let's find out what his concerns are so that we can address them.

Peg

-----  
Sent from my BlackBerry Wireless Handheld  
Juliet E. Thompson-Hodgkins

**From:** Juliet E. Thompson-Hodgkins  
**Sent:** 07/10/2006 02:34 PM  
**To:** Margaret Sims  
**Subject:** Re: Fraud and Intimidation Study

Tanner said he got it from Cameron. And referred specifically to pp. 5 and 6. I don't remember that the summaries of interviews were laid out that way.

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

008326

Margaret Sims/EAC/GOV

Margaret Sims/EAC/GOV

07/10/2006 02:29 PM

To Juliet E. Thompson-Hodgkins/EAC/GOV@EAC

cc

Subject Re: Fraud and Intimidation Study

I have not yet seen a draft final report. My best guess is that Tanner is concerned about the summary of his interview. I have already had discussions with our consultants about the description of the Donsanto interview, at which I was present. Wilkey knows that I won't let it go as is. I wasn't at the Tanner interview, but would be interested in hearing where he thinks the consultants went wrong.

It is possible that, due to my objections re the Donsanto interview, the consultants may have asked Tanner to review their description of his interview. I won't know for sure until I can contact them.

I gave you and Gavin a folder that included a summary of interviews, etc before the working group meeting. Also, the report delivered to the boards on this project is in the shared drawer under Research in Progress-Voting Fraud-Intimidation. That is everything I have at the moment.

Peg

---

Sent from my BlackBerry Wireless Handheld  
Juliet E. Thompson-Hodgkins

**From:** Juliet E. Thompson-Hodgkins  
**Sent:** 07/10/2006 10:55 AM  
**To:** Margaret Sims  
**Cc:** Thomas Wilkey  
**Subject:** Fraud and Intimidation Study

I received a call from John Tanner today who was upset with pages 5 and 6 of some draft paper that he had received regarding our Fraud and Intimidation Study. I am in a very uncomfortable situation in that I have not received a copy of this paper and the Office of General Counsel has not vetted this document and yet I am being questioned about why there are erroneous statements in this paper. Please provide me with a copy of this document and please explain to me how John Tanner got a copy of this document before I did.

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

008327



**Deliberative Process  
Privilege**

Margaret Sims /EAC/GOV  
05/15/2006 03:51 PM

To pdegregorio@eac.gov, rmartinez@eac.gov,  
ddavidson@eac.gov, ghillman@eac.gov  
cc twilkey@eac.gov, jthompson@eac.gov, Gavin S.  
Gilmour/EAC/GOV@EAC, ecortes@eac.gov, Amie J.  
Sherrill/EAC/GOV@EAC, Adam Ambrogi/EAC/GOV@EAC,  
bcc  
Subject Voting Fraud-Voter Intimidation Project Briefing

Dear Commissioners:

Attached is our consultants' analysis of the literature reviewed for the Voting Fraud-Voter Intimidation preliminary research project. It was not included in the information packets delivered to you on Friday, May 12, because we did not receive it until today. I thought you might be interested in having it. prior to tomorrow's briefing.

Peggy Sims  
Election Research Specialist



Literature-Report Review Summary.doc

008328

## Existing Research Analysis

There are many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. There is little research that is truly systematic or scientific. The most systematic look at fraud is the report written by Lori Minnite. The most systematic look at voter intimidation is the report by Laughlin McDonald. Books written about this subject seem to all have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists. It is hoped that this gap will be filled in the “second phase” of this EAC project.

Moreover, reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund’s frequently cited book. Again, this is something that it is hoped will be addressed in the “second phase” of this EAC project by doing follow up research on allegations made in reports, books and newspaper articles.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate, but some reports say it is a major problem, albeit hard to identify.
- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.

- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

Margaret Sims /EAC/GOV  
05/04/2006 02:07 PM

To pdegregorio@eac.gov, rmartinez@eac.gov,  
ddavidson@eac.gov, ghilman@eac.gov  
cc twilkey@eac.gov, jthompson@eac.gov, Gavin S.  
Gilmour/EAC/GOV@EAC, Amie J. Sherrill/EAC/GOV@EAC,  
Adam Ambrogi/EAC/GOV@EAC, Elieen L.  
bcc  
Subject Voting Fraud-Voter Intimidation Working Group Meeting

Dear Commissioners:

This is to let you know that the Working Group for our Voting Fraud and Voter Intimidation preliminary research project is scheduled to meet in EAC's large conference room the afternoon of Thursday, May 18. I will provide more information about this meeting to you later.

Peggy Sims  
Election Research Specialist

008331

Margaret Sims/EAC/GOV  
01/19/2006 03:26 PM

To jthompson@eac.gov, Gavin S. Gilmour/EAC/GOV@EAC  
cc Karen Lynn-Dyson/EAC/GOV@EAC  
bcc  
Subject Extension Needed for Voting Fraud/Voter Intimidation Project  
Consultants

The estimated additional hours needed to bring the Voting Fraud/Voter Intimidation Project to a logical stopping point (without requiring a draft statement of work for any future RFPs on the topic) are:

Expert Interviews:

3 hours of scheduling

17 hours conducting the interviews

15 hours summarizing and analyzing the interviews

Subtotal: 35 hours

Nexis research, organization of research, summary of research (Tova): 180 hours

Lexis research, organization of research, summary of research (Job): 180 hours

Subtotal: 360 hours

Working Group preparation and meeting time: 20 hours

Final Report: 45 hours

Grand Total: 460

The sooner we find out if the Commissioners will accept this extension, the better. If the extension (or new contract for 3 additional months) is not accepted, we have to figure out what can be done in the limited time remaining. --- Peggy

008332

**Deliberative Process  
Privilege**

Margaret Sims/EAC/GOV  
11/30/2005 09:28 AM

To jthompson@eac.gov, Gavin S. Gilmour/EAC/GOV@EAC  
cc  
bcc  
Subject Definition of Voting Fraud and Voter Intimidation

Attached discusses the definitions that Job and Tova would like to use. I have already taken issue with the exclusion of all voter registration shenanigans and the inclusion of administrative mistakes. Would be pleased to have your feedback and, if possible, your assistance for 15 minutes of a teleconference today (3:30 PM to 3:45 PM). --- Peggy



combined defining Fraud 11-18-05.doc

008333

"Fraud" should be defined as any illegal act that has a clear and direct distorting impact on the election results. It includes adding illegal votes and tampering with vote counts as well as actions such as voter intimidation and deceptive practices that serve to subtract legal votes. Illegally keeping certain voters from voting has the same distorting effect on election outcomes as ineligible voters casting ballots or some form of modern ballot box stuffing. Fraud may involve wrongdoing by individual voters, election workers or organized groups such as campaigns or political parties.

Vote fraud usually breaks down into three categories---intentional fraud, de facto fraud, and quasi-fraud. Research and investigation of fraud should focus on those forms of fraud that are known to have had true impacts on election outcomes.

"Intentional fraud" includes acts that are intentionally planned. Such forms of fraud include the following:

- Absentee/mail ballot fraud, e.g. coercing another voter's choice, use of a false or other voter's name and signature, destruction or misappropriation of an absentee or mail-in ballot
- Ex-felons knowingly and willingly casting illegal ballots
- Knowingly and willingly misleading an ex-felon about his or her right to vote
- Voting more than once
- Noncitizen voting
- Intimidating practices e.g. intimidating signs, inappropriate police presence, abusive/threatening treatment by poll workers or others that deter voters from voting
- Deceptive practices e.g. providing false information to voters about the voting process, such as when and/or where to vote, who is eligible to vote
- Fraud by election administrators in the handling or counting of ballots, misrepresentation of vote tallies
- Vote buying
- Addition or destruction of cast ballots by elections officials
- Intentional wrongful removal of eligible voters from voter registration lists
- Knowingly falsifying registration information pertinent to eligibility to cast a vote, e.g. residence, criminal status, etc.

The second type of fraud is de facto fraud. This occurs when the intent to commit fraud is lacking, but the party or parties' actions results in fraud nonetheless. De facto fraud more often is a result of a misapplication of election statutes or the application of a long established practice or tradition in a way that contradicts the intent of the statute. Examples of de facto fraud include the abusive use of challengers to voter registrations or to voters' eligibility at the polls and wrongful purging of voter lists.

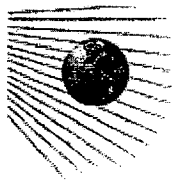
The last form of fraud, "quasi-fraud," is the most difficult to classify as such because the correct law (case law or legislative act) is applied but the result is to deprive voters of their electoral rights. This type of fraud is also the most difficult to catch because it requires both legal electoral expertise and almost always occurs on the day of the election. One example of this is Arkansas supreme court case law making election

statutes mandatory before an election but discretionary after. The discretion is left up to the county board of election commissioners. These are not elected but are either the chairs of the two main political parties or a person elected by the county central committee should the chair decide not to serve. The result is that election statutes are never enforced after the election. It therefore permits past patterns of fraud to persist.

Two areas that are of major concern but do not come within the purview of fraud for the purposes of this type of research are registration forms in the name of another or fake person(s), which from the evidence do not usually result in illegal votes; and electronic vote machine tampering, for which there is as of now no definitive evidence has taken place in a U.S. election.



**Deliberative Process  
Privilege**



Paul DeGregorio/EAC/GOV  
11/17/2005 10:18 AM

To Juliet E. Thompson/EAC/GOV  
cc  
bcc  
Subject Fw: RESPONSE REQUESTED-Working Group for Voting  
Fraud and Voter Intimidation Project

Fyi.  
Any recommendations?

-----  
Sent from my BlackBerry Wireless Handheld

---

----- Original Message -----  
**From:** Margaret Sims  
**Sent:** 11/16/2005 01:12 PM  
**To:** Gracia Hillman; Paul DeGregorio; Raymundo Martinez;  
donetta.davidson@sos.state.co.us  
**Cc:** Sheila Banks; Amie Sherrill; Adam Ambrogi; Elieen Collver; Gavin Gilmour  
**Subject:** RESPONSE REQUESTED-Working Group for Voting Fraud and Voter  
Intimidation Project

Dear Commissioners:

The consultants' contracts for EAC's voting fraud and voter intimidation project require Tova Wang and Job Serebrov to work in consultation with EAC staff and the Commissioners "to identify a working group of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation". The contracts do not specify the number of working group members but, as EAC has to pay for the group's travel and we want the size of the group to be manageable, I recommend that we limit the number to 6 or 8. Please let me know if you think that this limit is too conservative .

Attached for your review and comment are two lists of potential working group members for this project. One list was submitted by Job, the other by Tova. Tova and Job have provided brief summaries of each candidate's relevant experience and have placed asterisks next to the names of the individuals whom they particularly recommend. I can provide more extensive biographies of these individuals, if you need them. If EAC agrees that the recommended working group members are acceptable, an equal number may be selected from each list in order to maintain a balanced perspective.

Absent from the attached lists is the name of a representative from the U.S. Department of Justice's Election Crimes Branch. At this time, I am working through the DOJ bureaucracy to determine to what degree Craig Donsanto will be permitted to participate. If he cannot be named as a working group member, we may still be able to use him as a resource.

Please provide your feedback to me no later than Monday , November 28. I am available to meet with you if you would like to discuss this matter further.

Peggy Sims  
Research Specialist

008336



Possible Working Group Members -Serebrov.doc



Possible Working Group Members- Wang.doc

**Possible Working Group Members - Serebroy**

I recommend the first four with an \*

**\*Mark (Thor) Hearne II**-Counsel to Republican National Committee; National Counsel to American Center for Voting Rights; National election counsel to Bush-Cheney, '04; Testified before U.S. House Administration Committee hearings into conduct of Ohio presidential election; Academic Advisor to Commission on Federal Election Reform (Baker-Carter Commission).

**\*Todd Rokita**-Secretary of State, Indiana; Secretary Rokita strives to reform Indiana's election practices to ensure Indiana's elections are as fair, accurate and accessible as possible; Secretary Rokita serves on the nine-member Executive Board of the Election Assistance Commission Standards Board, charged by federal law to address election reform issues.

**\*Patrick J. Rogers**-Partner/Shareholder, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico; 1991-2003 General Counsel to the New Mexico Republican Party; Election cases: *The Coalition to Expose Ballot Deception, et al v. Judy N. Chavez, et al*; Second Judicial District Court of Bernalillo County, New Mexico (2005); represented plaintiffs challenging petition procedures; *Miguel Gomez v. Ken Sanchez and Judy Chaves*; Second Judicial District Court of Bernalillo County, New Mexico (2005); residency challenge; *Moises Griego, et al v. Rebecca Vigil-Giron v. Ralph Nader and Peter Miguel Camejo*, Supreme Court for the State of New Mexico (2004); represented Ralph Nader and Peter Camejo, ballot access issues; *Larry Larrañaga, et al v. Mary E. Herrera and Rebecca Vigil-Giron*, Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues; *Decker, et al v. Kunko, et al*; District Court of Chaves County, New Mexico (2004); voter identification and fraudulent registration issues; *Kunko, et al v. Decker, et al*; Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues; *In the Matter of the Security of Ballots Cast in Bernalillo County in the 2000 General Election*; Second Judicial District Court of Bernalillo County, New Mexico (2000); voting and counting irregularities and fraud.

**\*David A. Norcross**- Partner, Blank Rome LLP, Trenton NJ, Washington D.C; Chairman, New Jersey Republican State Committee, 1977 – 1981; General Counsel, Republican National Committee, 1993 – 1997; General Counsel, International Republican Institute; Counsel, The Center for Democracy; Vice Chairman, Commission on Presidential Debates; Executive Director, New Jersey Election Law Enforcement Commission

**Benjamin L. Ginsberg**-Served as national counsel to the Bush-Cheney presidential campaign; He played a central role in the 2000 Florida recount; He also represents the campaigns and leadership PACs of numerous members of the Senate and House, as well as the Republican National Committee, National Republican Senatorial Committee and

National Republican Congressional Committee; His expertise is more in campaign finance.

**Cleta Mitchell**-Partner in the Washington, D.C. office of Foley & Lardner LLP; She advises corporations, nonprofit organizations, candidates, campaigns, and individuals on state and federal election and campaign finance law, and compliance issues related to lobbying, ethics and financial disclosure; Ms. Mitchell practices before the Federal Election Commission and similar federal and state enforcement agencies; Her expertise is more in campaign finance law.

**Mark Braden**-Of counsel at Baker & Hostetler; He concentrates his work principally on election law and governmental affairs, including work with Congress, the Federal Election Commission, state campaign finance agencies, public integrity issues, political broadcast regulation, contests, recounts, the Voting Rights Act, initiatives, referendums and redistricting; His expertise is mainly outside of the voter fraud area.

**Deliberative Process  
Privilege**

To: Peggy Sims  
From: Tova Wang  
Re: Working Group Recommendations  
Date: November 12, 2005

\*Wendy R. Weiser, Associate Counsel in the Democracy Program at the Brennan Center for Justice at NYU School of Law and an expert in federal and constitutional law, has done a great deal of research, writing, speaking, and litigating on voting rights and election law issues. As part of the Brennan Center's wide ranging activities in the area of democracy, Ms. Weiser is currently overseeing an analysis and investigation of recent allegations of voter fraud throughout the country.

\*Barbara Arnwine is Executive Director of the Lawyers Committee for Civil Rights Under Law, an organization that for four decades has been at the forefront of the legal struggle to secure racial justice and equal access to the electoral process for all voters. Notably, Ms. Arnwine and the organization have led the Election Protection program for the last several years, a nationwide grassroots education and legal effort deploying thousands of volunteers and using a nationally recognized voter hotline to protect voters' rights on election day.

\*Daniel Tokaji, professor and associate director of the Election Law Center at the Moritz College of Law at the Ohio State University, is one of the nation's foremost experts in election law and reform and ensuring equality in the voting system. Professor Tokaji frequently writes and speaks on democracy related issues at academic and practitioner conferences, on such issues as voting technology, fraud, registration, and identification requirements, as well as the interplay between the election administration practices and voting rights laws.

Donna Brazile is Chair of the Democratic National Committee's Voting Rights Institute, the Democratic Party's major initiative to promote and protect the right to vote created in response to the irregularities of the 2000 election, and former Campaign Manager for Gore-Lieberman 2000 (the first African American to lead a major presidential campaign.) Brazile is a weekly contributor and political commentator on CNN's Inside Politics and American Morning, a columnist for Roll Call Newspaper and a contributing writer for Ms. Magazine.

Wade Henderson is the Executive Director of the Leadership Conference on Civil Rights (LCCR) and Counsel to the Leadership Conference on Civil Rights Education Fund (LCCREF), an organization at the forefront of defending voting rights for the last fifty years. Prior to his role with the Leadership Conference, Mr. Henderson was the Washington Bureau Director of the National Association for the Advancement of Colored People (NAACP)

Robert Bauer is the Chair of the Political Law Practice at the law firm of Perkins Coie, National Counsel for Voter Protection, Democratic National Committee, Counsel to the Democratic Senatorial and Congressional Campaign Committees and Co-Author, Report

of Counsel to the Senate Rules and Administration Committee in the Matter of the United States Senate Seat from Louisiana in the 105<sup>th</sup> Congress of the United States, (March 27, 1997). He is the author of *United States Federal Election Law*, and one of the foremost attorneys in the country in the area of federal/state campaign finance and election laws.

Laughlin McDonald has been the executive director of the Southern Regional Office of the ACLU since 1972 and as the Director of the ACLU Voting Rights Project, McDonald has played a leading role eradicating discriminatory election practices and protecting the gains in political participation won by racial minorities since passage of the 1965 federal Voting Rights Act. During the past two decades, McDonald has broken new ground by expanding ACLU voting rights cases to include representation of Native Americans in various western states, and written innumerable publications on voting rights issues.

Joseph E. Sandler is a member of the firm of Sandler, Reiff & Young, P.C., in Washington, D.C., concentrating in campaign finance and election law matters, and general counsel to the Democratic National Committee. As an attorney he has handled campaign finance and election law matters for Democratic national and state party organizations, Members of Congress, candidates and campaigns. He served as general co-counsel of the Association of State Democratic Chairs, as general counsel for the Democratic Governors' Association and as counsel to several state Democratic parties.

Cathy Cox is serving her second term as Georgia's Secretary of State, having first been elected in 1998. In 2002 she earned re-election with over 61 percent of the vote, winning 146 out of 159 counties. Because of Secretary Cox's efforts Georgia has become a national leader in election reform. Her initiative made Georgia the first state in America to deploy a modern, uniform electronic voting system in every county



Gracia Hillman/EAC/GOV  
08/19/2005 12:06 PM

To Thomas R. Wilkey/EAC/GOV@EAC

cc "Paul DeGregorio" <pdegregorio@eac.gov>, "Ray Martinez" <rmartinez@eac.gov>, "Karen Lynn-Dyson" <klynn-dyson@eac.gov>, Juliet E.

bcc

Subject Fw: Eagleton

Tom: Please put this on the agenda for discussion when we get together on Friday in Denver.

-----  
Sent from my BlackBerry Wireless Handheld  
Paul DeGregorio

**From:** Paul DeGregorio  
**Sent:** 08/19/2005 11:06 AM  
**To:** Gracia Hillman; Raymundo Martinez; Donetta Davidson; twilkey@nycap.rr.com; Juliet Thompson; Karen Lynn-Dyson; Carol Paquette  
**Subject:** Eagleton

In his note regarding the Eagleton contract, Hans has raised some of the same concerns I raised from the beginning of any discussions I had regarding this contract with our staff, and at our first formal meeting with Eagleton. In reviewing their work product from time to time, I continue to have concerns about a lack of balanced input and have repeatedly voiced them with staff and with Eagleton. I did this when the initial peer review group was proposed and again during their presentation at our meeting in Pasadena (the outreach slide in their public presentation showed outreach to seven groups, of which only one could be considered conservative-leaning). Now, as I have just had the opportunity to read their July progress report, it appears that Eagleton seems to be going into a larger analysis of the voter fraud issue than was authorized in the contract. My suspicion is that Dan Tokaji is injecting his views into this to dismiss or diminish the concerns some people may have about voter fraud. I could be wrong, but his previous writings lead me to believe otherwise.

I only found one mention of voter fraud in the contract with Eagleton. It is in Section 3.5 regarding provisional voting, where it discusses "minimizing opportunity for voter fraud." Yet, on page 4 of the July progress report from Eagleton, in describing their work plan for the next month it states: "we will expand upon vote fraud research and examine further the relationship between instances of vote fraud and ensuing election reforms." This clearly seems to be going beyond the mandate we gave them as I thought they were going to be looking at voter fraud relating to provisional voting (as the contract calls for), not voter fraud as it relates to election reforms. While voter fraud was never mentioned in the contract regarding the voter ID issue, page 5 of their July report indicates that their narratives "will include an appraisal of the prevalence and nature of vote fraud." In addition to this, page 6 describes a look into the "relationship between voter ID regime and vote fraud."

Voter fraud is clearly an issue that is perceived differently from the Right and from the Left. I have struggled with determining what a clear definition of voter fraud is myself, and therefore want to obtain various perspectives and good analysis on this issue before I formulate a solid conclusion in my mind. It has been my understanding all along that the whole voter fraud/voter intimidation issue is going to be studied by the EAC using a balanced group of consultants--not Eagleton and Moritz, who are likely to focus on just on the number of prosecutions of voter fraud, rather than the complaints made or the fact that many election officials are frustrated that some prosecutors don't take their complaints about voter fraud seriously. I am not convinced at this point that we will get a balanced and objective study from Eagleton/Moritz on voter fraud. I am puzzled on why they seem to be expending a significant portion of their time on this and would want to know if we somehow authorized them to do more research into the voter fraud issue.

On page 7 of their July report Eagleton indicates that communications with the EAC on the Peer Review

008342

Group "were not clear or timely." I would like to know what this refers to. Also, I may have missed it, but I do not recall seeing the final list of who is serving as the Peer Review group.

The August 15th copy of the July report that I received from Karen did not include the attachment of the financial report of expenses incurred. I would like to see that attachment.

Outside of our NIST work, this contract represents our largest single outside expenditure of our operational funds. Any single expenditure of \$500,000+ needs to be closely monitored. I, for one, am not going to sign off on any report that appears to have been written from a biased viewpoint, especially one that doesn't appear to be interested in hearing from conservative organizations or right-leaning researchers, or seems to minimize any input from them. I've already had questions from congressional staff and others on why we picked Eagleton and Moritz, as they are perceived by some as biased against Republicans. I assured the critics that we have insisted all along on an objective study from Eagleton. An unbalanced or biased study from them will not only hurt my credibility, but also that of the EAC. I'm not suggesting that we stop their work, but I do want Tom and Julie to inform them in no uncertain terms that we will not accept a report that does not seriously consider all viewpoints on provisional voting and the voter ID issue, and that any study or interpretations they present to us reflect a diversity of opinions on these subjects. We also need for staff to determine whether their considerable work into the voter fraud area is authorized in the contract. We should not be paying for and receiving work we did not authorize.

The contract clearly calls for "alternative approaches" on voter ID requirements and "alternatives" on provisional voting. I agreed to support this contract to Eagleton because I was assured that we would receive a variety of approaches from their work, and not just those from a liberal perspective.

**Paul DeGregorio**  
Vice 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

008343



Karen Lynn-Dyson/EAC/GOV

08/15/2005 04:43 PM

To Thomas R. Wilkey/EAC/GOV@EAC, Adam  
Ambrogio/EAC/GOV@EAC, Juliet E.  
Thompson/EAC/GOV@EAC  
cc Raymundo Martinez/EAC/GOV@EAC

bcc

Subject Fw: Eagleton Institute of Politics - July 2005 - Monthly  
Progress Report

FYI-

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

— Forwarded by Karen Lynn-Dyson/EAC/GOV on 08/14/2005 04:42 PM —



"Lauren Vincelli "  
<Vincelli@rutgers.edu>

08/15/2005 03:01 PM

Please respond to  
Vincelli@rutgers.edu

To klynndyson@eac.gov

cc "Tom O'neill" [REDACTED]  
rmandel@rci.rutgers.edu, john.weingart@rutgers.edu

Subject Eagleton Institute of Politics - July 2005 - Monthly Progress  
Report

Ms. Dyson,

Attached please find the July 2005 Progress Report for the project entitled, "Contract to Provide Research Assistance to the EAC for the Development of Voluntary Guidance on Provisional Voting and Voter Identification Procedures." If you have any questions regarding any part of this document please contact Tom O'Neill at [REDACTED]

The financial reporting for this project is performed by the Division of Grant and Contract Accounting at Rutgers University. A copy of this report was not made available to us in an electronic format. Hard copies of the Progress Report and Financial Report have been Fedex'ed to you this afternoon and should arrive to your attention tomorrow morning. Please let me know if you do not receive this package by tomorrow afternoon.

Thank you for your time, have a great evening.

Best,  
Lauren Vincelli

Lauren Vincelli  
Business Assistant, Eagleton Center for Public Interest Polling  
Eagleton Institute of Politics, Rutgers University  
Carriage House, 185 Ryders Lane

008344

New Brunswick, NJ 08901  
Phone: (732) 932-9384, ext. 237  
Fax: (732) 932-1551



ProgressReport\_JULY2005\_EagletonInst.pdf



---

**EAGLETON INSTITUTE OF POLITICS**

---

***Contract to Provide Research Assistance to The EAC  
For the Development of Voluntary Guidance on  
Provisional Voting and Voter Identification Procedures***

**MONTHLY PROGRESS REPORT  
JULY 2005**

**For**  
**UNITED STATES ELECTION ASSISTANCE COMMISSION**  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005

August 15, 2005

**Prepared by:**  
Eagleton Institute of Politics  
Rutgers, The State University of New Jersey  
191 Ryders Lane  
New Brunswick, NJ 08901-8557

008346

## OUTLINE

- Introduction
- Provisional Voting
  - Task 3.4
- Voter Identification Requirements
  - Task 3.10
  - Task 3.11
- Project Management
  - Task 3.1
- Financial Report

## INTRODUCTION

This report describes our progress from July 1 through July 31, 2005. It includes brief descriptions of key tasks; progress made; challenges encountered or anticipated; milestones reached; and projections for work to be completed in the coming month.

The effort this month continued to focus on research for the analysis and alternatives paper, including the compilation of Provisional Voting statutes, regulations, and litigation from the 50 states. We also prepared and delivered testimony at the EAC's regular monthly meeting in Pasadena on July 28.

The data collection, analysis, and compilation are all on schedule. Because of delays in agreeing on the composition of the Peer Review Group with EAC, however, the actual completion and submission of the analysis and alternatives paper to the EAC will most likely be delayed about a week beyond the target date in the work plan. We are scheduled to discuss the draft paper and guidance document prior to submission, with the EAC on September 6, and the final draft cannot be completed until several days after that date.

The document report is divided into 4 sections that cover: Provisional Voting, Voter Identification Requirements, Project Management, and the Financial Report. Each section references the specific tasks described in paragraph 3 of the contract.

Please direct any questions or comments about this report to Tom O'Neill at:

[REDACTED]

## **PROVISIONAL VOTING**

Tasks 3.4 – 3.9 in our contract relate to provisional voting. Work on the first of these must be complete before proceeding to later tasks. Task 3.4 was completed this month.

**Task 3.4: Collect and analyze state legislation, administrative procedures, and court cases. Understand the disparities and similarities of how provisional voting was implemented around the country.**

### **LEGISLATION, REGULATIONS, AND LITIGATION**

The research team at the Moritz College of Law has the lead responsibility for the collection and analysis of legislation, administrative procedures and litigation. This information constitutes the compendium of legislation, administrative regulations, and case law called for under this task. It also will provide a base of understanding for the analysis of states' actual experience with provisional voting in 2004, for which the Eagleton team has lead responsibility.

**Description:** The Moritz team has created a 50-state chart to summarize information on provisional voting, compiled statutes, case law and administrative procedures regarding Provisional Voting.

**Progress:** The 50-state (plus District of Columbia) chart created to collect data on provisional voting is complete. We have collected the statutes for all states. State by state summaries of provisional voting have been written for 47 states and D.C. A memorandum summarizing provisional voting litigation is complete. The collection of the documents associated with the litigation is nearing completion.

**Challenges:** The variety in the form of provisional voting legislation from state to state makes creating a snap-shot view across states a challenge.

**Work Plan:** The remaining 3 state summaries of provisional voting will be completed by August 8. Analysis of all the information, data, and survey results concerning provisional voting data will be performed in August.

### **PREPARATION FOR AND EXPERIENCE WITH PROVISIONAL VOTING**

The Eagleton team has researched and compiled a narrative of each state's experience with provisional voting in 2004. At the end of July the survey of 400 local election officials was nearing its end, and – as of this writing – is now complete with an analysis and report in draft form. We will rely on the survey results to improve our understanding of actual practice in administering provisional voting, including the steps local officials took to prepare for the election.

## PROVISIONAL VOTING NARRATIVES

**Description:** To construct the narratives, a researcher examined newspaper accounts, state websites, and reports from third-party organizations to gather information on the experience with provisional voting in the 2004 election. To organize the information derived from this examination, we created an information system that catalogues information about the states (i.e. whether a state was new to provisional voting, the percentage of provisional votes counted, the method of notifying voters if their vote was counted, etc.) and combined it with Moritz's collection and analysis of statutes, regulations and litigation.

**Progress:** The state-by-state database is complete, as is a first draft of all state narratives. This work has been shared with the larger team and is being reviewed currently in preparation for constructing analysis and recommendation of alternative approaches for provisional voting required under Task 3.5.

**Work Plan:** In the next month, revisions of the narratives will be complete. In addition to this research, we will expand upon vote fraud research and examine further the relationship between instances of vote fraud and ensuing election reforms.

## SURVEY OF COUNTY ELECTION OFFICIALS

**Description:** The Center for Public Interest Polling (CPIP) at Eagleton conducted a national survey of county election officials to measure several aspects of provisional voting. The survey was designed to determine the following factors related to provisional voting at the county (or equivalent election jurisdiction) level:

- The content and quality of instructions provided to county officials by the states;
- The steps taken by county officials to pass information on to poll workers;
- Differences in experience between states new to provisional voting and those that had some form of provisional ballot before HAVA; and
- Recommendations to improve and/or reduce the need for provisional voting.

**Progress:** The fielding and initial analysis of the survey results are complete.

**Work Plan:** The information derived from the survey will be considered in drafting the analysis and alternatives document required under Task 3.5.

## VOTER IDENTIFICATION REQUIREMENTS

The contract lists 7 tasks (3.10 – 3.16) related to Voter Identification Requirements. During the reporting period, we have completed tasks 3.10 and 3.11. The research on Voter ID requirements is proceeding concurrently with our work on the experience of provisional voting.

### Task 3.10: Legislation, regulations, and litigation

The research team at the Moritz College of Law has the lead responsibility for the collection and analysis of legislation, administrative procedures and litigation with regard to Voter Identification Requirements. When complete, this information will constitute the compendium of legislation, administrative regulations, and case law called for under this task.

**Description:** The Moritz team has compiled statutes on Voter Identification, and will provide a summarized analysis of this research to the project team for review.

**Progress:** The chart created to collect data on voter identification is complete and is now being reviewed. Voter identification statutes are being collected.

**Challenges:** Identifying the relevant statutes has been challenging because of the different terminology used from state to state to codify voter identification issues, and because many states have scattered election law provisions throughout their codes. This variety from state to state makes creating a snap-shot view across states a challenge.

**Work Plan:** Review of the voter identification chart, the collection of the voter identification statutes, and the writing of the state by state summaries will be completed by the end of August.

### SUPPLEMENTS TO LEGAL ANALYSIS

To supplement the legal analysis, the Eagleton team is undertaking two research efforts: First, compiling information on the debate over voter ID in the states; and second, estimating the effect on turnout of voter ID requirements. Tracking the continuing political debate over voter identification reveals that the relatively narrow HAVA requirements for voter identification have apparently sparked in many states a broader concern with more rigorous identification requirements for all voters. We are following these developments both to monitor possible secondary effects of HAVA on voter ID, and to provide a rich collection of alternative approaches for consideration.

Individual narratives for the states with significant activity in voter ID will provide a resource for understanding the wide range of experience in the 2004 election. The narratives will include an appraisal of the prevalence and nature of vote fraud, a focus of the concern

with increasing the rigor of voter ID requirements. The next key milestones will be the completion of the state database and drafting the first narratives.

### **VOTER ID AND TURNOUT ANALYSIS**

The second supplemental analysis will provide objective information on a contentious feature of the debate over voter ID in the states: the effects of more rigorous voter ID regimes on voter turnout and the relationship between the voter ID regime and vote fraud. As part of this effort, Eagleton is undertaking a statistical analysis to gauge the effect of a state's voter ID regime on turnout, especially turnout by minority and elderly voters.

**Description:** We are creating a database and gathering statistics on the effects of state-level voter identification requirements on voter turnout at the county-level in the 2004 election.

**Progress:** The collection of data for the Voter ID-Turnout analysis is complete. The assembled database contains population demographic data, voter registration data and voter turnout data from all 50 states, 3113 Counties, and the District of Columbia. It also contains exit poll data from the 50 states, providing demographic data of voter turnout. The analysis of that data is well underway.

**Challenges:** The initial methodology that was devised to investigate the questions involved in this part of the study proved insufficient, as the necessary data was unobtainable (the Census Bureau has not yet released their 2004 data). After re-developing an appropriate methodology, the necessary data has been assembled, we have resumed the analysis of this data.

**Projection:** The analysis of the impact that voter identification requirements have upon voter turnout should be completed around mid-August.

### **Task 3.11 Public meeting on Voter Identification Requirements**

**Description:** In early July, we continued our efforts to identify specific Voter ID topics or issues and panelists who could shed light on them. We recommended a focus on the debate over Voter ID now underway in the states. To provide a vivid picture of the debate, we recommended that one panel include specific legislators on opposite sides of the issue from two different states, Mississippi and Wisconsin. We also discussed adding a researcher to the panel in order to place the debate in a national or historical context. We also recommended a panel of two academic researchers with contrasting points of view, to address the effects of Voter ID provisions under HAVA. In response to our suggestions, EAC staff recommended a panel of two state election directors to address the interaction of Voter ID with HAVA.

By mid-July, the EAC had decided which topics and speakers should be invited, however most of those speakers proved unable to attend.



**Progress:** Tom O'Neill and Dan Tokaji attended the EAC Public Meeting held in Pasadena on July 28. Their presentations at the meeting described the progress of the research and our developing perspective on how to assess the quality of the provisional voting process in the states and identify possible steps for improvement.

**Challenges:** The changes in the scheduling of the July meeting delayed and ultimately made it impossible to assemble a panel, from which we could derive substantive insight into voter identification issues as they are playing out in the states. Additionally, due to the date of the hearing, the information from the hearing was not available as early in the research process as contemplated in the contract.

**Projection:** Preparation of the hearing summary will likely be delayed, due to the team's focus on preparation of the analysis and alternatives paper.

## **PROJECT MANAGEMENT**

### **PEER REVIEW GROUP**

**Description:** A feature of our proposal was the creation of a Peer Review Group (PRG). The EAC indicated at our first meeting in May that it would review our recommendations for members of the PRG. Our initial vision of the PRG was a small group of scholars and representatives of advocacy organizations that would comment on the research design, review drafts of our analyses and reports, and, in general, identify areas of the research that should be strengthened and help us improve the breadth, depth and clarity of reports based on that research.

**Progress:** Upon reflection, the project team agreed that the PRG should not include representatives of advocacy groups. We concluded that as representatives they would feel obligated to act as advocates for positions already taken by their groups. While advocacy organizations might be consulted as stakeholders during the course of our work, they were unlikely to achieve the goals we had in mind for the PRG as a source of advice on research design, methodology, and analysis. We submitted a revised list of potential members, substantially comprised of academics, to the EAC for review.

The EAC responded with suggestions concerning both the balance of the PRG's membership and the creation of additional committees to review our work. We provided an analysis of the cost and time involved in adopting the EAC's suggestions as well as with suggestions for a balanced selection of academics for the Peer Review Group. In the end, the EAC determined that Eagleton should appoint a balanced Peer Review Group of its own choosing. Initial phone calls were made to all members of that group by the end of July, and written invitations and descriptions of the process have gone to all possible members who had indicated their interest in serving.

**Challenges:** Communications on this issue with the EAC were not clear or timely. The purpose of the PRG is to review our work, and to comment on our research design, which is well underway. We had planned to have the PRG in place early enough in the project to enable them to provide feedback, including the research design. While we are

confident in the quality of our work, the experience and perspective of the Peer Review Group will strengthen our analysis and recommendations as we find a way to receive its critique in the more limited time now available. The delay in creating the Peer Review Group will result in a delay in the completion of the final draft of the analysis and alternatives paper and in the preliminary guidance document.

**Projections:** The work of the PRG will be about 2 weeks behind the milestones indicated in the work plan.

### **COORDINATION AND INFORMATION MANAGEMENT**

Collecting and merging information and data from myriad sources is a demanding requirement of this research. We have developed two principal mechanisms to facilitate the analysis of the material collected or created in the project: an information system and an internal website for easy access to drafts and reports.

### **INFORMATION SYSTEM**

**Description:** The statutory data and reports prepared by the Moritz College of Law will be merged with the political and procedural data and analysis prepared by the Eagleton Institute of Politics to provide a cohesive final product to the EAC, which will include a compendium of case law and statutes regarding provisional voting and voter identification.

**Progress:** The Moritz team has provided Eagleton staff with all completed work. An Eagleton staff member reviews the content and formats of data from all supporting research and will (re-)format once the work has been completed for the compendium and reports submitted to the EAC. The researchers and staff at Eagleton have created a shared folder on the Institute's server for the safe storage of work and access for those staff members. All of this work is being reviewed by the project team to ensure that a broad survey is being performed.

**Projections:** By the end of July 2005, much of the above referenced research has been completed. The entire project team has begun the process of reviewing all work, and will combine and format all documents and materials in preparation for our final reporting to the EAC.

### **INTRANET**

**Description:** All project team members have signed on to the Intranet site. The Intranet facilitates the exchange of information and collaboration among project participants.

**Progress:** Project team members regularly post drafts, completed materials and spreadsheets online for internal review. The intranet has been extremely helpful to team members and serves as an internal website with announcements and important documents readily available to all team members.

## FINANCIAL REPORT

The financial reporting for this project is supervised and prepared by the Division of Grant and Contract Accounting (DGCA) at Rutgers. Financial reporting on grant accounts is limited to actual expenses that have been incurred during the reporting period. Our contact at DGCA is: Constance Bornheimer, (732) 932-0165, EXT. 2235.

A detail of expenses incurred from project inception through June 30, 2005, is attached.

Karen Lynn-Dyson/EAC/GOV

07/15/2005 04:16 PM

To Thomas R. Wilkey/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC  
cc Sheila A. Banks/EAC/GOV@EAC, Adam Ambrogi/EAC/GOV@EAC, Amie J. Sherrill/EAC/GOV@EAC  
bcc

Subject Fw: Eagleton Institute June 2005 Progress Report

Should any of you all need or want a sense of what Eagleton has done on provisional voting and voter identification in preparation for the Cal Tech meeting, attached is their June monthly report.

K

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

— Forwarded by Karen Lynn-Dyson/EAC/GOV on 07/15/2005 03:57 PM —



"Lauren Vincelli"  
<Vincelli@rutgers.edu>

07/14/2005 04:43 PM

Please respond to  
Vincelli@rutgers.edu

To klynndyson@eac.gov

cc

john.weingart@rutgers.edu

Subject Eagleton Institute June 2005 Progress Report

Ms. Dyson,

Attached please find the June 2005 Progress Report for the project entitled, "Contract to Provide Research Assistance to the EAC for the Development of Voluntary Guidance on Provisional Voting and Voter Identification Procedures." If you have any questions regarding any part of this document please direct them to Tom O'Neill at: [REDACTED]

The financial reporting for this project is performed by the Division of Grant and Contract Accounting at Rutgers University. A copy of this report was not made available to us in an electronic format. Hard copies of the Progress Report and Financial Report have been Fedex'ed to you this afternoon and should arrive to your attention tomorrow morning. Please let me know if you do not receive this package by tomorrow afternoon.

Thank you for your time, have a great evening.

Best,  
Lauren Vincelli

Lauren Vincelli  
Business Assistant, Eagleton Center for Public Interest Polling  
Eagleton Institute of Politics, Rutgers University  
Carriage House, 185 Ryders Lane  
New Brunswick, NJ 08901  
Phone: (732) 932-9384, ext. 237

008355

Fax: (732) 932-1551



ProgressReport\_JUNE2005\_EagletonInst.doc

008356



---

EAGLETON INSTITUTE OF POLITICS

---

*Contract to Provide Research Assistance to The EAC  
For the Development of Voluntary Guidance on  
Provisional Voting and Voter Identification Procedures*

**MONTHLY PROGRESS REPORT  
JUNE 2005**

For  
**UNITED STATES ELECTION ASSISTANCE COMMISSION**  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005

July 14, 2005

**Prepared by:**  
Eagleton Institute of Politics  
Rutgers, The State University of New Jersey  
191 Ryders Lane  
New Brunswick, NJ 08901-8557

008357

## OUTLINE

- Introduction
- Provisional Voting
  - Task 3.4
- Voter Identification Requirements
  - Task 3.10
  - Task 3.11
- Project Management
  - Task 3.1
- Financial Report

## INTRODUCTION

This report describes our progress from the start of the project on May 26 through June 30, 2005. It includes brief descriptions of key tasks; progress made; challenges encountered or anticipated; milestones reached; and projections for work to be completed in the coming month.

The objective of the contract is to assist the EAC in the collection, analysis and interpretation of information regarding HAVA provisional voting and voter identification requirements on which to base policy recommendations as guidance for the states in the conduct of the 2006 elections. The work has begun well, thanks to the clarity of the EAC's expectations and the strong collaboration by the scholars and staff at the Eagleton Institute of Politics at Rutgers, The State University of New Jersey, and the Moritz College of Law at the Ohio State University.

The document report is divided into 4 sections that cover: Provisional Voting, Voter Identification Requirements, Project Management, and the Financial Report. Each section references the specific tasks described in paragraph 3 of the contract.

Please direct any questions or comments about this report to Tom O'Neill at:

**[REDACTED]**

## PROVISIONAL VOTING

Tasks 3.4 – 3.9 in our contract relate to provisional voting. Work on the first of these must be complete before proceeding to later tasks. The work plan provides for two months to complete Task 3.4. Work on this task is on schedule.

**Task 3.4: Collect and analyze state legislation, administrative procedures, and court cases. Understand the disparities and similarities of how provisional voting was implemented around the country.**

### LEGISLATION, REGULATIONS, AND LITIGATION

The research team at the Moritz College of Law has the lead responsibility for the collection and analysis of legislation, administrative procedures and litigation. When complete, this information will constitute the compendium of legislation, administrative regulations, and case law called for under this task. It also will provide a base of understanding for the analysis of states' actual experience with provisional voting in 2004, for which the Eagleton team has lead responsibility.

**Description:** The Moritz team includes faculty, an executive administrator, a reference librarian, and several research assistants. It began immediately to compile statutes, case law and administrative procedures regarding Provisional Voting. The team has created a 50 state chart to summarize information on provisional voting. Categories for which state statutes and administrative procedures are being reviewed include:

- *When did the state create a system compliant with the HAVA provisional ballot requirements?*
- *Who may be eligible to cast a provisional ballot? and*
- *What is the process for discovering whether your provisional ballot was counted in the election?*

**Progress:** Initial research for 27 states, including the collection of provisional voting statutes is complete. This phase of the work is on schedule for completion by August 1. By the beginning of the week of July 11, Moritz's full time research assistant will move from voter identification research to gathering and organizing case law on provisional voting.

**Challenges:** Identifying the relevant statutes has been challenging; states use different terminology to codify provisional voting issues. Many states have scattered election law provisions throughout their codes. This variation from state to state makes creating a snapshot view across states a challenge. The team is meeting this challenge, and the work is on schedule.



### PREPARATION FOR AND EXPERIENCE WITH PROVISIONAL VOTING

The Eagleton team is constructing a narrative description for each state of the 50 states and the District of Columbia. It is also surveying a stratified random sample of county election officials to improve its understanding of actual practice in administering provisional voting.

**Description:** To construct the narratives, a researcher is examining newspaper accounts, state websites, and reports from third-party organizations to determine what information is publicly available about these issues during the 2004 election. To organize the information derived from this examination, we are creating an information system that will make it possible to catalog the basic information about the states (i.e. whether a state was new to provisional voting, the percentage of provisional votes counted, the method of notifying voters if their vote was counted, etc.) and combine it with Moritz's collection and analysis of statutes, regulations and litigation. The information system will make it possible to provide answers to such topics of particular interest listed in the contract as: How did preparation for provisional voting vary between states that had some form of provisional voting and those that did not?" and "How did litigation affect implementation?"

**Progress:** The researcher in this area has identified sources of information for every state and the collection process is well underway. Verified database entries for 24 states are complete, as are two state narrative summaries. This phase of the research is on schedule for completion by the end of July.

**Challenges:** A key challenge is determining just what states actually did in practice to verify and count provisional ballots. A second challenge has been determining the variations in policy within individual states. We are still wrestling with resolving this challenge, but the work is on schedule.

**Work Plan:** By the end of the July, the compilation of statutes, administrative regulations, and litigation will be complete and ready to be combined with the state-by-state narrative compiled by Eagleton. That will form the basis for the analysis and recommendation of alternative approaches for provisional voting required under Task 3.5.

### SURVEY OF COUNTY ELECTION OFFICIALS

This survey will help the research team understand more about such key topics of interest as:

- "How did the experience of provisional voting vary between states that previously had some form of provisional voting and those where provisional voting was new in 2004?"
- "Did state and local processes provide for consistent counting of provisional ballots?"
- "Did local officials have a clear understanding of how to implement provisional voting?"

The survey results will supplement the information on these topics from the compilation of statutes, regulations and cases and from the narrative we are constructing for each state.

**Description:** The Center for Public Interest Polling (CPIP) at Eagleton is conducting a national survey of county election officials to measure several aspects of provisional voting. The survey is designed to determine the following factors related to provisional voting at the county level:

- The content and quality of instructions provided to county officials by the states
- The steps taken by county officials to pass information on to poll workers;
- Differences in experience between states new to provisional voting and those that had some form of provisional ballot before HAVA; and
- Recommendations to improve and/or reduce the need for provisional voting

**Progress:** The survey instrument is complete. CPIP has compiled a list of election officials at the county level and at the municipal or regional level for states that do not assign the election responsibility to counties. It was forwarded to the call center, Schulman, Ronca & Bucuvalas Inc., (SRBI) the week of July 5, 2005. A sample will be drawn the week of July 12. Human Subjects Approval from Rutgers University was granted July 12. Pre-notification letters will be sent to election officials around July 12-13, 2005. The EAC has reviewed a draft of this letter, which we have now revised to make clear that the survey will increase our understanding of the provisional voting process, but is not being conducted on behalf of the EAC.

**Challenges:** We made special efforts to expedite Human Subject Approval to meet the schedule in the work plan. In the absence of an existing, reliable database of local election officials, we had to create one especially for this project. In order to provide a valid comparison between the states new to provisional voting with those that previously had some form of provisional ballot we doubled the sample size from 200 to 400. This increase will require an increase in the budget for the survey from \$15,000 to about \$24,000. We intend to reallocate costs within the existing budget to make this improvement possible, and will submit a letter describing the reallocation to the EAC in mid-July.

The sample has been, and will continue to represent the biggest challenge in this survey. Compiling the sample required substantial coordination and research to determine the accuracy of the identity and contact information for potential respondents. The difficulty in determining the appropriate contact is attributed to variation in county election officials' titles, jurisdiction types, and state and county election structures across the country. In addition to the potential pitfalls of reaching the appropriate county official, another factor in actually making contact with this special population will be dependent upon the hours that they keep, and may be hindered by the summer season.

**Work Plan:** This questionnaire will be pre-tested by July 15, and will field July 18 through August 5, 2005. This is somewhat later than projected in the revised work plan, but the information will arrive in time to be considered in drafting the analysis and alternatives document required under Task 3.5.

## VOTER IDENTIFICATION REQUIREMENTS

The contract lists 7 tasks (3.10 – 3.16) related to Voter Identification Requirements. During the reporting period, we have made substantial progress in the first two tasks, which constitute the information-gathering phase of the work on Voter ID. The research of Voter ID requirements is proceeding concurrently with our work on the experience of provisional voting.

### Task 3.10: Legislation, regulations, and litigation

The research team at the Moritz College of Law has the lead responsibility for the collection and analysis of legislation, administrative procedures and litigation. When complete, this information will constitute the compendium of legislation, administrative regulations, and case law called for under this task.

**Description:** A team of Election Law@Moritz faculty, executive administrator, a reference librarian, and several research assistants is compiling statutes on Voter Identification, and providing a summarized analysis of this research.

**Progress:** The Moritz team has created a 50-state chart to record data on voter identification. Categories for which state statutes and administrative regulations are being reviewed include: “*Who is required to present ID*”, “*Types of ID required*”, and “*Consequences of having no ID*”. We have completed the initial research for 45 states and have collected the voter identification statutes for those states. An *Election Law@Moritz* Fellow is conducting an academic literature review on voter identification. This literature review will help shape the analytical framework that will guide us when the compendium of statutes and administrative regulations is complete.

**Challenges:** Identifying the relevant statutes has been challenging because of the different terminology used from state to state to codify voter identification issues, and because many states have scattered election law provisions throughout their codes. This variety from state to state makes creating a snap-shot view across states a challenge.

**Projections:** At the current rate, a draft of the voter identification chart should be complete on schedule, by the end of July. Work on the literature review will continue into August, but will be available to inform the analysis of alternative approaches for voter identification called for by Task 3.12 of the contract.

### SUPPLEMENTS TO LEGAL ANALYSIS

To supplement the legal analysis, the Eagleton team is undertaking two research efforts: First, compiling information on the debate over voter in the states; and second, estimating the effect on turnout of voter id requirements. Tracking the continuing political debate over voter identification reveals that the relatively narrow HAVA requirements for voter identification have apparently sparked in many states a broader concern with more rigorous identification requirements for all voters. We are following these developments both to

008362

monitor possible secondary effects of HAVA on voter ID, and to provide a rich collection of alternative approaches for consideration.

Individual narratives for the states with significant activity in voter ID will provide a resource for understanding the wide range of experience in the 2004 election. The narratives will include an appraisal of the prevalence and nature of vote fraud, a focus of the concern with increasing the rigor of voter ID requirements. This work is on schedule to be completed by the end of July. The next key milestones will be the completion of the state database and drafting the first narratives.

### VOTER ID AND TURNOUT ANALYSIS

The second supplemental analysis will provide objective information on a contentious feature of the debate over voter ID in the states: the effects of more rigorous voter ID regimes on voter turnout and the relationship between the voter ID regime and vote fraud. As part of this effort, Eagleton is undertaking a statistical analysis to gauge the effect of a state's voter ID regime on turnout, especially turnout by minority and elderly voters.

**Description:** We are creating a database and gathering statistics on the effects of state-level voter identification requirements on voter turnout at the county-level in the 2004 election. Analysis on the county-level will enable us to estimate the influence of ID requirements on various age groups, races, ethnicities and gender groups. We are compiling data from both the 2000 and 2004 Presidential elections to measure the effect that changes in ID requirements may have had on voter turnout through two national election cycles.

**Progress:** The structure of the database is complete. It contains demographic information from the Census, and turnout data from various sources. The researcher assigned to this task is devising the syntax that will be required to run the statistics when the dataset is complete. The methodology for this part of the study is complete, and the actual data collection will soon be finished.

**Projection:** We are waiting for the Census Bureau to release the 2004 County Demographic Estimates. We have ordered and await the arrival of 2 datasets that contain voter turnout and voter registration numbers on the county-level for both the 2000 and 2004 elections. Once these two sources of information are received, the researcher will insert this information into the existing database, clean up the dataset, and begin to run the statistics. By that point, the researcher will have separated the states into various ID-requirement groupings that have been determined by the team, which will require coordination with several other parts of the study. This work is on schedule. By the end of July, the researcher should have county-level and state-level statistics on the impact of each ID system upon turnout, analyzed through various demographic features on the county-level.

008363

### Task 3.11 Public meeting on Voter Identification Requirements

**Description:** We are working closely with EAC staff, particularly the General Counsel, to plan a half day public meeting on Voter ID requirements. Presentations at the meeting will form an important part of the information we are compiling about Voter ID requirements and the strengths and shortcomings of a range of alternative approaches.

**Progress:** We have recommended a focus on the debate over Voter ID now underway in the states. To provide a vivid picture of the debate, we have recommended that one panel include legislators on opposite sides of the issue from two different states. Our research identified Mississippi and Wisconsin as two states to focus on, and we have recommended specific legislators from each. We have discussed with staff adding a researcher to the panel to put the debate in Wisconsin and Mississippi in either a national or historic context. We also recommended two researchers from contrasting points of view, to address the effects of Voter ID provisions under HAVA and broader provisions that are now the subject of national debate. EAC staff recommended a panel of two state election directors to address the interaction of Voter ID with HAVA. We are awaiting a decision on our recommendations from EAC staff. We have no reason not to believe that the work is on schedule to be completed in time to organize a productive meeting on July 28.

**Challenges:** The date and location of this hearing has been changed twice since the beginning of the project. It was originally scheduled to take place in late June, but was rescheduled for July to allow the June hearing to focus on voting machine technology. The regular meeting was rescheduled for July 26 in Minneapolis, and was recently changed to July 28 in Pasadena. The changes in the scheduling of the July meeting have complicated our choice of panelists. More seriously, the changes mean that information from the hearing will not be available as early in the research process as contemplated in the contract. This timeframe will now require the team to summarize the hearing events at the same time that we are drafting the analysis and alternatives paper in early August.

Additionally, while our contract states that the "Contractor shall be responsible for all aspects of planning and conducting this hearing in consultation with the EAC," we have been asked only to make recommendations of topics and panelists, and the arrangements for the organization of the hearing are in other hands. This lack of clarity has caused some confusion and has delayed invitations to panelists. Thanks to frequent communication with members of the EAC, the process now seems to be working smoothly.

**Projection:** We believe the work is on schedule for completion in time to recruit the panelists for the July 28 hearing. Preparation of the hearing summary will likely be delayed because of the need to complete the analysis and alternatives paper.

008364

## PROJECT MANAGEMENT

Immediately after announcement of the award of the contract, Eagleton and Moritz began supplementing the core group that had prepared to proposal to building a highly qualified team to undertake the work. That team was in place by mid June, just a few weeks after the contract award.

As described in the proposal, the direction of the project is the responsibility of a five-person committee of faculty and staff from Eagleton and Moritz, chaired by Dr. Ruth Mandel, Director of the Eagleton Institute of Politics. Project Director Thomas O'Neill, a consultant to Eagleton, reports to this team and provides day-to-day guidance and coordination for the research. A weekly meeting of all the researchers engaged in the project if the primary means of coordinating the work. We have recently added an internal website to facilitate the review and revision of written materials.

### Task 3.1 Update the Work Plan

The first task was completed on time with the submission of a detailed work plan and timeline. EAC staff requested that the work plan be supplemented with a Gantt chart created on MS Project, and we submitted that a few days later.

### PEER REVIEW GROUP

**Description:** A feature of our proposal was the creation of a Peer Review Group (PRG). The EAC indicated at our first meeting in May that it would review our recommendations for members of the PRG. Our initial vision of the PRG was a small group of scholars and representatives of advocacy organizations that would comment on the research design, review drafts of our analyses and reports, and, in general, identify areas of the research that should be strengthened and help us improve the breadth, depth and clarity of reports based on that research.

**Progress:** Upon reflection, the project team agreed that the PRG should not include representatives of advocacy groups. We concluded, as representatives they would feel obligated to act as advocates for positions already taken by their groups. While advocacy organizations should be consulted as stakeholders during the course of our work, they were unlikely to achieve the goals we had in mind for the PRG as a source of advice on research design, methodology, and analysis. We submitted a revised list of potential members, substantially comprised of academics, to EAC for review.

The EAC responded with suggestions concerning both the balance of the PRG's membership and the creation of additional committees to review our work. We answered with an analysis of the cost and time involved adopting the EAC's suggestions as well as with suggestions for a balanced selection of academics for the Peer Review Group. We have not received response on this correspondence from the EAC, and the recruitment of the group is on hold.

008365

**Challenges:** Communications on this issue with the EAC have not been clear or timely. The PRG should be in place now to comment on our research design while there is still time to refine it. While we are confident in the quality of our work, the wisdom and perspective of the outstanding candidates we have proposed for membership would strengthen the analysis and reports of our work.

**Projections:** We have effectively brought these challenges to the attention of EAC staff and look forward to a resolution speedy enough to allow recruitment of the PRG's members before the end of the month. If we meet that goal, the work of the PRG will be about 2 weeks behind the milestones indicated in the work plan.

### COORDINATION AND INFORMATION MANAGEMENT

Collecting and merging information and data from myriad sources is a demanding requirement of this research. We have developed two principal mechanisms to facilitate the analysis of the material collected or created in the project: an information system and a website for easy access to drafts and reports.

#### INFORMATION SYSTEM

**Description:** The statutory data and reports prepared by the Moritz College of Law will be merged with the political and procedural data and analysis prepared by the Eagleton Institute of Politics to provide a cohesive final product to the EAC, which will include a compendium of case law and statutes regarding provisional voting and voter identification.

**Progress:** The Moritz team has provided Eagleton staff with samples of the work that they are performing. An Eagleton staff member will be reviewing the content and formats of data from all supporting research and (re-)formatting once the work has been completed. The researchers and staff at Eagleton have created a shared folder on the Institute's server for the safe storage of work and access for those staff members. All of this work is being reviewed by the project team to ensure that a broad survey is being performed.

**Challenges:** There are no evident challenges to this task at this time.

**Projections:** By the end of July 2005, much of the above referenced research will have been completed with respective materials and charts near completion. At that time, staff at Eagleton will review, combine and format all documents and materials in preparation for our final reporting to the EAC.

#### INTRANET

**Description:** A trial Intranet for the project became available during the week of June 26. The Intranet will facilitate the exchange of information and collaboration among project participants.

**Progress:** After meetings with staff members of Rutgers University Computer Services (RUCS) and subsequent submission of a proposal by RUCS for technical support and hosting of the Intranet and the evaluation of alternative commercial services, the project team decided at its June 28<sup>th</sup> meeting to publish the Intranet through [www.intranets.com](http://www.intranets.com),

one of the leading commercial services. This decision was based on lower costs and earlier publication schedules than offered under the RUCS proposal. The Intranet services were evaluated during a free trial period, which demonstrated the ease of design and navigation of the proposed service.

**Challenges:** There are no immediate challenges to completion of this task by the timeframe specified below.

**Projections:** Design, testing and publication of initial content of the Intranet service is continuing, with all participants expected to be provided access by July 8, 2005.

#### FINANCIAL REPORT

The financial reporting for this project is supervised and prepared by the Division of Grant and Contract Accounting (DGCA) at Rutgers. Financial reporting on grant accounts is limited to actual expenses that have been incurred during the reporting period. Given that the report reflects the first month of the project, several procedures for payment of subcontractors on the project were initiated. Expenses related to those members of the team are not reflected in this report because they have not yet been incurred.

Our contact at DGCA is: Constance Bornheimer, (732) 932-0165, EXT. 2235.

A detail of expenses incurred from project inception through June 30, 2005, is attached.



Karen Lynn-Dyson/EAC/GOV  
05/01/2006 03:03 PM

To: Thomas R. Wilkey/EAC/GOV@EAC  
cc: Juliet E. Thompson-Hodgkins/EAC/GOV@EAC  
bcc:  
Subject: Re: E-mail to Voter ID peer reviewers

History: This message has been replied to.

It's my understanding that Julie thinks we are "good to go" as long as we don't pay them.

Correct?

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

Thomas R. Wilkey/EAC/GOV

Thomas R. Wilkey/EAC/GOV  
05/01/2006 03:00 PM

To: Karen Lynn-Dyson/EAC/GOV@EAC, Juliet E.  
Thompson-Hodgkins/EAC/GOV  
cc:  
Subject: Re: E-mail to Voter ID peer reviewers

Did we resolve the contact issues on this?

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

**From:** Karen Lynn-Dyson  
**Sent:** 05/01/2006 02:58 PM  
**To:** Thomas Wilkey; Juliet Thompson-Hodgkins  
**Subject:** E-mail to Voter ID peer reviewers

Tom and Julie-

Please take a look at this draft e-mail and let me know if it captures all that it needs to.

Would like to get this out ASAP- appreciate your feedback..

Dear Jonathan Nagler  
Dear Jan Leighley  
Dear Adam Berinsky

008368

On behalf of the U.S. Election Assistance Commission (EAC), thank you in advance for agreeing to assist us with the review of research conducted by the Eagleton Institute of Politics on voter identification. By **Friday, May 5, 2006**, you will receive, in electronic form, the research paper and relevant data analysis which supports the paper's findings. Through this independent review by a small group of experts familiar with elections data and research we are seeking feedback on:

- The research methodology which was used to support the paper's conclusions
- The specific statistical applications which were used to analyze the data and arrive at various conclusions

If there are alternate methodological and statistical approaches to analyzing the data on voter identification, and if there is other data on voter identification that you think should have been included in the analysis, please be certain to note this in your comments.

On **May 11, 2006** EAC will conduct a 60-90 minute phone call with key Eagleton Institute staff responsible for the research, members of Eagleton's peer review group and the EAC-identified reviewers who have been asked to consider the research. Through this dialogue EAC hopes to gather varying perspectives and insights on the research strategies and methods that were employed by Eagleton. As a result of this conversation, EAC anticipates that some revisions will be made to the Eagleton research paper. This paper is scheduled to be presented to EAC's Board of Advisors and Standards Boards in late May.

While EAC agency policy does not allow us to provide you with financial compensation for your review of this research we greatly appreciate your willingness to assist us with this important task. We believe that the research findings we will provide on voter identification are important and will most certainly be enhanced by your insights and expertise.

Sincerely,

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

008369

Karen Lynn-Dyson/EAC/GOV

To Thomas R. Wilkey/EAC/GOV@EAC, Juliet E.  
Thompson-Hodgkins/EAC/GOV@EAC

05/01/2006 02:58 PM

cc

bcc

Subject E-mail to Voter ID peer reviewers

History

This message has been replied to

Tom and Julie-

Please take a look at this draft e-mail and let me know if it captures all that it needs to.

Would like to get this out ASAP- appreciate your feedback..

Dear Jonathan Nagler

Dear Jan Leighley

Dear Adam Berinsky

On behalf of the U.S. Election Assistance Commission (EAC), thank you in advance for agreeing to assist us with the review of research conducted by the Eagleton Institute of Politics on voter identification. By **Friday, May 5, 2006**, you will receive, in electronic form, the research paper and relevant data analysis which supports the paper's findings. Through this independent review by a small group of experts familiar with elections data and research we are seeking feedback on:

- The research methodology which was used to support the paper's conclusions
- The specific statistical applications which were used to analyze the data and arrive at various conclusions

If there are alternate methodological and statistical approaches to analyzing the data on voter identification, and if there is other data on voter identification that you think should have been included in the analysis, please be certain to note this in your comments.

On **May 11, 2006** EAC will conduct a 60-90 minute phone call with key Eagleton Institute staff responsible for the research, members of Eagleton's peer review group and the EAC-identified reviewers who have been asked to consider the research. Through this dialogue EAC hopes to gather varying perspectives and insights on the research strategies and methods that were employed by Eagleton. As a result of this conversation, EAC anticipates that some revisions will be made to the Eagleton research paper. This paper is scheduled to be presented to EAC's Board of Advisors and Standards Boards in late May.

While EAC agency policy does not allow us to provide you with financial compensation for your review of this research we greatly appreciate your willingness to assist us with this important task. We believe that the research findings we will provide on voter identification are important and will most certainly be enhanced by your insights and expertise.


008370

Sincerely,

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

008371

Karen Lynn-Dyson/EAC/GOV  
04/28/2006 12:44 PM

To "Tom O'Neill" [REDACTED]@GSAEXTERNAL  
cc arapp@rci.rutgers.edu, davander@eden.rutgers.edu,  
dlinky@rci.rutgers.edu, foley.33@osu.edu,  
ireed@rutgers.edu, "Johanna Dobrich"  
bcc Juliet E. Thompson-Hodgkins/EAC/GOV  
Subject Re: Voter ID Paper -Final Draft 

History:  This message has been forwarded

Tim, Tom, John, et.al-

The EAC has identified three academics who are going to serve as peer reviewers of the Eagleton Voter ID paper and research.

They are Jonathan Nagler of New York University, Jan Leighley, University of Arizona, and Adam Berinsky of MIT.

They are ready to review the documents as soon as they are available.

I would like to them one week to review the material and then have a joint conference call on **Thursday, May 11**, in which we would all have an opportunity to discuss the research methodology and statistical analysis, along with general comments and suggestions.

If you are able to get to me the paper and the supporting data analysis, I will distribute to the documents ASAP.

Also let me know, if you would, your availability on May 11 to do this conference all.

I anticipate that it will last approximately 90 minutes.

Regards-

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

008372

Karen Lynn-Dyson/EAC/GOV

To Juliet E. Thompson-Hodgkins/EAC/GOV@EAC

03/28/2006 10:25 AM

cc

bcc

Subject Fw: Voter ID Paper --Final Draft

Let's discuss once you've had a chance to review. As stated, there are a number of their statistical manipulations which I question.

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

— Forwarded by Karen Lynn-Dyson/EAC/GOV on 03/28/2006 09:20 AM —



"Tom O'neill"

03/16/2006 09:27 AM

To klynndyson@eac.gov

cc

Subject RE: Voter ID Paper --Final Draft

Karen,

Glad the paper arrived. Sorry it was a bit later than promised, but we reworked the statistical analysis on the basis of some insightful suggestions by the Peer Review Group. . .that took a few extra days (and nights). Looking back at my email to you, I realize the full statistical analysis was not attached as it should have been. It is appendix to the paper that will be of interest to those who want the details of our methodology. It is attached to this email.

I will be away, without access to email, until late Monday afternoon, but if you need to, you can reach me by cell phone a [REDACTED]

Tom O'Neill

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

**From:** klynndyson@eac.gov [mailto:klynndyson@eac.gov]

**Sent:** Thursday, March 16, 2006 9:00 AM

**To:** [REDACTED]

**Subject:** Re: Voter ID Paper --Final Draft

Tom-

Thanks for getting this to me. I've forwarded it on to the Commissioners.

Will try to see if I can get feedback next week.

008373

Regards-  
K

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



tel:202-566-3123 Vercellotti314.doc

Analysis of Effects of Voter Identification Requirements on Turnout  
Tim Vercellotti  
Eagleton Institute of Politics  
Rutgers University

## Introduction

A key area of disagreement in the policy debate over voter identification requirements concerns how such requirements affect voter turnout. Opponents of voter identification laws argue that they constitute an institutional barrier to voting, particularly among the poor, African-Americans, Hispanics, the elderly and people with disabilities (Baxter and Galloway 2005, Electionline.org 2002, Jacobs 2005, Young 2006). This argument holds that voter identification requirements create an extra demand on voters, and thus may discourage some of them from participating in elections. Further, critics argue that requiring voters to produce some form of government-issued photo identification on Election Day is more demanding than requiring, for example, that they state their names at the polling place because of the various steps needed to procure a photo identification card, ~~such as a driver's license.~~ Supporters of voter identification requirements, on the other hand, argue that the requirements are necessary to combat voter fraud, safeguard the integrity of the electoral process, and engender faith in the electoral process among citizens (Young 2006).

This report examines the potential variation in turnout rates based on the type of voter identification requirement in place in each state on Election Day 2004. It draws on two sets of data – aggregate turnout data at the county level for each state, as compiled by the Eagleton Institute of Politics, and individual-level survey data included in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. Classification of voter identification requirements comes from a review of state statutes conducted by the Moritz College of Law at the Ohio State University.

### Types of voter identification requirements

Each state is classified as having one of five types of ~~identification~~**ID** requirements in place on Election Day 2004. Upon arrival at polling places, voters had to either: state their names (nine states); sign their names (13 states and the District of Columbia); match their signature to a signature on file with the local election board (eight states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (five states).<sup>1</sup> It was then possible to code the states according to these requirements, and test the assumption that voter identification requirements would pose an increasingly demanding requirement in this order: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification, and providing a form of photo identification.

But election laws in numerous states offer exceptions to these requirements if individuals lack the necessary form of identification. Laws in those states set a minimum standard that a

---

<sup>1</sup> Oregon conducts elections entirely by mail. Voters sign their mail-in ballots, and election officials match the signatures to signatures on file. For the purposes of this analysis, Oregon is classified as a state that requires a signature match.



voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). Thus it is also possible to categorize states based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota). The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states). This analysis treats the array of minimum identification requirements also in terms of increasing demand on the voter: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit.

#### Analysis of aggregate data

If one treats maximum voter identification requirements as an ordinal variable, with photo identification as the most demanding requirement, one finds some statistical support for the premise that as the level of required proof increases, turnout declines. Averaging across counties in each state, statewide turnout is negatively correlated with voter identification requirements ( $r = -.21$ ,  $p < .0001$ ). In considering the array of minimum requirements, with affidavit as the most demanding requirement, voter identification also is negatively correlated with turnout ( $r = -.16$ ,  $p < .0001$ ). Breaking down the turnout rates by type of requirement reveals in greater detail the relationship between voter identification requirements and voter turnout.

[Table 1 here]

Differences in voter turnout at the state level in 2004 varied based on voter identification requirements.<sup>2</sup> Taking into account the maximum requirements, an average of 63.1 percent of the voting age population turned out in states that required voters to state their names, compared to 59.3 percent in states that required photo identification. A similar trend emerged when considering minimum requirements. Sixty-one percent of the voting age population turned out in states requiring voters to state their names, compared to 58.7 percent in states that required an affidavit from voters. While the trend is not perfectly linear, there is a general movement toward lower turnout as requirements tend toward requiring greater levels of proof.

Voter identification requirements alone, however, do not determine voter turnout. Multivariate models that take into account other predictors of turnout can place the effects of voter identification in a more accurate context. I estimated the effects of voter identification requirements in multivariate models that also took into account the electoral context in 2004 and demographic characteristics of the population in each county. To capture electoral context I

<sup>2</sup> Voter turnout is defined here as the percentage of the adult voting-age population that voted in November 2004, based on county vote totals reported by the states and U.S. Census population projections for the counties from 2003. McDonald and Popkin (2001) contend that using the voting-age population to calculate turnout understates turnout for a number of reasons. They point out that voting-age population estimates include adults who are ineligible to vote (such as convicted felons), and the estimates overlook eligible citizens living overseas. While estimates of the voting-eligible population are available at the state level, I was unable to find such estimates for individual counties, which provide the unit of analysis for the aggregate data analyzed here.

included whether the county was in a presidential battleground state (any state in which the margin of victory for the winning candidate was five percent or less), and whether the county was in a state with a competitive race for governor and/or the U.S. Senate (also using the threshold of a margin of victory of five percent or less). Drawing from U.S. Census projections for 2003, I included the percentage of the voting-age population in each county that was Hispanic or African-American to control for ethnicity and race. I controlled for age using the 2003 Census projection for the percentage of county residents age 65 and older, and I controlled for socioeconomic status by including the percentage of individuals who fell below the poverty line in each county in the 2000 Census.

I estimated a series of random intercept models to account for the likelihood that data from counties were correlated within each state (for further explanation of random intercept and other multilevel models, see Bryk and Raudenbush 1992, Luke 2004, Singer 1998).<sup>3</sup> The dependent variable in each model was voter turnout at the county level, with turnout calculated as the percentage of the voting-age population that voted in the 2004 election.

[Table 2 here]

Turning first to an analysis using the maximum identification requirements, those requirements had a small and negative effect on turnout in 2004, controlling for electoral context and demographic factors. Both contextual factors (whether the county was in a state that was a battleground state and whether that state had a competitive race for governor and/or U.S. Senate) increased voter turnout. As the percentage of senior citizens in the county increased, so did turnout. The percentage of African-Americans in the county had no effect, but the percentage of Hispanic adults exerted a negative effect on voter turnout, as did the percentage of individuals living below the poverty line.

I then sought to test the hypothesis that voter identification requirements dampen turnout among minorities and the poor, a claim voiced by some critics of the requirements. To test this idea I incorporated a series of interactions between the maximum voter identification requirements and the percentage of African-Americans, Hispanics, and poor individuals in the counties. The interaction involving African-Americans was not significant, but those involving Hispanics and poor individuals were significant.<sup>4</sup> Thus, voter identification requirements have a greater effect for Hispanics and those living below the poverty line. A chi-square test of the difference in the deviance for each model (represented by -2 log likelihood in Table 2), shows that the model with interactions provides a better fit to the data ( $p = 0.0003$ ).

Comment [01]

I also estimated the effects of the minimum voter identification requirements holding constant the effects of electoral context and the demographic variables.

<sup>3</sup> The data analyses provided evidence that there was, indeed, a clustering of data within each state. The intraclass correlation, bounded by 0 and 1, measures the variation between the states. A random intercept model using only the intercept as a predictor generated an intraclass correlation of .40, indicating considerable variation between the states.

<sup>4</sup> The interactions are labeled in Tables 2 and 3 as VID\*African-American, VID\*Hispanic, and VID\*Poverty. To calculate the effects of voter identification requirements for a specific group, one must add the estimates for voter identification, the group, and the interaction. Doing so for Hispanic adults results in an estimate of -0.36 [-0.04 (voter id) - 0.38 (Hispanic) + 0.06 (voter id X Hispanic)].

[Table 3 here]

The effects of the minimum requirements are not statistically significant ( $p = 0.15$ ). The battleground state variable continues to exert a positive influence on turnout, while the presence of a competitive race for governor and/or U.S. Senate has no statistically significant effect. As in the maximum identification requirements models, as the percentage of the population that is Hispanic or poor increases, turnout declines. As the percentage of elderly increases, so does turnout. The proportion of African-Americans in the population does not affect turnout. Adding interactive effects to the model results in a statistically significant and negative effect of minimum voter identification requirements on turnout. But one must interpret this estimate with caution. A chi-square test for the difference in fit between the two models shows no significant difference ( $p = 0.08$ ), and thus no improvement to the fit when adding the interactions between voter identification requirements and the percentages of the county that is Hispanic or lives below the poverty line.

Analysis of the aggregate data at the county level generates some support for the hypothesis that as the burden of voter identification requirements increases, turnout declines, at least in the case of the maximum requirements. This is particularly so for counties with concentrations of Hispanic residents or individuals who live below the poverty line. But aggregate data cannot fully capture the individual demographic factors that may figure into the decision to turn out to vote. For example, previous research has found that education is a powerful determinant of turnout (Wolfinger and Rosenstone 1980, but see also Nagler 1991). Married individuals also are more likely to vote than those who are not married (Alvarez and Ansolabehere 2002; Alvarez, Nagler and Wilson 2004; Fisher, Kenny, and Morton 1993). To fully explore the effects of voter identification requirements on turnout, it is important to examine individual-level data as well.

#### Individual-level analysis

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

One of the advantages of the CPS is the sheer size of the sample. The survey's Voting and Registration Supplement consisted of interviews, either by telephone or in person, with 96,452 respondents.<sup>5</sup> The large sample size permits analyses of smaller groups, such as Black or Hispanic voters or voters with less than a high school education. The analyses reported here are based on reports from self-described registered voters. I omitted those who said they were not

---

<sup>5</sup> It is important to note that the Census Bureau allows respondents to answer on behalf of themselves and others in the household during the interview. While proxy reporting of voter turnout raises the possibility of inaccurate reports concerning whether another member of the household voted, follow-up interviews with those for whom a proxy report had been given in the November 1984 CPS showed 99 percent agreement between the proxy report and the information given by the follow-up respondent (U.S. Census Bureau 1990).

registered to vote. I also excluded those who said they cast absentee ballots because the identification requirements for absentee ballots may differ from those required when one votes in person. In addition, I eliminated from the sample respondents who said they were not U.S. citizens.

It is important to note here that the voter turnout rate for the CPS sample is much higher than the turnout rates presented in the aggregate data analysis. The U.S. Census Bureau reported that 89 percent of registered voters in the CPS sample said they voted (U.S. Census Bureau 2005). Turnout among the voting-age population was 58 percent in 2004, according to the aggregate data analysis. The difference is a result of several factors. One factor consists of the different denominators in calculating the turnout rate – registered voters versus the much larger voting-age population. Also, previous research has shown that, generally speaking, some survey respondents overstate their incidence of voting. Researchers speculate that over-reports may be due to the social desirability that accompanies saying one has done his or her civic duty, or a reluctance to appear outside the mainstream of American political culture (U.S. Census Bureau 1990). It is also possible that voting is an indication of a level of civic engagement that predisposes voters to agree to complete surveys at a higher rate than non-voters (Flanigan and Zingale 2002). Hence the voter turnout rates reported in the CPS tend to be much higher than the actual turnout rate for the nation (Flanigan and Zingale 2002). Even with this caveat, however, the CPS serves as a widely accepted source of data on voting behavior.

In addition, I eliminated from the sample respondents who said they were not U.S. citizens.

The dependent variable in these analyses is whether a respondent said he or she voted in the November 2004 election.<sup>6</sup> In addition to the voter identification requirements, the models include two other state-level factors that might have influenced turnout in 2004: whether the state was considered a battleground state in the presidential election, and whether there was a competitive gubernatorial and/or U.S. Senate race in the state (see Alvarez and Ansolabehere 2002, Alvarez et al. 2004, and Kenny et al. 1993 for similar approaches). As in the aggregate analysis, the threshold that determined whether the state was a battleground state or had a competitive statewide race was a margin of victory of five percent or less. At the individual level, I controlled for gender, age in years, education, household income, and dummy variables representing whether a voter was Black/non-Hispanic, Hispanic, or another non-white race (with white/non-Hispanic voters as the omitted category for reference purposes). Drawing on previous research on voting behavior, I also controlled for whether an individual was employed, or at least a member of the workforce (as opposed to being a full-time student, a homemaker, or retired). Both employment and workforce membership have been shown to be positive predictors of turnout (see Mitchell and Wlezien 1995). Marital status, whether one is a native-born citizen and residential mobility also have emerged as significant predictors of turnout (Alvarez and

<sup>6</sup> The U.S. Census Bureau reported, based on the November 2004 CPS, that 89 percent of those who identified themselves as registered voters said they voted in 2004 (U.S. Census Bureau 2005). Previous research has shown that, generally speaking, some survey respondents overstate their incidence of voting. Researchers speculate that over-reports may be due to the social desirability that accompanies saying one has done his or her civic duty, or a reluctance to appear outside the mainstream of American political culture (U.S. Census Bureau 1990). It is also possible that voting is an indication of civic engagement that predisposes voters to agree to complete surveys at a higher rate than non-voters (Flanigan and Zingale 2002). Hence the voter turnout rates reported in the CPS tend to be up to 10 percentage points higher than the actual turnout rate for the nation (Flanigan and Zingale 2002). Even with this caveat, however, the CPS serves as a widely accepted source of data on voting behavior.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Ansolabehere 2002, Alvarez et al. 2004, Kenney et al. 1993, Wolfinger and Rosenstone 1980). I included in the model variables for whether a respondent was married (coded 1 if yes, 0 otherwise), and whether one was a native-born citizen (coded 1 if yes, 0 otherwise). I measured residential mobility by coding for whether the respondent had moved to a new address in the six months prior to the interview (coded 1 if yes, 0 otherwise).

## Results

The dependent variable is whether a respondent said he or she voted in the November 2004 election (coded 1 for yes, 0 for no). I estimated models using probit analysis, and estimated robust standard errors to control for correlated error terms for observations from within the same state.

[Table 4 here]

The two models in Table 4 use either the maximum or minimum voter identification requirements in each state. The two models generate virtually identical results. ~~Voter identification requirements exert a statistically significant negative effect on whether survey respondents said they had voted in 2004.~~ Of the other state factors, only the competitiveness of the presidential race had a significant effect on turnout. In terms of demographic influences, African-American voters were more likely than white voters to say they had cast a ballot, while those of other non-white races were less likely than white voters to say they had turned out. Hispanic voters were not statistically different from white voters in terms of reported turnout. Consistent with previous research, age, education, income, and marital status all were positive predictors of voting. Women also were more likely to say they voted than men. Those who had moved within six months before the interview were less likely to say they had voted.

While the probit models provide statistical support for the influence of voter identification requirements and other variables on turnout, probit coefficients do not lend themselves to intuitive interpretation. Another common approach in studies of election requirements is to examine how the predicted probability of voter turnout would vary as election requirements vary. I used the probit coefficients to calculate the predicted probability of voting at each level of voter identification requirements while holding all other independent variables in the models at their means.<sup>7</sup> I calculated the probabilities taking into account both maximum and minimum requirements, with photo identification serving as the most demanding of the maximum requirements and affidavits as the most demanding minimum requirement.

[Table 5 here]

Allowing the voter identification requirement to vary while holding constant all other variables in the model showed that the predicted probability of turnout ranged from 91.2 percent ~~0.912 if all voters had to state their names for stating one's name~~ to 88.7 percent ~~if all voters had to~~

<sup>7</sup> In the case of dichotomous independent variables, holding them at their mean amounted to holding them at the percentage of the sample that was coded 1 for the variable (Long 1997).

provide for photo identification under the maximum requirements. In other words, the probability of voting dropped with each level of voter identification requirement, with a total drop of .025, or 2.5 percent, across the five types of identification. When taking into account the minimum requirement for identification, the probability showed a similar decline, with a slightly larger total drop of 3.3 percent.

Among the key variables of interest in the debate over voter identification requirements are race, age, income, and education. Given the large sample size (54,973 registered voters), it was possible to break the sample into sub-samples along those demographic lines to explore variation in predicted probability by group. I disaggregated the sample by the variable of interest (such as race, for example), omitting that variable while I re-ran the probit model with the remaining predictors of voter turnout, including the voter identification requirements.<sup>8</sup> If the analysis showed that the voter identification requirements had a statistically significant effect on turnout, I used the probit coefficients from the model to calculate the predicted probability of voting for each group across the five requirements while holding the other variables in the model constant.

[Table 6 here]

Both the maximum and minimum identification requirements had negative and statistically significant effects for white voters. Allowing the requirements to vary from stating one's name to providing photo identification or an affidavit showed drops of 2.5 percent and 3.3 percent respectively in the predicted probability of voting. The identification requirements had no effect on the probability of African-Americans voting, but the minimum identification requirements had a comparatively sizable effect on voter turnout among Hispanics. The predicted probability of Hispanics voting ranged from 87 percent if stating one's name would be the required form of identification to 77.3 percent if a voter would have to provide an affidavit in order to vote, a difference of 9.7 percent.

The effects of voter identification requirements also varied by age, with the greatest variation occurring among voters ages 18 to 24.

[Table 7 here]

Voters in that age group had a predicted probability of 83.9 percent if when the maximum requirement would be to state one's name, and the probability drops 8.9 percentage points if voters would have to provide photo identification. The range was from 83.1 percent to 75.4 percent under the minimum requirements. The gap in probability narrowed in older age groups (4.8 percent for the maximum requirements and 5.8 percent for the minimum requirements for those ages 25 to 44; 1.8 percent for the minimum requirements for those ages 45 to 64, and 2.4 percent for the minimum requirements for those ages 65 and older).

**Comment [02]:** The turnout figures shown in the analysis of the aggregate data range of 57.3% turnout to 63.1% turnout. When using the individual data based on self-reports, the turnout figures approach 90%. I think a couple of sentences explaining the difference in the data between the two different analyses would be helpful here, even for readers comfortable with the statistical techniques used.

<sup>8</sup> See Nagler 1991 for a similar approach in analyzing the effects of registration closing dates broken down by education levels.

Variation also emerged along the lines of income, with the effects of voter identification requirements varying to a greater extent for voters in households below the poverty line compared to those living above the poverty line.

[Table 8 here]

While the maximum set of requirements did not have a statistically significant effect for voters living below the poverty line, the minimum set of requirements had a significant and negative effect. The probability of voting was 78.4 for poor voters if they would have to identify themselves by giving their name, and the probability declined to 73.1 if they would have to provide an affidavit attesting to their identity. Both the maximum and minimum sets of requirements had a significant and negative effect on voters living above the poverty line, but the difference in probability across the effects was narrower (2.3 percent for the maximum requirements and 3.1 percent for the minimum requirements).

The effects of voter identification requirements varied across education levels as well, with those lowest in education demonstrating the widest variation in probabilities as identification requirements ranged from least to most demanding.

[Table 9 here]

Registered voters who had less than a high school education had a 77.5 percent probability of voting if the maximum requirement would be stating one's name, and a 70.8 percent probability if they would have to provide photo identification under the maximum requirement, a difference of 6.7 percent. The difference from the lowest to the highest requirement among the minimum requirements was 7.4 percent. The difference in probabilities ranged from 3.3 percent for the maximum requirements to 4.5 percent for the minimum requirements for voters with a high school diploma. The range of effects of voter identification requirements was smaller among those with higher levels of education (and non-existent for one category — voters with some college education).

## Discussion and conclusion

The results presented here provide evidence that as the level of demand associated with voter identification requirements increases, voter turnout declines. This point emerged from both the aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements. The overall effect for all registered voters was fairly small, but even a slight decline in turnout has the potential to alter the outcome of a close election.

The effects of voter identification requirements were more pronounced for specific subgroups. Hispanic voters and the poor appeared to be less likely to vote if the level of required identification becomes more demanding, according to both the aggregate and the individual-level data. In the individual-level data, for Hispanic voters, the probability of voting dropped by 9.7 percent across the various levels of minimum identification requirements. Survey

<sup>9</sup> I coded respondents as being above or below the U.S. Census Bureau's 2004 poverty line based on respondents' reported annual household income and size of the household.

respondents living in poor households would be 5.3 percent less likely to vote as the requirements varied from stating one's name to attesting to one's identity in an affidavit.

Effects of voter requirements also varied with education. Registered voters who had not graduated from high school would be 6.7 percent less likely to say they voted if the maximum requirement is photo identification as opposed to stating one's name as the maximum requirements ranged from stating one's name to providing photo identification. When considering the minimum requirements, those with less than a high school education would be 7.4 percent less likely to say they voted if the requirement was an affidavit as opposed to stating one's name. Age was also a key factor, with voters ages 18 to 24 being 7.7 percent to 8.9 percent less likely to vote as the requirements ranged from stating one's name to providing a photo identification or affidavit.

Two concerns aired by critics of voter identification requirements were not borne out by the results. African-American voters did not appear to be affected by voter identification requirements, according to both the aggregate data and individual-level data analyses. Also, the elderly, while they would be slightly less likely to vote as requirements ranged from least to most demanding, would not necessarily be affected in the dramatic manner predicted by some opposed to photo identification requirements in particular.

In examining the effects of voter identification requirements on turnout, there is still much to learn. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If these requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements?<sup>10</sup> Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer these questions, pointing up the need for collection of additional data. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for poll workers, election judges to handle questions about, and potential disputes over, voter identification requirements.

<sup>10</sup> The individual-level data offer some insight here. If advance knowledge of the voter identification requirements were to dampen turnout, it is reasonable to expect that advance knowledge of those requirements also could discourage some individuals from registering to vote. I ran the same probit models using voter registration as the dependent variable (coded 1 if the respondent said he or she was registered, and 0 if the respondent was not registered). Neither the maximum nor minimum array of voter identification requirements had a statistically significant effect on the probability that a survey respondent was registered to vote.



### References

- Alvarez, R. Michael, and Stephen Ansolabehere. (2002). *California Votes: The Promise of Election Day Registration*. New York: Demos. Retrieved online Feb. 23, 2006 at [http://www.demos.org/pubs/california\\_votes.pdf](http://www.demos.org/pubs/california_votes.pdf)
- Alvarez, R. Michael, Jonathan Nagler, and Catherine H. Wilson. (2004). *Making Voting Easier: Election Day Registration in New York*. New York: Demos. Retrieved online Feb. 23, 2006 at <http://www.demos.org/pubs/EDR%20-%20NY%20report%20b&w%20-%20Aug%202004.pdf>
- Baxter, Tom, and Jim Galloway. (2005). Latinos weigh in on voter ID debate. *The Atlanta Journal-Constitution*, March 21, 2005, p. 2-B.
- Bryk, Anthony S., and Stephen W. Raudenbush. (1992). *Hierarchical Linear Models: Applications and Data Analysis Methods*. Newbury Park, CA: Sage Publications.
- Electionline.org. (2002). *Election Reform Briefing: Voter Identification*. Washington, D.C.: Electionline.org.

- Filer, John E., Lawrence W. Kenny, and Rebecca B. Morton. (1993). Redistribution, income, and voting. *American Journal of Political Science*, 37:63-87.
- Flanigan, William H., and Nancy H. Zingale. (2002). *Political Behavior of the American Electorate, 10<sup>th</sup> Ed.* Washington, DC: CQ Press.
- Jacobs, Sonji. (2005). Legislature '05: Black lawmakers plot path in photo ID fight. *The Atlanta Journal-Constitution*, March 24, 2005, p. 1-C.
- Long, J. Scott. (1997). *Regression Models for Categorical and Limited Dependent Variables.* Thousand Oaks, CA: Sage Publications.
- Luke, Douglas A. (2004). *Multilevel Modeling.* Thousand Oaks, CA: Sage Publications.
- McDonald, Michael P., and Samuel L. Popkin. (2001). The myth of the vanishing voter. *The American Political Science Review*, 85:963-974.
- Mitchell, Glenn E., and Christopher Wlezien. (1995) The impact of legal constraints on voter registration, turnout, and the composition of the American electorate. *Political Behavior*, 17:179-302.
- Nagler, Jonathan. (1991). The effect of registration laws and education on U.S. voter turnout. *The American Political Science Review*, 85:1393-1405.
- Singer, J.D. (1998). Using SAS PROC MIXED to fit multilevel models, hierarchical models, and linear growth models. *Journal of Educational and Behavioral Statistics*, 24:323-355
- U.S. Census Bureau. (1990). *Studies in the Measurement of Voter Turnout.* Retrieved online March 13, 2006, at <http://www.census.gov/population/socdemo/voting/p23-168>.
- U.S. Census Bureau. (2005). U.S. voter turnout up in 2004, Census Bureau Reports. News release issued May 26, 2005. Retrieved online March 13, 2006 at <http://www.census.gov/Press-Release/www/releases/archives/voting/004986.html>
- Wolfinger, Raymond E., and Steven J. Rosenstone. (1980). *Who Votes?* New Haven, CT: Yale University Press.
- Young, Virginia. (2006). ID foe says bill smacks of "Jim Crow" era. *The St. Louis Post-Dispatch*, Feb. 14, 2006, p. B-1.

**Table 1 – Variation in 2004 State Turnout Based on Voter Identification Requirements**

| <b>Maximum Requirement</b>                         |   | <b>Minimum Requirement</b>                         |   |
|--|---|--|---|
| <b>Voter Identification Required in the States</b> | <b>Mean Voter Turnout for States in that Category</b> | <b>Voter Identification Required in the States</b> | <b>Mean Voter Turnout for States in that Category</b> |
| <b>State Name</b>                                  | 63.1 %  | <b>State Name</b>                                  | 61.3 %  |
| <b>Sign Name</b>                                   | 58.6 %  | <b>Sign Name</b>                                   | 60.4 %  |
| <b>Match Signature</b>                             | 62.1 %  | <b>Match Signature</b>                             | 59.2 %  |
| <b>Provide Non-Photo ID</b>                        | 57.8 %  | <b>Provide Non-Photo ID</b>                        | 57.6 %  |
| <b>Provide Photo ID</b>                            | 57.3 %  | <b>Swear Affidavit</b>                             | 58.7 %  |
| <b>Average Turnout for All States</b>              | 59.6 %  |  |   |

**Table 2. Predictors of 2004 turnout at the county level taking into account maximum voter identification requirements**

| Variable                           | Basic Model             |                | Model with Interactions |                |
|------------------------------------|-------------------------|----------------|-------------------------|----------------|
|                                    | Unstandardized Estimate | Standard Error | Unstandardized Estimate | Standard Error |
| Intercept                          | 0.64                    | 0.01           | 0.70                    | 0.02           |
| Voter ID requirements              | -0.02**                 | 0.004          | -0.04**                 | 0.005          |
| Battleground State                 | 0.04*                   | 0.02           | 0.04*                   | 0.02           |
| Competitive Senate/Governor's Race | 0.04*                   | 0.02           | 0.04*                   | 0.02           |
| % Age 65 and Older                 | 0.50**                  | 0.03           | 0.51**                  | 0.03           |
| % African-American                 | 0.02                    | 0.01           | 0.04                    | 0.04           |
| % Hispanic                         | -0.17**                 | 0.01           | -0.38**                 | 0.05           |
| % Below poverty line               | -0.01**                 | 0.0002         | -0.01**                 | 0.001          |
| VID * African-American             | ----                    | ----           | -0.004                  | 0.01           |
| VID * Hispanic                     | ----                    | ----           | 0.06**                  | 0.01           |
| VID * Poverty                      | ----                    | ----           | 0.001**                 | 0.0002         |
| -2 Log Likelihood                  | -8234.5                 |                | -8253.5                 |                |

Coefficients are restricted maximum likelihood estimates. N = 3,112. \* p < .05 \*\* p < .01 (two-tailed tests)

**Table 3. Predictors of 2004 turnout at the county level taking into account minimum voter identification requirements**

| Variable                           | Basic Model             |                | Model with Interactions |                |
|------------------------------------|-------------------------|----------------|-------------------------|----------------|
|                                    | Unstandardized Estimate | Standard Error | Unstandardized Estimate | Standard Error |
| Intercept                          | 0.62                    | 0.01           | 0.66                    | 0.02           |
| Voter ID requirements              | -0.008                  | 0.005          | -0.02**                 | 0.006          |
| Battleground State                 | 0.04**                  | 0.01           | 0.04*                   | 0.02           |
| Competitive Senate/Governor's Race | 0.03                    | 0.02           | 0.03                    | 0.02           |
| % Age 65 and Older                 | 0.50**                  | 0.03           | 0.49**                  | 0.03           |
| % African-American                 | 0.02                    | 0.01           | 0.02                    | 0.03           |
| % Hispanic                         | -0.17**                 | 0.01           | -0.37**                 | 0.05           |
| % Below poverty line               | -0.01**                 | 0.0003         | -0.01**                 | 0.001          |
| VID * African-American             | ---                     | ---            | -0.004                  | 0.01           |
| VID * Hispanic                     | ---                     | ---            | 0.06**                  | 0.01           |
| VID * Poverty                      | ---                     | ---            | 0.001**                 | 0.0002         |
| -2 Log Likelihood                  | -8222.7                 |                | -8229.4                 |                |

Coefficients are restricted maximum likelihood estimates. N = 3,112. \* p < .05 \*\* p < .01 (two-tailed tests)

**Table 4. Probit model of voter turnout.**

| Variable                          | Maximum requirements    |                | Minimum requirements    |                |
|-----------------------------------|-------------------------|----------------|-------------------------|----------------|
|                                   | Unstandardized Estimate | Standard Error | Unstandardized Estimate | Standard error |
| <b>Voter ID requirements</b>      | -0.04*                  | 0.01           | -0.05**                 | 0.01           |
| <b>Hispanic</b>                   | -0.06                   | 0.05           | -0.05                   | 0.05           |
| <b>Black</b>                      | 0.22**                  | 0.04           | 0.22**                  | 0.04           |
| <b>Other race</b>                 | -0.23**                 | 0.04           | -0.23**                 | 0.04           |
| <b>Age in years</b>               | 0.01**                  | 0.001          | 0.01**                  | 0.001          |
| <b>Education</b>                  | 0.12**                  | 0.005          | 0.11**                  | 0.005          |
| <b>Household income</b>           | 0.03**                  | 0.003          | 0.03**                  | 0.003          |
| <b>Married</b>                    | 0.20**                  | 0.02           | 0.20**                  | 0.02           |
| <b>Female</b>                     | 0.09**                  | 0.01           | 0.09**                  | 0.01           |
| <b>Battleground state</b>         | 0.18**                  | 0.04           | 0.19**                  | 0.04           |
| <b>Competitive race</b>           | 0.05                    | 0.05           | 0.05                    | 0.05           |
| <b>Employed</b>                   | 0.05                    | 0.04           | 0.05                    | 0.04           |
| <b>Member of workforce</b>        | -0.04                   | 0.05           | -0.04                   | 0.05           |
| <b>Native-born citizen</b>        | 0.03                    | 0.04           | 0.04                    | 0.05           |
| <b>Moved within past 6 months</b> | -0.27**                 | 0.03           | -0.27**                 | 0.03           |
| <b>Constant</b>                   | -4.48**                 | 0.20           | -4.46**                 | 0.20           |
| <b>Pseudo-R-Squared</b>           | 0.09                    |                | 0.09                    |                |

Notes:

N = 54,973 registered voters

p &lt; .05\*\* p &lt; .01\*\* (two-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

| <b>Table 5. Predicted probability of voter turnout – full model</b>   |                            |                            |
|---|----------------------------|----------------------------|
|   | <b>Maximum requirement</b> | <b>Minimum requirement</b> |
| <b>State name</b>   | 0.912                      | 0.911                      |
| <b>Sign name</b>  | 0.906                      | 0.903                      |
| <b>Match signature</b>  | 0.900                      | 0.895                      |
| <b>Non-photo ID</b>   | 0.894                      | 0.887                      |
| <b>Photo ID</b>   | 0.887                      | ----                       |
| <b>Affidavit</b>  | ----                       | 0.878                      |
| <b>Total difference from lowest to highest</b>  | 0.025                      | 0.033                      |
| <b>N</b>  | 54,973                     |                            |
| <p>Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant.</p> <p>Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.</p> |                            |                            |

| <b>Table 6. Predicted probability of voter turnout – White and Hispanic voters</b>  |                            |                            |                            |
|---|----------------------------|----------------------------|----------------------------|
|   | <b>White voters</b>        |                            | <b>Hispanic voters</b>     |
|   | <b>Maximum requirement</b> | <b>Minimum requirement</b> | <b>Minimum requirement</b> |
| <b>State name</b>   | 0.920                      | 0.922                      | 0.870                      |
| <b>Sign name</b>  | 0.915                      | 0.915                      | 0.849                      |
| <b>Match signature</b>  | 0.909                      | 0.907                      | 0.826                      |
| <b>Non-photo ID</b>   | 0.902                      | 0.899                      | 0.800                      |
| <b>Photo ID</b>   | 0.895                      | ----                       | ----                       |
| <b>Affidavit</b>  | ----                       | 0.890                      | 0.773                      |
| <b>Total difference from lowest to highest</b>  | 0.025                      | 0.032                      | 0.097                      |
| <b>N</b>  | 44,760                     |                            | 2,860                      |
| <p>Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for Hispanic voters. Maximum and minimum voter identification requirements were not a significant predictor for African-American voters.</p> <p>Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.</p> |                            |                            |                            |



|   | 18 - 24              |                      | 25 - 44              |                      | 45 - 64              | 65 and older         |
|---|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
|   | Maximum requirements | Minimum requirements | Maximum requirements | Minimum requirements | Minimum requirements | Minimum requirements |
| State name  | 0.839                | 0.831                | 0.831                | 0.831                | 0.936                | 0.916                |
| Sign name   | 0.819                | 0.814                | 0.820                | 0.817                | 0.932                | 0.910                |
| Match signature   | 0.797                | 0.759                | 0.808                | 0.803                | 0.927                | 0.904                |
| Non-photo ID  | 0.774                | 0.775                | 0.796                | 0.788                | 0.923                | 0.898                |
| Photo ID  | 0.750                | ----                 | 0.783                | ----                 | ----                 | ----                 |
| Affidavit   | ----                 | 0.754                | ----                 | 0.773                | 0.918                | 0.892                |
| Total difference – lowest to highest  | 0.089                | 0.077                | 0.048                | 0.058                | 0.018                | 0.024                |
| N   | 5,065                |                      | 20,066               |                      | 20,758               | 9,084                |
| <p>Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for voters ages 45 to 64 and 65 and older.</p> <p>Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.</p> |                      |                      |                      |                      |                      |                      |

**Comment:** Can you add something to this table to clarify the difference between the very high turnout figures derived from the CPS respondents self-reports and actual measures of turnout which tend to be in the 50% - 65% range.

| <b>Table 8. Predicted probability of voter turnout – Voters above and below the poverty line</b>   |                                      |                            |                                      |
|--|--------------------------------------|----------------------------|--------------------------------------|
|  | <b>Voters above the poverty line</b> |                            | <b>Voters below the poverty line</b> |
|  | <b>Maximum requirement</b>           | <b>Minimum requirement</b> | <b>Minimum requirement</b>           |
| <b>State name</b>  | 0.920                                | 0.922                      | 0.784                                |
| <b>Sign name</b>   | 0.915                                | 0.915                      | 0.772                                |
| <b>Match signature</b>   | 0.909                                | 0.907                      | 0.758                                |
| <b>Non-photo ID</b>  | 0.903                                | 0.899                      | 0.745                                |
| <b>Photo ID</b>  | 0.897                                | ---                        | ---                                  |
| <b>Affidavit</b>   | ---                                  | 0.891                      | 0.731                                |
| <b>Total difference from lowest to highest</b>   | 0.023                                | 0.031                      | 0.053                                |
| <b>N</b>   | 49,935                               |                            | 5,038                                |
| <p>Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for voters who were below the poverty line.</p> <p>Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.</p> |                                      |                            |                                      |

**Table 9. Predicted probability of voter turnout – By education**

|  | Less than high school |                     | High school         |                     | College             |                     | Graduate school     |                     |
|--|-----------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
|  | Maximum requirement   | Minimum requirement | Maximum requirement | Minimum requirement | Maximum requirement | Minimum requirement | Maximum requirement | Minimum requirement |
| <b>State name</b>                            | 0.775                 | 0.779               | 0.866               | 0.869               | 0.960               | 0.959               | 0.977               | 0.979               |
| <b>Sign name</b>                             | 0.759                 | 0.762               | 0.858               | 0.859               | 0.956               | 0.954               | 0.973               | 0.973               |
| <b>Match signature</b>                       | 0.743                 | 0.743               | 0.850               | 0.848               | 0.951               | 0.950               | 0.968               | 0.967               |
| <b>Non-photo ID</b>                          | 0.725                 | 0.724               | 0.842               | 0.836               | 0.945               | 0.945               | 0.963               | 0.959               |
| <b>Photo ID</b>                              | 0.708                 | ----                | 0.833               | ----                | 0.939               | ----                | 0.957               | ----                |
| <b>Affidavit</b>                             | -----                 | 0.705               | ----                | 0.824               | ----                | 0.940               | -----               | 0.950               |
| <b>Total difference -- lowest to highest</b> | 0.067                 | 0.074               | 0.033               | 0.045               | 0.021               | 0.019               | 0.020               | 0.029               |
| <b>N</b>                                     | 4,903                 |                     | 16,361              |                     | 11,017              |                     | 5,739               |                     |

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum and minimum voter identification requirements were not a significant predictor of voting for those with some college education.  
 Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.



Gracia Hillman /EAC/GOV

10/23/2006 09:13 PM

To "Paul DeGregorio" <pdegregorio@eac.gov>, Thomas R. Wilkey/EAC/GOV@EAC, "Donetta Davidson" <Ddavidson@eac.gov>

cc Juliet E. Thompson/EAC/GOV@EAC, "Jeannie Layson" <jlayson@eac.gov>

bcc

Subject The Fraud "Report"

I am recommending that we use Thursday's meeting, a public forum, to be on the record about this report.

My thought is that Tom should report the matter to us in his report. New Business?? Just stating the facts as they exist, including the nature of the study, how we have handled the numerous requests and inquiries that we have received, etc.

Please let me know what you think about this suggestion. Thanks.

-----  
Sent from my BlackBerry Wireless Handheld

008395



"Tom O'Neill"

07/26/2005 07:44 PM

To "Kristin Smith" <KSmith@caliber.com>,  
jthompson@eac.gov  
cc  
bcc  
Subject O'Neill Powerpoint for EAC

Kristin and Julie,

Attached is the Power Point I will use at Thursday's meeting. Thanks for you assistance in making arrangement to distribute and project the presentation.

Tom O'Neill

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

**From:** Kristin Smith [mailto:KSmith@caliber.com]

**Sent:** Tuesday, July 26, 2005 12:12 PM

**To:** [REDACTED]

**Subject:** Powerpoint for EAC

Mr. O'Neill,

When you have the final version of the powerpoint presentation you are giving, could you please email it also to [cbarthle@caliber.com](mailto:cbarthle@caliber.com). We will like to distribute it to the Commissioners.

Thank you,

Kristin Smith



Briefinf72805.ppt

008396

**Briefing for**

**July 28, 2005**

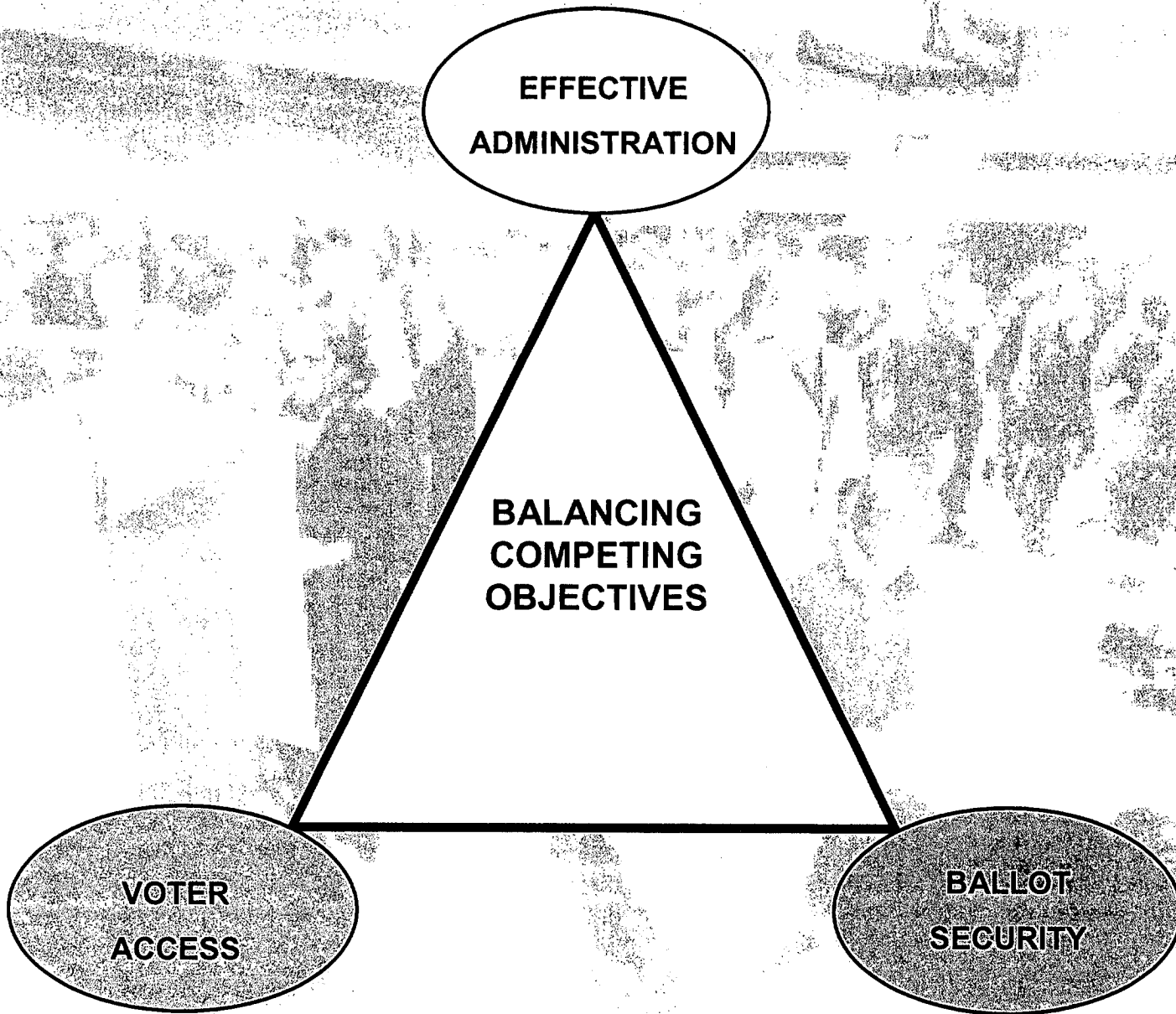
008397

Miss Phai Young

Clifton Hall College



008398





# **Key Questions**

1. How did the states prepare for the onset of the HAVA provisional ballot requirement?

**Review of statutes and regulations**

**State narratives**

2. How did this vary between states that had previously had some form of provisional ballot and those that did not?

**Survey of local election officials**

**State narratives**

3. How did litigation affect implementation?

**Survey of case law and regulations**

**State narratives**

4. How effective was provisional voting in enfranchising qualified voters?

**Survey of litigation**

**State narratives**

**Survey of local election officials**

5. Did states and local processes provide for consistent counting of provisional ballots?

**State narratives**

**Survey of litigation**

**Survey of local election officials**

6. Did local election officials have a clear understanding of how to implement provisional voting?

**Survey of local election officials**

**State narratives**

## **OUTREACH**

**American Enterprise Institute**

**Brennan Center for Justice at NYU School of Law**

**Center for Digital Government**

**The Century Foundation**

**The Constitution Project**

**DEMOS-USA**

**The Election Center**

**Election Reform Information Project**

**Leadership Conference on Civil Rights**

**League of Women Voters**

**National Association of Secretaries of State National Association  
of State Election Directors**

**People for the American Way**

**+ Other organizations after consultation with U.S.E.A.C.**

# **PROVISIONAL VOTING**

## **Key Research Deliverables**

- 1. Summary of case law on Provisional Voting**
- 2. Compendium of states' legislation, regulations, and litigation.**
- 3. Analysis of how provisional voting was implemented around the country, which will be critiqued by Peer Review Group.**
- 4. Description of alternatives to existing practices and procedures**

# **VOTER IDENTIFICATION**

## **Key Research Deliverables**

- 1. Indexed database of major articles on Voter ID Requirements**
- 2. Summary of case law**
- 3. Compendium of states' legislation, procedures, and litigation.**
- 4. Analysis of voter participation and vote fraud under various Voter ID regimes to be reviewed by Peer Review Group.**
- 5. Alternative approaches**

## **Hearings on Guidance Documents**

**Consult with EAC to identify locations and venues**

**Hearings to take place 30 days after publication**

**Deliverables**

**Transcript**

**Summary and analysis of comments**

**Recommend revisions to GD based on hearing results and discuss with EAC**

**Deliver final Guidance Document to EAC**

# Project Status

## PROVISIONAL VOTING

**Task 3.4: Collect and analyze state legislation, administrative procedures, and court cases. Understand the disparities and similarities of how provisional voting was implemented around the country.**

---

- Initial legal, regulatory, and case law research for 44 states, is complete. Completion for all states by August 1.
- Compiling narrative description of experience in each state. Completion in first week in August.
- Surveying 400 county election officials actual practice in administering provisional voting. Completion mid-August.



# Project Status

## VOTER IDENTIFICATION

### Task 3.10: Legislation, regulations, and litigation

- Initial research complete (and statutes compiled) for 45 states. Questions answered include *"Who is required to present ID"*, *"Types of ID required"*, and *"Consequences of having no ID"*. Complete mid-September.
- Collecting information on the voter id debate in the states to monitor possible secondary effects of HAVA and to suggest alternative approaches. Complete first week of August.
- Statistical analysis to gauge the effect of a state's voter ID regime on turnout, especially turnout by minority and elderly voters. Complete late August.

**Briefing for**

**July 28, 2005**

008409



"Tom O'Neill"  
[REDACTED]

07/26/2005 10:39 AM

To jthompson@eac.gov

cc

bcc

Subject Pasadena Meeting

History:

 This message has been replied to.

Julie: My plane arrives at LAX at about 5, and I should arrive in Pasadena after 7. I don't think we could meet until about 8 p.m. Does that fit your plans? I am staying at the Huntington, about a mile from the Cal Tech campus. You can always reach me by cell phone [REDACTED]

Dan and I have divided up our presentation this way: I will describe the overall research effort and the major questions to which we are seeking answers. I'll also outline the methods we are using to develop those answers and report on the current status of the work. Dan will describe in greater detail Moritz's research and compilation of the statutes, regulation and case law and describe some of the key matters of substance involved in developing our report.

The outline of my talk on Power Point is not yet complete, but the unfinished version is attached to give you a clearer impression of the presentation. I assume the meeting room will have a projector and screen. If that is not the case let me know and I'll print the Power Point slides and hand them out to the Commissioners.

Tom O'Neill

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]

**Sent:** Tuesday, July 26, 2005 8:51 AM

**To:** [REDACTED]

**Subject:** Progress Report

Tom,

I'm so sorry for taking so long to get back to you. I am hoping that you have moved forward with your update presentation. My general thoughts are very simple, just a presentation on the research that you have done thus far, the plans that you have made for additional research, but not to include any preliminary conclusions at this point.

Is there a possibility that I could get a copy of what you guys are thinking of presenting prior to the meeting? I am sure that the Commissioners will want it in advance to prepare questions for you and Dan.

008410

Also, you and I had planned to get together on Wednesday. What time are you arriving? I plan to go over to the university and view the room just after I arrive (around 1:00). Would you have some time around 3:30 or 4:00?

Juliet E. Thompson  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005



(202) 566-3100 Briefing72805.ppt



"Tom O'Neill"  
[Redacted]  
07/20/2005 02:45 PM

To jthompson@eac.gov  
cc  
bcc  
Subject July 28 Meeting

History: This message has been replied to.

Julie:

I reached Dan Tokaji of Moritz, and he is happy to join me in making a presentation at the Pasadena meeting. As you develop further thoughts on what you would like us to cover, we'd be delighted to hear them.

Tom O'Neill



"Tom O'Neill"  
[Redacted]  
07/15/2005 10:01 AM

To jthompson@eac.gov  
cc klyndyson@eac.gov  
bcc

Subject July 28 hearing

History:  This message has been replied to.

Julie:

Can you fill me in on the current status of your planning for the hearing in Pasadena. Have invitations gone out to panelists? Are there tasks you would like us to undertake in preparation for the meeting?

Thanks,

Tom O'Neill

008413



"Tom O'Neill"

07/11/2005 11:53 AM

To jthompson@eac.gov

cc

bcc

Subject RE: Status of agenda recommendations

Julie: The great strength that Doug Chapin would bring (as opposed to a historian) is that he could put the presentations from Mississippi and Wisconsin in national perspective. The debate over voter id, as you know, is taking place across the country. The terms of the debate everywhere are strikingly similar: voter access versus ballot security. Chapin could provide the context that would make it possible for the commissioners to appreciate the presentations of the two legislators as examples of a broader, national debate

A historian, as opposed to Chapin would provide a different sort of context. The historian would describe as a step in the evolution of the franchise.

The panel would be stronger if the two legislators' stories were put in context. The 10 – 15 minutes spent on context, whether current or historical, would, I think, be well worth it.

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]

**Sent:** Monday, July 11, 2005 9:24 AM

**To:** [REDACTED]

**Subject:** Re: Status of agenda recommendations

Tom,

What are your thoughts about just having the legislators and not the historian. I am just thinking time-wise, we may be a bit tight. Do you think we can get the same sense of how these debates have come up and been resolved through the legislators?

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

008414

"Tom O'Neill" [REDACTED]

07/08/2005 02:52 PM

Tojthompson@eac.gov

cc

SubjectRe: Status of agenda recommendations

Julie:

I have made a little progress on the search for a scholar of the history of voter registration and voter ID to present the historical perspective in the opening panel at the July meeting. But none of the 3 suggestions below are obviously preferable to Doug Chapin.

Three possibilities are:

Dayna L. Cunningham, author of "*Who Are to Be the Electors? A Reflection on the History of Voter Registration in the United States*," 9 Yale L. & Pol'y Rev. 370 (1991). She was Assistant Counsel in the Voting Rights Project of the NAACP Legal Defense and Educational Fund at the time she wrote the article. She was active as a pro bono lawyer on election issues in Florida in 2004, and is now with Lord-Ross Philanthropic Advisors in Boston. [dcunningham@lordross.org](mailto:dcunningham@lordross.org) (914) 907-8895

R. Michael Alvarez, author of "Voter Registration," among other articles on registration issues. Currently at Caltech. <http://www.hss.caltech.edu/~rma/home.html>. He is a candidate for our Peer Review Group. My sense is that his experience and interests are more in current issues than in the history of the development of voter registration and voter ID.

Alexander Keyssar, author of "The Right to Vote: The Contested History of Democracy in the United States." Currently at the Kennedy School of Government, but on leave. [http://ksgfaculty.harvard.edu/alexander\\_keyssar](http://ksgfaculty.harvard.edu/alexander_keyssar)  
Let me know if you'd like me to explore further or explore the issue with one or more of these possible presenters.

008415





"Tom O'Neill"

07/08/2005 02:52 PM

To jthompson@eac.gov

cc

bcc

Subject Re: Status of agenda recommendations

History

✉ This message has been replied to

Julie:

I have made a little progress on the search for a scholar of the history of voter registration and voter ID to present the historical perspective in the opening panel at the July meeting. But none of the 3 suggestions below are obviously preferable to Doug Chapin.

Three possibilities are:

Dayna L. Cunningham, author of "*Who Are to Be the Electors? A Reflection on the History of Voter Registration in the United States*," 9 Yale L. & Pol'y Rev. 370 (1991). She was Assistant Counsel in the Voting Rights Project of the NAACP Legal Defense and Educational Fund at the time she wrote the article. She was active as a pro bono lawyer on election issues in Florida in 2004, and is now with Lord-Ross Philanthropic Advisors in Boston. [dcunnigham@lordross.org](mailto:dcunnigham@lordross.org) (914) 907-8895

R. Michael Alvarez, author of "Voter Registration," among other articles on registration issues. Currently at Caltech. <http://www.hss.caltech.edu/~rma/home.html>. He is a candidate for our Peer Review Group. My sense is that his experience and interests are more in current issues than in the history of the development of voter registration and voter ID.

Alexander Keyssar, author of "The Right to Vote: The Contested History of Democracy in the United States." Currently at the Kennedy School of Government, but on leave.

[http://ksgfaculty.harvard.edu/alexander\\_keyssar](http://ksgfaculty.harvard.edu/alexander_keyssar)

Let me know if you'd like me to explore further or explore the issue with one or more of these possible presenters.

008416



"Tom O'Neill"  
[Redacted]  
07/06/2005 04:51 PM

To: jthompson@eac.gov  
cc  
bcc  
Subject: Re: Status of agenda recommendations

History: This message has been replied to and forwarded.

Julie:

We agree with your conception of the hearing as including 3 panels.

Panel 1 on the History of Voter ID and Experiences Adopting Voter ID Requirements.

We are looking for a scholar in this area as an alternative to Doug Chapin to speak to the historical perspective. The other panelists should represent Mississippi and Wisconsin, a pro voter ID speaker from one state and an opponent from the other. The choices, more detail on them is contained in my earlier memo on this topic, are:

Mississippi: Rep William Denny (pro) or Rep. Walter Robinson (con)  
Wisconsin: Sen. Joe Leibhan (pro) or Sen. Judith Robinson (con)

Panel 2 on Voter ID and HAVA.

Your suggestions ere (Andino of SC and Thompson of TN) look fine.

Panel 3 on Voter ID, Turnout and HACA

Minnite of Barnard and Samples of Cato.

On the subject of this hearing: in view of the change from Minneapolis to Pasadena, we would like to know if the commitment to the date and place is now certain enough that we should buy plane tickets. Affecting the travel decision will be the availability of a webcast of the event. Do you plan to offer that, as you did at the Columbus hearing?

Tom

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

**From:** [jthompson@eac.gov](mailto:jthompson@eac.gov)

**To:** [Redacted]

**Sent:** Wednesday, July 06, 2005 4:00 PM

**Subject:** Status of agenda recommendations

tom,

We are looking at the question that you posed on provisional voting states. That should be completed soon.

How are we coming on the recommendations for the July 28 meeting? I will need to get the commissioners to approve and get the invitations issued as soon as possible.

Juliet E. Thompson

008417

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

008418



"Tom O'Neill"  
[REDACTED]  
07/01/2005 02:00 PM

To jthompson@eac.gov  
cc  
bcc  
Subject Provisional Voting in the states

History  This message has been replied to and forwarded.

Julie: Nice to see you in New York yesterday. Here is the list of states categorized by whether provisional voting was new to them post HAVA or whether they had had some form or provisional ballot pre-HAVA. As we discussed, this list will be used in sampling and analyzing the survey of local election officials is that is about to begin. The EAC's review of the list would be helpful in ensuring that we have assigned states to the correct category.

Have a good 4th.

Tom

OLD PROVISIONAL VOTING STATES (27)

AK, AZ, AR, CA, DC, FL, IA, KS, MD, NM, NY, NC, OR, RI, SC,  
VA, WA, WV, CO, NE, NJ, OH, AL, KY, MI, MS, TX

NEW PROVISIONAL VOTING STATES (17)

CT, DE, GA, HI, IL, IN, LA, MA, MO, MT, NV, OK, PA, SD, TN, UT, VT

-----



"Tom O'Neill"  
[REDACTED]  
06/29/2005 11:14 AM

To jthompson@eac.gov  
cc  
bcc  
Subject RE: July Meeting - California

Julie,

I'll study your suggested revisions to the panels with and discuss them with my colleagues.

The last I heard the date and place for the hearing was July 26 in Minneapolis? Is it now scheduled for July 28 in California?

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]

**Sent:** Wednesday, June 29, 2005 10:40 AM

**To:** [REDACTED]

**Subject:** July Meeting - California

I have reviewed the agenda that your group proposed with regard to the meeting on Voter ID. The attached are some suggestions on a few changes. We have had Chris Thomas and Secretary Cortes speak at recent meetings of EAC. So, I have included a few other ideas of states that have and those that do have ID requirements. Please take a look at this. Perhaps we can chat about it on Tuesday, July 5.

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

008420



"Tom O'Neill"  
[REDACTED]

06/08/2005 05:10 PM

To jthompson@eac.gov

cc

bcc

Subject June 30 Panel

Julie:

I am leaving my computer now to drive to a dinner meeting. If you have questions, concerns, or comments about the recommendation please call me on my cell phone [REDACTED] I'll check e mail next around 11 p.m.

Tom

008421



"Tom O'Neill"

06/08/2005 04:44 PM

To jthompson@eac.gov

cc

bcc

Subject June 30 Panel --comment OSU

Julie:

I have now heard from Ned Foley at OSU. He makes a useful observation and suggestion.

Ned cautions that there just might be residual animosity between the two Mississippi legislators that would become apparent at the hearing. (I have not talked to any of the panelists recommended, but by Mississippi informant, a legislative staffer, said that the debate while emotional cleared the air and left everyone feeling better.)

Ned suggests that since Wisconsin Indiana, Arizona and New Mexico have experienced much the same debate, the panel could be structured to include a "pro" view from one state, say Mississippi, and the "con" view from another one of the other four. I can't offer you a specific legislator from one of those other states at this minute, but if you elect to take that approach, finding one should not be difficult.

Tom

008422



"Tom O'Neill"  
[REDACTED]  
06/08/2005 04:07 PM

To jthompson@eac.gov  
cc  
bcc  
Subject RE: Mississippi Legislators

Julie:

Please regard the attached recommendation as an advance copy of our recommendation. It represents the conclusions the Eagleton team reached yesterday, but our colleagues at Moritz College of Law received it only today and have not yet commented. They usually have insightful comments, so I may be back to you with a revision.  
Please let me know if the presentation is adequate for your needs and the commission's.

Tom

-----Original Message-----  
**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]  
**Sent:** Wednesday, June 08, 2005 3:34 PM  
**To:** [REDACTED]  
**Subject:** RE: Mississippi Legislators

Just a gentle reminder that I need to get the names of the panelists to be able to present to the commissioners tomorrow morning.

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

"Tom O'Neill" [REDACTED]  
06/06/2005 07:47 PM

To jthompson@eac.gov  
cc  
Subject RE: Mississippi Legislators

008423



Julie:

I should have a recommendation to you for the panels on Wednesday. Your recommendation of John Samples strikes me as very well chosen. He has opined on the topic of voter id and turnout for USA today --and he has a PhD from Rutgers.

Just to provide a preview of what I think our recommendation will be, I now envision two panels. The first would look at Voter ID requirements within the 4 corners of HAVA through presentations by election directors from two contrasting states (probably Michigan and Pennsylvania), perhaps supplemented by an analyst who can put the stories of these two states in a broader context.

The second panel would broaden the scope to include voter id issues that go beyond first-time mail registrants. This second panel would explore the debate between those who argue for tighter ID requirements to prevent fraud and those who caution that tighter requirements will depress turnout, especially among older voters, African Americans and immigrants. This panel could be composed of two Mississippi legislators (not the two we discussed a few days ago) and two analysts, possibly Samples and Lorraine Minnite, the Barnard political scientist who was the lead researcher on the Demos election fraud study (and who has a professional interest in immigrant voting patterns).

The Eagleton team is meeting on this, among other topics, tomorrow morning. I'll then consult with our Moritz colleagues and make a few phone calls to identify the best candidates from Mississippi and put together a recommendation for you.

Your reaction to this plan as it takes shape would be welcome.

Tom



JUNE 30 HEARING RECOMMENDATIONS.doc

008424



"Tom O'Neill"

06/06/2005 07:47 PM

To jthompson@eac.gov

cc

bcc

Subject RE: Mississippi Legislators

History

 This message has been replied to

Julie:

I should have a recommendation to you for the panels on Wednesday. Your recommendation of John Samples strikes me as very well chosen. He has opined on the topic of voter id and turnout for USA today --and he has a PhD from Rutgers.

Just to provide a preview of what I think our recommendation will be, I now envision two panels. The first would look at Voter ID requirements within the 4 corners of HAVA through presentations by election directors from two contrasting states (probably Michigan and Pennsylvania), perhaps supplemented by an analyst who can put the stories of these two states in a broader context.

The second panel would broaden the scope to include voter id issues that go beyond first-time mail registrants. This second panel would explore the debate between those who argue for tighter ID requirements to prevent fraud and those who caution that tighter requirements will depress turnout, especially among older voters, African Americans and immigrants. This panel could be composed of two Mississippi legislators (not the two we discussed a few days ago) and two analysts, possibly Samples and Lorraine Minnite, the Barnard political scientist who was the lead researcher on the Demos election fraud study (and who has a professional interest in immigrant voting patterns).

The Eagleton team is meeting on this, among other topics, tomorrow morning. I'll then consult with our Moritz colleagues and make a few phone calls to identify the best candidates from Mississippi and put together a recommendation for you.

Your reaction to this plan as it takes shape would be welcome.

Tom

008425



"Tom O'Neill"  
[Redacted]  
06/06/2005 11:58 AM

To jthompson@eac.gov  
cc  
bcc  
Subject RE: Mississippi Legislators

History: This message has been replied to

Thank you, Julie.

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]  
**Sent:** Monday, June 06, 2005 11:16 AM  
**To:** [Redacted]  
**Subject:** RE: Mississippi Legislators

Some thoughts on a speaker (conservative) from the academic sector

Cameron Quinn - IFES - she was with the Commonwealth of Virginia as the State Board of Elections Director before going to IFES and has been appointed as an academic advisor to the Carter-Baker Commission

John Samples - Cato Institute - also an academic advisor to the Carter-Baker Commission

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

"Tom O'Neill" [Redacted]

06/03/2005 08:49 AM

To jthompson@eac.gov  
cc  
Subject RE: Mississippi Legislators

008426

Thanks, Julie.

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]

**Sent:** Friday, June 03, 2005 8:32 AM

**To:** [REDACTED]

**Subject:** Re: Mississippi Legislators

In light of information that Mr. Flemming may be an opponent to Senator Lott, it would not be wise for us to include Mr. Flemming on the panel. I am sure that there is another state rep or senator that would have the same opinion that would be able to be substituted.

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

008427



"Tom O'Neill"  
[REDACTED]  
06/03/2005 08:49 AM

To jthompson@eac.gov  
cc  
bcc

Subject RE: Mississippi Legislators

History

 This message has been replied to

Thanks, Julie.

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]

**Sent:** Friday, June 03, 2005 8:32 AM

**To:** [REDACTED]

**Subject:** Re: Mississippi Legislators

In light of information that Mr. Flemming may be an opponent to Senator Lott, it would not be wise for us to include Mr. Flemming on the panel. I am sure that there is another state rep or senator that would have the same opinion that would be able to be substituted.

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

008428



"Tom O'Neill"  
[Redacted]  
06/02/2005 05:58 PM

To jthompson@eac.gov  
cc  
bcc  
Subject Mississippi Legislators

History  This message has been replied to.

Julie:

I neglected to attach the promised article about the 2 Mississippi legislators. Here it is.

Tom



Voter ID exposes raw emotions in House.doc

Voter ID exposes raw emotions in House  
Lawmakers represent two Mississippis  
By: Emily Wagster Pettus, Associated Press 03/23/2004

JACKSON - Reps. Erik Fleming and Philip Gunn both live in Clinton and are close to the same age. Their state House districts twist and weave around one another in the metro Jackson suburbs.

But in some ways, the two state lawmakers represent two different Mississippis.

Fleming, 39, is a black Democrat. Gunn, 41, is a white Republican.

The day after an emotionally wrenching House debate over voter ID, Fleming and Gunn stayed at the Capitol to quietly discuss one of Mississippi's most racially divisive political issues: Should people be required to prove their identity at the polls?

Like many white legislators, Gunn supports voter identification. He says requiring a driver's license or other ID would prevent people from voting in others' names.

"It is not a racial issue for the younger members - the younger white members. There are legitimate problems with our process, and voter ID is one way to fix them," said Gunn, who was elected last year only after some precincts were revoted in a disputed Republican primary.

Like most black lawmakers, Fleming opposes voter ID. He points to Mississippi's history of racial strife designed to keep blacks from voting - from poll taxes to shootings.

"From the black perspective, it's all about inclusion. From the white perspective, it's all about fairness," Fleming said.

Last Thursday, a House debate on an affidavit-voting bill stretched more than three hours after Republican lawmakers offered voter ID amendments.

An amendment by Rep. Bill Denny, R-Jackson, would have required a voter to show anything from a driver's license to a pilot's license before casting an affidavit ballot. It was adopted 77-45, with solid opposition from blacks and a few whites and support from white Republicans and many white Democrats, including Speaker Billy McCoy.

That prompted speeches from more than three dozen of the 122 House members, for and against ID.

Several black lawmakers, including Rep. Tyrone Ellis, D-Starkville, told personal stories of being threatened for trying to exercise their constitutional rights.

"You get shot at, you get burned out, then someone puts this before you and you tell me

how you vote," Ellis said, his voice rising.

The Mississippi House is generally divided into three factions - white Republicans, black Democrats and rural white Democrats. During Thursday's debate, lawmakers say it became clear that the voter ID disagreement threatened the coalition of black and rural white Democrats that had brought McCoy into the speakership in January.

White Democrats who had voted for the ID amendment started going to the podium to urge defeat of the bill. Among them was Rep. Bo Eaton, D-Taylorsville.

"I feel it was an issue that was going to divide the House, when we don't even have a balanced budget yet," Eaton said the next day.

Rep. Steve Holland, D-Plantersville, was on the verge of tears as he said he was switching his vote - from supporting ID to opposing passage of the bill.

The bill was defeated 47-72.

On Friday morning after most of their colleagues had left for the weekend, Fleming and Gunn sat on the last row of the House chamber and chatted about ID. They wondered aloud how they could find a solution palatable not only to their constituents but to the diverse state as a whole.

Gunn wondered if the U.S. Justice Department - which oversees changes in Mississippi's voting system to ensure fairness to minorities - would accept a bill requiring ID for younger people but not for older ones who had lived through the turbulent civil rights era.

"We have to respect the feelings of the older members of the Black Caucus," Gunn said. "You can't ask them to forget what they went through. You can't ask them to ignore it."

Fleming said he was encouraged when a white lawmaker walked back to his desk during the debate and said: "I know where you're coming from."

Fleming said he's "very optimistic" that lawmakers eventually will find a solution to address concerns about voting integrity and inclusion. A voter ID bill has passed the Senate and awaits consideration in a House committee - but it's not clear whether that bill will make it to the full House.

Gunn said last week's House debate gave members a chance to express their feelings without accusing each other of being stupid.

Fleming agreed and added: "I think this was a discussion or a come-to-Jesus meeting that was 40 years in the making."



Copyright 2004 Associated Press. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed

Erik Fleming (D)

601-366-9954 (o)



Philip Gunn ®

601-355-8321 (o)





"Tom O'Neill"  
<[REDACTED]>  
06/02/2005 05:30 PM

To jthompson@eac.gov  
cc ireed@rutgers.edu, "Edward Foley" <foley.33@osu.edu>, klynndyson@eac.gov  
bcc  
Subject June 30 Hearing Panelists

Julie:

Thanks for you call. Our conversation helped me crystallize further the recommendations we will make to the Commission about the material to be covered at the hearing.

I believe we will recommend two panels of 3 or 4 people each for the June 30 hearing. One will cover the relatively narrow HAVA Voter ID requirements with presentations by 2 state-level voting administrators with contrasting experiences. The contrast between Michigan and Pennsylvania might prove especially instructive because it would demonstrate the relationship between the quality of the data base and requirements for voter identification. Since the hearing is being held in Manhattan, perhaps inviting a speaker from New York instead of Pennsylvania would make sense. I'd appreciate your thoughts on that.

Two other speakers could address the issue of broader Voter ID requirements to reduce vote fraud by requiring some form of identification for each voter at the polling place. The experience in Mississippi over the past 5 years has been particularly dramatic, as illustrated by the attached news article from the local press last year. As we discussed, inviting the 2 legislators profiled in the article might make for powerful testimony.

The final 2 speakers we believe should be academics who have studied the relationship between Voter ID regimes, voter participation and vote fraud and who have conflicting evidence and conclusions to offer. We have found at least two university based researchers who can present the view that stricter Voter ID requirement do not reduce vote fraud and do dampen participation. We have not yet identified a researcher from the other end of the spectrum, but we are looking actively. Your suggestions would be most welcome.

Below is our current list of possibilities for your review.

Tom

JUNE 30 HEARING  
POSSIBLE PANELISTS OR TOPICS

Possible States to be represented by one or more panelists

**Mississippi**

Debate over voter id issues has been dramatic. The resonance of Mississippi on voting issues would lend

008433

interest to the testimony. Voter id legislation was not approved in the current legislative session and has been a source of contention at least since 1999.

### **Michigan**

Strong database state; lax Voter ID requirements don't seem to present as much of a problem (although one hears rumors about Detroit); interesting contrast to NY. With Pennsylvania would present contrasts in the importance of the Statewide Voter Data Base

### **New York**

Had a significant problem with provisional ballots, suggesting that their relatively lax ID rules might be problematic; also Tom Wilkey will have good contacts there. The hearing is there.

### **Pennsylvania**

Relatively lax ID rules and apparently quite a few problems with provisional ballots in 2004. Had start up problems with its data base and would offer comparisons between counties where the data base was well established and those where is new. Should be weighed against New York for inclusion as a contrast with Michigan

### **Wisconsin**

Governor Doyle vetoed the legislature's first attempt at tightening voter ID requirements, and instead offered a package to recruit and train more qualified poll workers and calls for improvements in voter registration procedures.

### Academics on Voter ID, Turnout, and Vote Fraud

#### **Spencer Overton**

Professor, GWU Law School. Has written op-eds arguing that the empirical research is insufficient to support the need for more ID to reduce fraud. He is working on a book on the topic.

#### **John Fortier**

Research Fellow at the American Enterprise Institute. Recommended by Norm Ornstein. Google revealed no publications on this topic by Fortier.

#### **Lorraine C. Minnite**

Assistant Professor of Political Science, Barnard College. Lead researcher of the Demos election fraud study and researcher in immigrant voting patterns. Found that the incidence of fraud perpetrated by individual voters in the United States was very low and had a minimal impact on election outcomes.

#### **Guy-Uriel Charles**

Associate Professor of Law, Center for the Study of Political Psychology University of Minnesota. His areas of interest include Election Law and Election Law Disputes and African American Voting Concerns. He is a member of the National Research Commission on Elections and Voting of the Social Science Research Council



"Tom O'Neill"  
[REDACTED]  
06/02/2005 04:28 PM

To: jthompson@eac.gov  
cc:  
bcc:  
Subject: RE: Arrangements for June 30 Meeting

Thanks, Julie. Having the physical arrangements for the conference already made by the Commission gives us a leg up. I hope we can talk today about content as well. Your knowledge of what's going on in the states and which analysts have the most to say would be very useful. I'll call around 5 and hope to catch you.

Tom O'Neill  
[REDACTED]

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]  
**Sent:** Thursday, June 02, 2005 12:27 PM  
**To:** [REDACTED]  
**Cc:** klynndyson@eac.gov; cpaquette@eac.gov  
**Subject:** Re: Arrangements for June 30 Meeting

Tom,

The following answers, I hope, your questions. I am happy to discuss this further.

1. Does the EAC have a preference for a venue for the meeting? Have any arrangements --preliminary or otherwise-- been made to secure that facility? If not, I assume EAC would prefer a public building or an academic setting such as the auditorium you used at the law school in Columbus.

EAC has a meeting location for this meeting and the hearing that will follow. The meeting and hearing will be held at the Marriot Marquis Hotel. I will have staff provide the address and room.

2. Has the EAC made arrangements for a transcriber to record the meeting of the Commissioners? If so, is it the EAC's intention that we will use the same transcriber for the panel? If not, should we arrange for a transcriber for the entire day? Are there federal rules on payments for transcription services that we should follow?

While EAC has not yet made arrangements for a transcriber, we will as we will need one for the meeting and the hearing.

3. Will EAC support staff attend the hearing to sign in those attending, issue name tags, etc., or are these duties that we should be prepared to carry out?

Yes, EAC will have staff available for this function.

4. Will the EAC issue the news release about the meeting and the panel?

008435

Yes.

5. What do federal regulation indicate that I may offer speakers we bring in from these states in terms of travel, accommodations, meals, etc? Will speakers have to pay for their travel and accommodations and then request reimbursement or can we pay their bills directly?

Federal travel regulations apply. However, once you have made recommendations on panelists and the Commission has approved those panelists, we will take care of their travel arrangements and accommodations.

Arizona, California, Mississippi, Michigan, New York, Pennsylvania, and Wisconsin.

I can imagine that the Commission will not want to use Arizona. There is a great deal of controversy around some proposed legislation that was introduced and passed by the Arizona legislature last year. EAC has not yet taken a position on that controversy, but may. Until such time as EAC has formalized its opinion on this, EAC will not want to invite a public debate on this issue.

I will call you later to discuss any questions or concerns. I am in a meeting from 1 - 3 (EDT)

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

"Tom O'Neill" [REDACTED] >

06/01/2005 10:47 PM

To jthompson@eac.gov  
cc klynndyson@eac.gov  
Subject Arrangements for June 30 Meeting

Julie,

008436

Karen Lynn-Dyson suggested I consult directly with you about arrangements for the Commission's June 30 meeting in New York. As I understood our discussions in Washington last week, as your consultants we will be responsible for organizing the portion of the meeting that will cover the Voter Identification issue, while EAC staff will organize the regular meeting of the Commissioners. Is that understanding correct?

Because time is short, we know we must move quickly on the arrangements.

1. Does the EAC have a preference for a venue for the meeting? Have any arrangements --preliminary or otherwise-- been made to secure that facility? If not, I assume EAC would prefer a public building or an academic setting such as the auditorium you used at the law school in Columbus.

2. Has the EAC made arrangements for a transcriber to record the meeting of the Commissioners? If so, is it the EAC's intention that we will use the same transcriber for the panel? If not, should we arrange for a transcriber for the entire day? Are there federal rules on payments for transcription services that we should follow?

3. Will EAC support staff attend the hearing to sign in those attending, issue name tags, etc., or are these duties that we should be prepared to carry out?

4. Will the EAC issue the news release about the meeting and the panel?

5. What do federal regulation indicate that I may offer speakers we bring in from these states in terms of travel, accommodations, meals, etc? Will speakers have to pay for their travel and accommodations and then request reimbursement or can we pay their bills directly?

These are the states we are currently evaluating for the Voter ID presentations: Arizona, California, Mississippi, Michigan, New York, Pennsylvania, and Wisconsin. We may pick 4 of these, or fewer if we determine that one state should have two panelists representing different viewpoints: Karen tells me you have been working with several of these, and your counsel would sharpen the judgment we bring to bear on our selection. I am particularly interested in the Mississippi experience and would like to discuss that with you. . .perhaps by phone. The project team is aiming to agree on a panel of speakers to submit to the the EAC early next week. Panelists should receive their invitations at least two weeks in advance (more would be better), especially if we want to get onto their schedules.

I will be in a meeting tomorrow from 10:30 -- 1:00 p.m. but will be available the rest of the day for a phone conversation. My cell phone --on which you can

always reach me-- is [REDACTED]

Tom O'Neill



"Tom O'Neill"

06/01/2005 10:47 PM

To jthompson@eac.gov

cc klynndyson@eac.gov

bcc

Subject Arrangements for June 30 Meeting

History

This message has been replied to

Julie,

Karen Lynn-Dyson suggested I consult directly with you about arrangements for the Commission's June 30 meeting in New York. As I understood our discussions in Washington last week, as your consultants we will be responsible for organizing the portion of the meeting that will cover the Voter Identification issue, while EAC staff will organize the regular meeting of the Commissioners. Is that understanding correct?

Because time is short, we know we must move quickly on the arrangements.

1. Does the EAC have a preference for a venue for the meeting? Have any arrangements --preliminary or otherwise-- been made to secure that facility? If not, I assume EAC would prefer a public building or an academic setting such as the auditorium you used at the law school in Columbus.
2. Has the EAC made arrangements for a transcriber to record the meeting of the Commissioners? If so, is it the EAC's intention that we will use the same transcriber for the panel? If not, should we arrange for a transcriber for the entire day? Are there federal rules on payments for transcription services that we should follow?
3. Will EAC support staff attend the hearing to sign in those attending, issue name tags, etc., or are these duties that we should be prepared to carry out?
4. Will the EAC issue the news release about the meeting and the panel?
5. What do federal regulation indicate that I may offer speakers we bring in from these states in terms of travel, accommodations, meals, etc? Will speakers have to pay for their travel and accommodations and then request reimbursement or can we pay their bills directly?

These are the states we are currently evaluating for the Voter ID presentations: Arizona, California, Mississippi, Michigan, New York, Pennsylvania, and Wisconsin. We may pick 4 of these, or fewer if we determine that one state should have two panelists representing different viewpoints: Karen tells me you have been working with several of these, and your counsel would sharpen the judgment we bring to bear on our selection. I am particularly interested in the Mississippi experience and would like to discuss that with you. . .perhaps by phone. The project team is aiming to agree on a panel of speakers to submit to the the EAC early next week. Panelists should receive

008439



their invitations at least two weeks in advance (more would be better), especially if we want to get onto their schedules.

I will be in a meeting tomorrow from 10:30 -- 1:00 p.m. but will be available the rest of the day for a phone conversation. My cell phone --on which you can always reach me-- is [REDACTED]

Tom O'Neill

Juliet E. Thompson/EAC/GOV  
07/26/2005 12:49 PM

To "Tom O'Neill" [REDACTED]@GSAEXTERNAL  
cc  
bcc  
Subject Re: Pasadena Meeting [REDACTED]

that sounds fine. I do have a dinner engagement that will be earlier that evening. How about calling me when you get in? I can always sit and have a drink while you eat, or whatever works.

Also, thank you for the powerpoint. If you will send me the final via email, I will make sure that it is loaded onto the laptop and ready for your presentation.

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

"Tom O'Neill" [REDACTED]



"Tom O'Neill"  
[REDACTED]  
07/26/2005 10:39 AM

To jthompson@eac.gov  
cc  
Subject Pasadena Meeting

Julie: My plane arrives at LAX at about 5, and I should arrive in Pasadena after 7. I don't think we could meet until about 8 p.m. Does that fit your plans? I am staying at the Huntington, about a mile from the Cal Tech campus. You can always reach me by cell phone at 908-794-1030.

Dan and I have divided up our presentation this way: I will describe the overall research effort and the major questions to which we are seeking answers. I'll also outline the methods we are using to develop those answers and report on the current status of the work. Dan will describe in greater detail Moritz's research and compilation of the statutes, regulation and case law and describe some of the key matters of substance involved in developing our report.

The outline of my talk on Power Point is not yet complete, but the unfinished version is attached to give you a clearer impression of the presentation. I assume the meeting room will have a projector and screen. If that is not the case let me know and I'll print the Power Point slides and hand them out to the Commissioners.

Tom O'Neill

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

008441

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]  
**Sent:** Tuesday, July 26, 2005 8:51 AM  
**To:** [REDACTED]  
**Subject:** Progress Report

Tom,

I'm so sorry for taking so long to get back to you. I am hoping that you have moved forward with your update presentation. My general thoughts are very simple, just a presentation on the research that you have done thus far, the plans that you have made for additional research, but not to include any preliminary conclusions at this point.

Is there a possibility that I could get a copy of what you guys are thinking of presenting prior to the meeting? I am sure that the Commissioners will want it in advance to prepare questions for you and Dan.

Also, you and I had planned to get together on Wednesday. What time are you arriving? I plan to go over to the university and view the room just after I arrive (around 1:00). Would you have some time around 3:30 or 4:00?

Juliet E. Thompson  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005



(202) 566-3100 Briefing72805.ppt

008442

Juliet E. Thompson/EAC/GOV  
07/20/2005 02:54 PM

To "Tom O'Neill" [REDACTED]@GSAEXTERNAL  
cc  
bcc  
Subject Re: July 28 Meeting [icon]

As soon as I have a few minutes to think clearly, I will definitely send you an email on that. Thanks for accommodating our request.

Juliet E. Thompson  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100  
"Tom O'Neill" [REDACTED]



"Tom O'Neill"  
[REDACTED]  
07/20/2005 02:45 PM

To jthompson@eac.gov  
cc  
Subject July 28 Meeting

Julie:

I reached Dan Tokaji of Moritz, and he is happy to join me in making a presentation at the Pasadena meeting. As you develop further thoughts on what you would like us to cover, we'd be delighted to hear them.

Tom O'Neill

008443

Juliet E. Thompson/EAC/GOV  
07/15/2005 11:24 AM

To "Tom O'neill" [REDACTED]@GSAEXTERNAL  
cc  
bcc  
Subject Re: July 28 hearing 

After much wrangling, the final agenda is attached. We have invited the speakers, but have not heard back from most. We will follow up on Monday.

All of the arrangements have been made. CalTech is letting us use the Baxter Lecture Hall in the Baxter Humanities building. We are still working on webcasting. CalTech cannot or will not host it on their site, but we are trying to get it done through another source.

We have a block of rooms at the Westin. We will likely have some extras if you would like to use them. I will confirm this in the next few days.



draft agenda - July public meeting v 3.doc

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

"Tom O'neill" [REDACTED]



"Tom O'neill"  
[REDACTED]  
07/15/2005 10:01 AM

To jthompson@eac.gov  
cc klynndyson@eac.gov  
Subject July 28 hearing

Julie:

Can you fill me in on the current status of your planning for the hearing in Pasadena. Have invitations gone out to panelists? Are there tasks you would like us to undertake in preparation for the meeting?

Thanks,

Tom O'Neill

008444



**U.S. Election Assistance Commission  
Public Meeting Agenda**

Thursday, July 28, 2005  
10:00 AM – 12:00 PM

**Call to Order (Chair Hillman)**

**Pledge of Allegiance (Chair Hillman)**

**Roll Call**

**Adoption of Agenda (Chair Hillman)**

**Correction & Approval of Minutes for June 30, 2005 Public Meeting  
(Chair Hillman)**

**Reports**

- Title II Requirements Payments Update
- Statewide Voter Registration List Guidance

**Presentations**

**The Interaction of Voter Identification with HAVA**

- Marci Andino, Executive Director, State Election Commission, South Carolina – Interaction between Voter ID and Voter Registration Databases
- Brook Thompson, Coordinator of Elections (Tennessee) -- Interaction between voter ID and provisional voting (TN had voter ID prior to HAVA but no provisional voting prior to HAVA)

**Voter ID under HAVA: Was it sufficient?**

- Senator Lawson C. Heinold (R, Indiana – Author of Indiana's Voter ID law)
- Senator Judith Robson (D, Wisconsin – Opposed bill to create voter ID requirement in Wisconsin)
- Lorraine C. Minnite, Assistant Professor, Columbia University
- John Samples, Director, Center for Representative Government, The Cato Institute

**Commissioners' Closing Remarks**

**Adjournment**

Juliet E. Thompson/EAC/GOV  
07/11/2005 11:58 AM

To "Tom O'Neill" [REDACTED]  
cc  
bcc  
Subject Re: Status of agenda recommendations

O.k. I will look at the historians. I am leaning away from Doug Chapin. I am trying to finalize this list for final approval by the Commissioners this afternoon. Will be back in touch later today.

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** "Tom O'Neill" [REDACTED]  
**Sent:** 07/11/2005 11:53 AM  
**To:** Juliet Thompson  
**Subject:** RE: Status of agenda recommendations

Julie: The great strength that Doug Chapin would bring (as opposed to a historian) is that he could put the presentations from Mississippi and Wisconsin in national perspective. The debate over voter id, as you know, is taking place across the country. The terms of the debate everywhere are strikingly similar: voter access versus ballot security. Chapin could provide the context that would make it possible for the commissioners to appreciate the presentations of the two legislators as examples of a broader, national debate

A historian, as opposed to Chapin would provide a different sort of context. The historian would describe as a step in the evolution of the franchise.

The panel would be stronger if the two legislators' stories were put in context. The 10 – 15 minutes spent on context, whether current or historical, would, I think, be well worth it.

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]  
**Sent:** Monday, July 11, 2005 9:24 AM  
**To:** [REDACTED]  
**Subject:** Re: Status of agenda recommendations

008446

Tom,

What are your thoughts about just having the legislators and not the historian. I am just thinking time-wise, we may be a bit tight. Do you think we can get the same sense of how these debates have come up and been resolved through the legislators?

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

"Tom O'Neill" 

07/08/2005 02:52 PM

To:jthompson@eac.gov

cc

SubjectRe: Status of agenda recommendations

Julie:

I have made a little progress on the search for a scholar of the history of voter registration and voter ID to present the historical perspective in the opening panel at the July meeting. But none of the 3 suggestions below are obviously preferable to Doug Chapin.

Three possibilities are:

Dayna L. Cunningham, author of "*Who Are to Be the Electors? A Reflection on the History of Voter Registration in the United States*," 9 Yale L. & Pol'y Rev. 370 (1991). She was Assistant Counsel in the Voting Rights Project of the NAACP Legal Defense

008447



and Educational Fund at the time she wrote the article. She was active as a pro bono lawyer on election issues in Florida in 2004, and is now with Lord-Ross Philanthropic Advisors in Boston. [dcuningham@lordross.org](mailto:dcuningham@lordross.org) (914) 907-8895

R. Michael Alvarez, author of "Voter Registration," among other articles on registration issues. Currently at Caltech. <http://www.hss.caltech.edu/~rma/home.html>. He is a candidate for our Peer Review Group. My sense is that his experience and interests are more in current issues than in the history of the development of voter registration and voter ID.

Alexander Keyssar, author of "The Right to Vote: The Contested History of Democracy in the United States." Currently at the Kennedy School of Government, but on leave. [http://ksgfaculty.harvard.edu/alexander\\_keyssar](http://ksgfaculty.harvard.edu/alexander_keyssar)  
Let me know if you'd like me to explore further or explore the issue with one or more of these possible presenters.

Juliet E. Thompson/EAC/GOV  
07/11/2005 09:24 AM

To "Tom O'Neill" [REDACTED]@GSAEXTERNAL  
cc  
bcc  
Subject Re: Status of agenda recommendations [REDACTED]

Tom,

What are your thoughts about just having the legislators and not the historian. I am just thinking time-wise, we may be a bit tight. Do you think we can get the same sense of how these debates have come up and been resolved through the legislators?

Juliet E. Thompson  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100  
"Tom O'Neill" [REDACTED]>



"Tom O'Neill"  
[REDACTED]  
07/08/2005 02:52 PM

To jthompson@eac.gov  
cc  
Subject Re: Status of agenda recommendations

Julie:

I have made a little progress on the search for a scholar of the history of voter registration and voter ID to present the historical perspective in the opening panel at the July meeting. But none of the 3 suggestions below are obviously preferable to Doug Chapin.

Three possibilities are:

Dayna L. Cunningham, author of "*Who Are to Be the Electors? A Reflection on the History of Voter Registration in the United States*," 9 Yale L. & Pol'y Rev. 370 (1991). She was Assistant Counsel in the Voting Rights Project of the NAACP Legal Defense and Educational Fund at the time she wrote the article. She was active as a pro bono lawyer on election issues in Florida in 2004, and is now with Lord-Ross Philanthropic Advisors in Boston. [dcunningham@lordross.org](mailto:dcunningham@lordross.org) (914) 907-8895

R. Michael Alvarez, author of "Voter Registration," among other articles on registration issues. Currently at Caltech. <http://www.hss.caltech.edu/~rma/home.html>. He is a candidate for our Peer Review Group. My sense is that his experience and interests are more in current issues than in the history of the development of voter registration and voter ID.

Alexander Keyssar, author of "The Right to Vote: The Contested History of Democracy in the

008449

United States." Currently at the Kennedy School of Government, but on leave.

[http://ksgfaculty.harvard.edu/alexander\\_keyssar](http://ksgfaculty.harvard.edu/alexander_keyssar)

Let me know if you'd like me to explore further or explore the issue with one or more of these possible presenters.

Juliet E. Thompson/EAC/GOV  
06/29/2005 11:18 AM

To "Tom O'Neil" <[REDACTED]>  
cc  
bcc

Subject Re: July Meeting - California

Yes. Long story short we could not work into the schedule that was already set for the NASS meeting in Minneapolis. We will be at CalTech -- Pasadena, CA

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** "Tom O'Neill" ([REDACTED])  
**Sent:** 06/29/2005 11:14 AM  
**To:** Juliet Thompson  
**Subject:** RE: July Meeting - California

Julie,

I'll study your suggested revisions to the panels with and discuss them with my colleagues.

The last I heard the date and place for the hearing was July 26 in Minneapolis? Is it now scheduled for July 28 in California?

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]  
**Sent:** Wednesday, June 29, 2005 10:40 AM  
**To:** [REDACTED]  
**Subject:** July Meeting - California

I have reviewed the agenda that your group proposed with regard to the meeting on Voter ID. The attached are some suggestions on a few changes. We have had Chris Thomas and Secretary Cortes speak at recent meetings of EAC. So, I have included a few other ideas of states that have and those that do have ID requirements. Please take a look at this. Perhaps we can chat about it on Tuesday, July 5.

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

008451

Juliet E. Thompson/EAC/GOV  
06/08/2005 03:34 PM

To "Tom O'Neill" <[REDACTED]>@GSAEXTERNAL  
cc  
bcc  
Subject RE: Mississippi Legislators [icon]

Just a gentle reminder that I need to get the names of the panelists to be able to present to the commissioners tomorrow morning.

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

"Tom O'Neill" <[REDACTED]>



"Tom O'Neill"  
<[REDACTED]>  
06/06/2005 07:47 PM

To jthompson@eac.gov  
cc  
Subject RE: Mississippi Legislators

Julie:

I should have a recommendation to you for the panels on Wednesday. Your recommendation of John Samples strikes me as very well chosen. He has opined on the topic of voter id and turnout for USA today --and he has a PhD from Rutgers.

Just to provide a preview of what I think our recommendation will be, I now envision two panels. The first would look at Voter ID requirements within the 4 corners of HAVA through presentations by election directors from two contrasting states (probably Michigan and Pennsylvania), perhaps supplemented by an analyst who can put the stories of these two states in a broader context.

The second panel would broaden the scope to include voter id issues that go beyond first-time mail registrants. This second panel would explore the debate between those who argue for tighter ID requirements to prevent fraud and those who caution that tighter requirements will depress turnout, especially among older voters, African Americans and immigrants. This panel could be composed of two Mississippi legislators (not the two we discussed a few days ago) and two analysts, possibly Samples and Lorraine Minnite, the Barnard political scientist who was the lead researcher on the Demos election fraud study (and who has a professional interest in immigrant voting patterns).

The Eagleton team is meeting on this, among other topics, tomorrow morning. I'll then

008452

consult with our Moritz colleagues and make a few phone calls to identify the best candidates from Mississippi and put together a recommendation for you.

Your reaction to this plan as it takes shape would be welcome.

Tom

Juliet E. Thompson/EAC/GOV  
06/06/2005 05:37 PM

To "Tom O'Neill" [REDACTED]@GSAEXTERNAL  
cc  
bcc  
Subject RE: Mississippi Legislators [REDACTED]

Are we ready to submit this proposal to the commissioners, or am I waiting on something from you? If I am waiting, will I be able to have it for Thursday morning?

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

"Tom O'Neill" [REDACTED] <>



"Tom O'Neill"  
[REDACTED]  
06/06/2005 11:58 AM

To jthompson@eac.gov  
cc  
Subject RE: Mississippi Legislators

Thank you, Julie.

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]

**Sent:** Monday, June 06, 2005 11:16 AM

**To:** [REDACTED]

**Subject:** RE: Mississippi Legislators

Some thoughts on a speaker (conservative) from the academic sector

Cameron Quinn - IFES - she was with the Commonwealth of Virginia as the State Board of Elections Director before going to IFES and has been appointed as an academic advisor to the Carter-Baker Commission

John Samples - Cato Institute - also an academic advisor to the Carter-Baker Commission

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

008454

"Tom O'Neill" [REDACTED]

06/03/2005 08:49 AM

To jthompson@eac.gov  
cc  
Subject RE: Mississippi Legislators

Thanks, Julie.

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]

**Sent:** Friday, June 03, 2005 8:32 AM

**To:** [REDACTED]

**Subject:** Re: Mississippi Legislators

In light of information that Mr. Flemming may be an opponent to Senator Lott, it would not be wise for us to include Mr. Flemming on the panel. I am sure that there is another state rep or senator that would have the same opinion that would be able to be substituted.

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

008455



Juliet E. Thompson/EAC/GOV  
06/06/2005 11:16 AM

To "Tom O'Neill" [REDACTED]@GSAEXTERNAL  
cc  
bcc  
Subject RE: Mississippi Legislators [REDACTED]

Some thoughts on a speaker (conservative) from the academic sector

Cameron Quinn - IFES - she was with the Commonwealth of Virginia as the State Board of Elections Director before going to IFES and has been appointed as an academic advisor to the Carter-Baker Commission

John Samples - Cato Institute - also an academic advisor to the Carter-Baker Commission

Juliet E. Thompson  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100  
"Tom O'Neill" [REDACTED]



"Tom O'Neill"  
[REDACTED]  
06/03/2005 08:49 AM

To jthompson@eac.gov  
cc  
Subject RE: Mississippi Legislators

Thanks, Julie.

Tom

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

**From:** jthompson@eac.gov [mailto:jthompson@eac.gov]  
**Sent:** Friday, June 03, 2005 8:32 AM  
**To:** [REDACTED]  
**Subject:** Re: Mississippi Legislators

In light of information that Mr. Flemming may be an opponent to Senator Lott, it would not be wise for us to include Mr. Flemming on the panel. I am sure that there is another state rep or senator that would have the same opinion that would be able to be substituted.

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

008456



Juliet E. Thompson/EAC/GOV  
06/03/2005 08:31 AM

To "Tom O'Neill" <[REDACTED]@GSAEXTERNAL>  
cc  
bcc  
Subject Re: Mississippi Legislators 

In light of information that Mr. Flemming may be an opponent to Senator Lott, it would not be wise for us to include Mr. Flemming on the panel. I am sure that there is another state rep or senator that would have the same opinion that would be able to be substituted.

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

008457

Juliet E. Thompson/EAC/GOV  
06/02/2005 12:27 PM

To "Tom O'Neill" [REDACTED]@GSAEXTERNAL  
cc Karen Lynn-Dyson/EAC/GOV@EAC, Carol A.  
Paquette/EAC/GOV@EAC  
bcc  
Subject Re: Arrangements for June 30 Meeting

Tom,

The following answers, I hope, your questions. I am happy to discuss this further.

1. Does the EAC have a preference for a venue for the meeting? Have any arrangements --preliminary or otherwise-- been made to secure that facility? If not, I assume EAC would prefer a public building or an academic setting such as the auditorium you used at the law school in Columbus.

EAC has a meeting location for this meeting and the hearing that will follow. The meeting and hearing will be held at the Marriot Marquis Hotel. I will have staff provide the address and room.

2. Has the EAC made arrangements for a transcriber to record the meeting of the Commissioners? If so, is it the EAC's intention that we will use the same transcriber for the panel? If not, should we arrange for a transcriber for the entire day? Are there federal rules on payments for transcription services that we should follow?

While EAC has not yet made arrangements for a transcriber, we will as we will need one for the meeting and the hearing.

3. Will EAC support staff attend the hearing to sign in those attending, issue name tags, etc., or are these duties that we should be prepared to carry out?

Yes, EAC will have staff available for this function.

4. Will the EAC issue the news release about the meeting and the panel?

Yes.

5. What do federal regulation indicate that I may offer speakers we bring in from these states in terms of travel, accommodations, meals, etc? Will speakers have to pay for their travel and accommodations and then request reimbursement or can we pay their bills directly?

Federal travel regulations apply. However, once you have made recommendations on panelists and the Commission has approved those panelists, we will take care of their travel arrangements and accommodations.

Arizona, California, Mississippi, Michigan, New York, Pennsylvania, and Wisconsin.

I can imagine that the Commission will not want to use Arizona. There is a great deal of controversy

008458

around some proposed legislation that was introduced and passed by the Arizona legislature last year. EAC has not yet taken a position on that controversy, but may. Until such time as EAC has formalized its opinion on this, EAC will not want to invite a public debate on this issue.


I will call you later to discuss any questions or concerns. I am in a meeting from 1 - 3 (EDT)

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

"Tom O'Neill" 



"Tom O'Neill"

  
06/01/2005 10:47 PM

To jthompson@eac.gov

cc klynndyson@eac.gov

Subject Arrangements for June 30 Meeting

Julie,

Karen Lynn-Dyson suggested I consult directly with you about arrangements for the Commission's June 30 meeting in New York. As I understood our discussions in Washington last week, as your consultants we will be responsible for organizing the portion of the meeting that will cover the Voter Identification issue, while EAC staff will organize the regular meeting of the Commissioners. Is that understanding correct?

Because time is short, we know we must move quickly on the arrangements.

1. Does the EAC have a preference for a venue for the meeting? Have any arrangements --preliminary or otherwise-- been made to secure that facility? If not, I assume EAC would prefer a public building or an academic setting such as the auditorium you used at the law school in Columbus.
2. Has the EAC made arrangements for a transcriber to record the meeting of the Commissioners? If so, is it the EAC's intention that we will use the same transcriber for the panel? If not, should we arrange for a transcriber for the entire day? Are there federal rules on payments for transcription services that we should follow?
3. Will EAC support staff attend the hearing to sign in those attending, issue name tags, etc., or are these duties that we should be prepared to carry out?
4. Will the EAC issue the news release about the meeting and the panel?
5. What do federal regulation indicate that I may offer speakers we bring in from these states in terms of travel, accommodations, meals, etc? Will speakers have to pay

008459

for their travel and accommodations and then request reimbursement or can we pay their bills directly?

These are the states we are currently evaluating for the Voter ID presentations: Arizona, California, Mississippi, Michigan, New York, Pennsylvania, and Wisconsin. We may pick 4 of these, or fewer if we determine that one state should have two panelists representing different viewpoints: Karen tells me you have been working with several of these, and your counsel would sharpen the judgment we bring to bear on our selection. I am particularly interested in the Mississippi experience and would like to discuss that with you. . .perhaps by phone. The project team is aiming to agree on a panel of speakers to submit to the the EAC early next week. Panelists should receive their invitations at least two weeks in advance (more would be better), especially if we want to get onto their schedules.

I will be in a meeting tomorrow from 10:30 -- 1:00 p.m. but will be available the rest of the day for a phone conversation. My cell phone --on which you can always reach me-- is 908-794-1030.

Tom O'Neill

Thomas R. Wilkey/EAC/GOV  
09/15/2006 10:46 AM

To Juliet E. Hodgkins/EAC/GOV@EAC, Karen  
Lynn-Dyson/EAC/GOV@EAC

cc

bcc

Subject Re: Call to discuss release of Rutgers Voter ID report 

1:30 is fine with me as I have a 2:15  
Doctors appt. So it will be tight.  
I will be done by 3 if that is better.

-----  
Sent from my BlackBerry Wireless Handheld

Juliet E. Hodgkins

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

**From:** Juliet E. Hodgkins  
**Sent:** 09/15/2006 10:33 AM  
**To:** Karen Lynn-Dyson; Thomas Wilkey  
**Subject:** Re: Call to discuss release of Rutgers Voter ID report

Fine by me

-----  
Sent from my BlackBerry Wireless Handheld

Karen Lynn-Dyson

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

**From:** Karen Lynn-Dyson  
**Sent:** 09/15/2006 10:34 AM  
**To:** Juliet Hodgkins  
**Cc:** Thomas Wilkey; Bert Benavides  
**Subject:** Re: Call to discuss release of Rutgers Voter ID report

Julie-

I haven't heard from Tom on his availability-

All-

Can we do a call at 1:30?

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

008461

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

Thomas R. Wilkey/EAC/GOV  
05/01/2006 04:08 PM

To Juliet E. Thompson-Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Re: E-mail to Voter ID peer reviewers

Ok

---

Sent from my BlackBerry Wireless Handheld  
Juliet E. Thompson-Hodgkins

**From:** Juliet E. Thompson-Hodgkins  
**Sent:** 05/01/2006 03:56 PM  
**To:** Karen Lynn-Dyson  
**Cc:** Thomas Wilkey  
**Subject:** Re: E-mail to Voter ID peer reviewers


As long as we don't pay them, there is no contract issue.

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

008463



Juliet E. Hodgkins/EAC/GOV  
01/10/2007 12:03 PM

To "Tova Wang" <wang@tcf.org>@GSAEXTERNAL  
cc  
bcc  
Subject RE: 

Based on your answer, I assume then that you are not asking us for any documents. Please confirm that this is correct.

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>  
01/10/2007 12:00 PM

To jhodgkins@eac.gov  
cc twilkey@eac.gov, "Tova Wang" <wang@tcf.org>  
Subject RE:

Thanks Julie. Actually, I ended up doing all of the Nexis research myself on The Century Foundation's account. Using one of your interns to do it never worked out, as Job can also tell you. I assume that takes care of that issue. Thanks again. 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](http://www.tcf.org), for the latest news, analysis, opinions, and events.

---

**From:** jhodgkins@eac.gov [mailto:jhodgkins@eac.gov]  
**Sent:** Wednesday, January 10, 2007 11:50 AM  
**To:** wang@tcf.org  
**Cc:** twilkey@eac.gov; 'Tova Wang'  
**Subject:** Re:

Tova,

I see no reason why we cannot allow you to have the research for your use. The one caveat to that is that this research was obtained on our Westlaw/Nexis accounts. Therefore, we would have to have an

008464

agreement from you that you would not reproduce or distribute those copyrighted materials. I will have one of my law clerks work on getting the information burned to a CD and drafting an agreement concerning the use of these documents.

I will be in touch with you next week to let you know when we will have these documents and agreement available.

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>

01/08/2007 09:24 AM

To twilkey@eac.gov, jhodgkins@eac.gov

cc "Tova Wang" <wang@tcf.org>

Subject

Dear Tom and Julie,

Happy New Year. I hope you both enjoyed the holidays.


As you know, I am well aware that the research Job and I produced belongs to the EAC. Nonetheless, I was wondering whether there might be some way I can use just the Nexis material solely for my own further research purposes. Anything I might publish using that underlying data as enhanced by my further research would be in my name and my name only, not that of the EAC. I put a tremendous amount of work into collecting and organizing that data and I would like the opportunity to continue this research on an ongoing basis. It would be a shame if it was not put to some further use.

Is there something we might arrange in this regard? Thanks so much.

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](http://www.tcf.org), for the latest news, analysis, opinions, and events.

008465

Juliet E. Hodgkins/EAC/GOV  
01/10/2007 11:49 AM

To "Tova Wang" <wang@tcf.org>@GSAEXTERNAL  
cc twilkey@eac.gov, "Tova Wang" <wang@tcf.org>  
bcc  
Subject Re: 

Tova,

I see no reason why we cannot allow you to have the research for your use. The one caveat to that is that this research was obtained on our Westlaw/Nexis accounts. Therefore, we would have to have an agreement from you that you would not reproduce or distribute those copyrighted materials. I will have one of my law clerks work on getting the information burned to a CD and drafting an agreement concerning the use of these documents.

I will be in touch with you next week to let you know when we will have these documents and agreement available.

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>  
01/08/2007 09:24 AM

To twilkey@eac.gov, jhodgkins@eac.gov  
cc "Tova Wang" <wang@tcf.org>  
Subject

Dear Tom and Julie,

Happy New Year. I hope you both enjoyed the holidays.

As you know, I am well aware that the research Job and I produced belongs to the EAC. Nonetheless, I was wondering whether there might be some way I can use just the Nexis material solely for my own further research purposes. Anything I might publish using that underlying data as enhanced by my further research would be in my name and my name only, not that of the EAC. I put a tremendous amount of work into collecting and organizing that data and I would like the opportunity to continue this research on an ongoing basis. It would be a shame if it was not put to some further use.

Is there something we might arrange in this regard? Thanks so much.

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](http://www.tcf.org), for the latest news, analysis, opinions,

008466

and events.

Jeannie Layson /EAC/GOV  
03/13/2007 02:25 PM

To jthompson@eac.gov, twilkey@eac.gov, psims@eac.gov,  
ddavidson@eac.gov

cc

bcc

Subject Voter ID, Fraud & Intimidation--Need your input

Hello all,

A columnist from the WaPo has asked for info about both the voter ID and the fraud and intimidation reports. This was prompted by the accusation that the president was concerned that the fired prosecutors were not aggressively pursuing voter fraud cases. She had heard that we were refusing to release this information, so I am trying to demonstrate otherwise, as well as show that we have discussed these projects numerous times in public meetings. Please take a look at my draft email to her and let me know if you have any suggestions. She needs to hear back from me by 4 p.m. Thanks for your help with this.

Ms. Cocco,

Per your questions, go [here](#) to view the testimony regarding voter ID from our Feb. 2 public meeting. As I mentioned, at this meeting EAC Chair Donetta Davidson requested that staff review the initial research provided by Eagleton and produce a final report, which would include recommendations for further study on this subject. Currently, staff is working to finalize the voter ID report.


Regarding the voter fraud and intimidation research, at a May 2006 public meeting of our Standards Board and Board of Advisors, the EAC project manager for this research presented a staff update on the project. Go [here](#) to view the agenda, page 3. The document you referred to was the update the project manager gave at this public meeting, and it has been made available to anyone who asked for it. The final culmination of this project can be found [here](#), and links to the attachments provided by the consultants are available by going to page 24 of this report. The commissioners adopted this report at a [public meeting in Dec. 2006](#).

As a small agency of 23 employees, including the four commissioners, it is necessary for the agency to contract with consultants to gather the initial data for these projects. After EAC receives the initial data, the agency reviews the data for accuracy and then releases a final 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](http://www.eac.gov)

008468

**Jeannie Layson /EAC/GOV**  
12/14/2006 01:08 PM

To Margaret Sims/EAC/GOV@EAC  
cc Juliet E. Hodgkins/EAC/GOV@EAC  
bcc  
Subject Re: PFAW Response to EAC Vote Fraud Report 

I didn't get any comments from you regarding yesterday's response to Rick Hasen. Any thoughts on that?

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)  
Margaret Sims/EAC/GOV

**Margaret Sims /EAC/GOV**  
12/14/2006 12:55 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC  
cc  
Subject PFAW Response to EAC Vote Fraud Report

Are there any plans to rebut the PFAW response? If so, may I help? — Peggy

008469

Jeannie Layson /EAC/GOV  
10/18/2006 11:09 AM

To twilkey@eac.gov, jthompson@eac.gov, psims@eac.gov,  
ggilmour@eac.gov  
cc bwhitener@eac.gov

bcc

Subject Media inquiry RE: fraud research

Hello everyone,

Brian Friel of the National Journal has posed the following questions regarding the fraud report. Since we know this is something everyone on the Hill will definitely read, I want to make sure everyone agrees with these responses. I need to get this info to him by noon tomorrow.

Tom -- do you want me to run this language by the commissioners?

1. Are there any plans to release voter fraud report since several groups have called for its release; or if there is some procedure that would be necessary for EAC to determine that it should be released? The status report created by EAC staff was presented to EAC's Board of Advisors and Standards Board to provide an update on the research project. This meeting was open to the public. As a small agency of only 23 employees, including four commissioners, it is necessary for EAC to contract with third parties and experts to conduct research. The information provided by third parties is used by staff to develop EAC final policy or reports. No documents, drafts, or recommendations presented to EAC by third parties constitute official EAC policy. Currently, EAC staff is reviewing the data presented regarding voter fraud and intimidation and will produce a final report in the near future.

Is the fourth position still vacant and does this impact the decision for release of the report. There is a vacancy on the commission, but the vacancy has not impacted the timeline for releasing the fraud 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

008470

Margaret Sims /EAC/GOV  
03/13/2007 02:31 PM

To: Jeannie Layson/EAC/GOV@EAC  
cc: ddavidson@eac.gov, jthompson@eac.gov, twilkey@eac.gov  
bcc:  
Subject: Re: Voter ID, Fraud & Intimidation--Need your input

Looks fine to me. Of course, she is probably referring to our decision not to release the consultants' draft final report. --- Peggy

Jeannie Layson /EAC/GOV

03/13/2007 02:25 PM

To: jthompson@eac.gov, twilkey@eac.gov, psims@eac.gov, ddavidson@eac.gov  
cc:  
Subject: Voter ID, Fraud & Intimidation--Need your input

Hello all,

A columnist from the WaPo has asked for info about both the voter ID and the fraud and intimidation reports. This was prompted by the accusation that the president was concerned that the fired prosecutors were not aggressively pursuing voter fraud cases. She had heard that we were refusing to release this information, so I am trying to demonstrate otherwise, as well as show that we have discussed these projects numerous times in public meetings. Please take a look at my draft email to her and let me know if you have any suggestions. She needs to hear back from me by 4 p.m. Thanks for your help with this.

Ms. Cocco,

Per your questions, go [here](#) to view the testimony regarding voter ID from our Feb. 2 public meeting. As I mentioned, at this meeting EAC Chair Donetta Davidson requested that staff review the initial research provided by Eagleton and produce a final report, which would include recommendations for further study on this subject. Currently, staff is working to finalize the voter ID report.

Regarding the voter fraud and intimidation research, at a May 2006 public meeting of our Standards Board and Board of Advisors, the EAC project manager for this research presented a staff update on the project. Go [here](#) to view the agenda, page 3. The document you referred to was the update the project manager gave at this public meeting, and it has been made available to anyone who asked for it. The final culmination of this project can be found [here](#), and links to the attachments provided by the consultants are available by going to page 24 of this report. The commissioners adopted this report at a [public meeting in Dec. 2006](#).

As a small agency of 23 employees, including the four commissioners, it is necessary for the agency to contract with consultants to gather the initial data for these projects. After EAC receives the initial data, the agency reviews the data for accuracy and then releases a final report.

Jeannie Layson

008471



U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

008472

Margaret Sims /EAC/GOV  
12/06/2006 01:20 PM

To Bryan Whitener/EAC/GOV@EAC  
cc Juliet E. Hodgkins/EAC/GOV@EAC  
bcc  
Subject Re: Please review ASAP - Fw: Fraud Report Press Release -  
DRAFT

This looks OK to me, although I still wonder why EAC is listed as implementing election administration improvements (in the next to last paragraph). Shouldn't we say something to the effect that we provide information and advice on the implementation of election administration improvements? -- Peggy

Bryan Whitener/EAC/GOV

Bryan Whitener /EAC/GOV  
12/06/2006 12:39 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Margaret  
Sims/EAC/GOV@EAC  
cc  
Subject Please review ASAP - Fw: Fraud Report Press Release -  
DRAFT

Then I need to get commishes to okay.

— Forwarded by Bryan Whitener/EAC/GOV on 12/06/2006 12:36 PM —



"RoseUtley, Jennifer"

~~\_\_\_\_\_~~

12/05/2006 06:49 PM

To bwhitener@eac.gov  
cc jlayson@eac.gov  
Subject Fraud Report Press Release - DRAFT

Brian,

Please find attached the draft fraud report press release for review. The other documents will follow in a separate email.

Jennifer

-----  
**NEW E-MAIL: [jennifer.roseutley@bm.com](mailto:jennifer.roseutley@bm.com)**

Jennifer Rose-Utley  
Manager, Public Affairs  
Burson-Marsteller  
202.530.4505  
[jennifer.roseutley@bm.com](mailto:jennifer.roseutley@bm.com)

-----  
**We've Moved!**

008473

**Please visit us at our new location:**

**Burson-Marsteller**  
1110 Vermont Avenue, NW, Suite 1100  
Washington, DC 20005



**Fraud Press Release - DRAFT v2.doc**

008474

DRAFT

FOR IMMEDIATE RELEASE

CONTACT: Jeannie Layson  
(202) 566-3100

**EAC Releases Findings of Voting Fraud and Voter Intimidation Study**  
*No consensus on the regularity of voting fraud and voting intimidation found*  
*Agency accepts recommendations to conduct a comprehensive study on elections crimes*

WASHINGTON, D.C. (December 5, 2006) – The United States Election Assistance Commission (EAC) today voted on the findings of the “Voting Fraud and Voter Intimidation Study” and accepted recommendations to conduct a comprehensive assessment of all claims, charges and prosecutions of voting crimes.

The study, which was largely based on anecdotal information was reviewed and analyzed by two independent research consultants, represents the first phase of the information gathering process. The second phase, which the EAC voted to proceed with, is a more comprehensive data-driven survey and study of elections crimes and voter intimidation and will also offer consistency to the study and the public dialogue of the issue identifying a common definition of the issue for the use of elections officials, civil rights and voter advocacy groups, law enforcement officials and attorneys.

The recommendations accepted by EAC today include:

- ***Survey Chief Elections Officers to Review and Assess Administrative Complaints:*** EAC will survey the states’ chief election officers regarding complaints that have been filed, investigated and resolved since January 1, 2004.
- ***Survey State Election Crime Investigation Units Regarding Complaints Filed and Referred:*** EAC will gather information on the numbers and types of complaints that have been received by, investigated, and ultimately referred to local or state law enforcement by election crime investigation units since January 1, 2004.
- ***Survey Law Enforcement and Prosecutorial Agencies Regarding Complaints and Charge of Voting Crimes:*** EAC will survey law enforcement and prosecutorial agencies at the local, state and federal level to determine the number and types of complaints, charges, or indictments, and pleas or convictions of election crimes since January 1, 2004.
- ***Analyze Survey Data in Light of State Laws and Procedures:*** EAC will use the reliable data gathered from each survey group to analyze the effectiveness of fraud prevention and reporting measures.

In order to arrive at the findings, EAC consultants reviewed existing studies, articles, reports and case law on voting fraud and intimidation and conducted interviews with experts in the field regarding their experiences and research. According to the findings, while there is currently no consensus on the frequency of voting fraud and voter intimidation, most participants agreed that absentee balloting is subject to the greatest proportion of fraudulent acts, followed by vote buying and voter registration fraud.

Following today’s vote to approve the survey recommendations, EAC will work to complete a comprehensive survey and subsequent study on voting fraud and voter intimidation based on hard data by the end of 2007. Additionally, by mid-2008, EAC will develop a set of voluntary best

008475

**DRAFT**

practices for state election officials and prosecuting authorities to use in assessing legitimate claims and bringing them to justice.


Section 241 of the Help America Vote Act of 2002 (HAVA) mandates that EAC research and study various issues related to the administration of elections. During Fiscal Year 2006, EAC in consultation with the Standards Board and Board of Advisors selected voting fraud and voter intimidation from a list of potential research topics that serve to improve the administration of elections for federal office.

EAC is an independent bipartisan commission created by HAVA. It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines and serving as a national clearinghouse and resource of information regarding election administration. The EAC commissioners are Paul DeGregorio, chairman; Donetta Davidson and Gracia Hillman.

For the EAC's full report on the Voting Fraud and Voter Intimidation Study or to view testimony from today's hearing, visit [www.eac.gov](http://www.eac.gov).

###

Margaret Sims/EAC/GOV  
10/19/2006 01:55 PM

To Jeannie Layson/EAC/GOV@EAC  
cc bwhitener@eac.gov, ggilmour@eac.gov,  
jthompson@eac.gov, twilkey@eac.gov  
bcc  
Subject Re: Media inquiry RE: fraud research 

I don't know that we can say that EAC will produce a report on the subject in the near future. We will have the consultants' report to EAC, which I don't believe constitutes an EAC report/statement. The consultants' report never was intended to be the definitive study of voting fraud/voter intimidation that the news media and others seem to be seeking. One of the primary goals of the report was to provide recommendations for future EAC action/direction of study. In order to do this, the consultants did some preliminary research to get an idea of what problems were occurring. I don't know how soon EAC will decide which recommendations, if any, to pursue. --- Peggy

Jeannie Layson/EAC/GOV

10/18/2006 11:09 AM

To twilkey@eac.gov, jthompson@eac.gov, psims@eac.gov, ggilmour@eac.gov  
cc bwhitener@eac.gov  
Subject Media inquiry RE: fraud research

Hello everyone,

Brian Friel of the National Journal has posed the following questions regarding the fraud report. Since we know this is something everyone on the Hill will definitely read, I want to make sure everyone agrees with these responses. I need to get this info to him by noon tomorrow.

Tom -- do you want me to run this language by the commissioners?

1. Are there any plans to release voter fraud report since several groups have called for its release; or if there is some procedure that would be necessary for EAC to determine that it should be released? The status report created by EAC staff was presented to EAC's Board of Advisors and Standards Board to provide an update on the research project. This meeting was open to the public. As a small agency of only 23 employees, including four commissioners, it is necessary for EAC to contract with third parties and experts to conduct research. The information provided by third parties is used by staff to develop EAC final policy or reports. No documents, drafts, or recommendations presented to EAC by third parties constitute official EAC policy. Currently, EAC staff is reviewing the data presented regarding voter fraud and intimidation and will produce a final report in the near future.

Is the fourth position still vacant and does this impact the decision for release of the report. There is a vacancy on the commission, but the vacancy has not impacted the timeline for releasing the fraud report.

008477

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

008478

Thomas R. Wilkey/EAC/GOV  
10/04/2006 01:50 PM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc Juliet E. Hodgkins/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC  
bcc  
Subject Eagleton Response

Karen;

Could you please put a list of items we have released and what has not been released on the two Eagleton Reports.

I would like to get back to John on this on want us ALL to be on the same page.

Thanks

Tom

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

008479



Thomas R. Wilkey/EAC/GOV  
08/16/2006 12:29 PM

To Juliet E. Thompson-Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Eagleton/Moritz Study Release

I thought this stuff was our property?

-----  
Sent from my BlackBerry Wireless Handheld

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

From: "John Weingart" [john.weingart@rutgers.edu]  
Sent: 08/16/2006 12:21 PM  
To: Thomas Wilkey  
Cc: Karen Lynn-Dyson  
Subject: Eagleton/Moritz Study Release

Tom - I have just faxed the attached letter to you but thought you might also like an emailed version. I look forward to discussing it with you soon.

Thanks, John

--  
-- John Weingart, Associate Director  
Eagleton Institute of Politics  
(732)932-9384, x.290



Wilkey081606final.doc

008490

August 16, 2006

Thomas R. Wilkey, Executive Director  
United States Election Assistance Commission  
1225 New York Avenue N.W., Suite – 1100  
Washington, DC 20005  
Fax: (202) 566-3127

Dear Mr. Wilkey:

I want to follow up with you about the reports the Eagleton Institute of Politics and Moritz College of Law have submitted on Provisional Voting and Voter Identification. As you know, your office has accepted them as the final work products required under our contract with the EAC.

With the new academic year about to begin, we want now to make the two reports available for use by researchers, legislators, election officials, and others interested in these topics. We have already received requests for them from other researchers who are interested in reviewing our findings for their own work. Also, at both Eagleton and the Moritz College of Law, we intend to draw on this research for teaching, scholarship and possibly public seminars. That the EAC originally commissioned these studies to offer lessons for the 2006 elections based on experience in 2004 further supports the importance of quick action.

As we noted in our June 29th submission of the final reports, we would of course prefer that notice of their availability be issued jointly by the EAC, Rutgers, and Ohio State. If, however, the Commission would rather not proceed in that direction, then the two universities will work on our own to make the reports publicly available.

I would appreciate it if you would give me a call this week or next at the latest to discuss the best way to move forward.

Sincerely,

John Weingart, Associate Director  
Eagleton Institute of Politics

Cc: EAC Commissioners  
Karen Lynn-Dyson

008481



Amie J. Sherrill/EAC/GOV  
06/12/2006 08:59 AM

To Raymundo Martinez/EAC/GOV, Gracia Hillman/EAC/GOV,  
ddavidson@eac.gov, twilkey@eac.gov,  
cc jthompson@eac.gov@EAC, Karen Lynn-Dyson/EAC/GOV,

bcc

Subject Letter from Eagleton

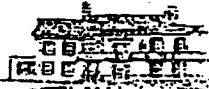
Please find attached a letter from the Eagleton Institute of Politics. Thank you.

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



Letter from Eagleton.pdf

008482



EAGLETON INSTITUTE OF POLITICS

FAX COVER SHEET

Date: 6/8/06

To: Paul S. De Gregorio

Fax Number: 202-566-3127

Phone Number: \_\_\_\_\_

Total Number of Pages (including cover sheet): 3

Comments:

From: John Weingart X 290

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

Tel: 732/932-9384  
Fax: 732/932-6778



E-mail: [eagleton@ci.rutgers.edu](mailto:eagleton@ci.rutgers.edu)  
Web: [www.eagleton.rutgers.edu](http://www.eagleton.rutgers.edu)

008483



---

## EAGLETON INSTITUTE OF POLITICS

---

Paul S. DeGregorio  
United States Election Assistance Commission  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005  
Fax: (202) 566-3127

June 8, 2006

Dear Chairman DeGregorio:

Karen Lynn-Dyson relayed the Commission's decision in your meeting of June 1 to take more time to consider how to proceed with the delivery of EAC research reports on provisional voting and voter identification.

The Eagleton-Moritz research team, of course, encourages the Commission's thoughtful consideration of the two reports, but we are mindful of the need to deliver revised documents that respond to the Commission's comments by the close of our contract on June 30<sup>th</sup>. We believe that if we receive the Commission's final comments on the Provisional Voting report by June 19 we will be able to complete any additional work that the Commission might request and incorporate the results in our final reports before the end of the contract period.

Based on suggestions raised at the meetings, we already plan to supplement the Provisional Voting report with some brief, additional information about the influence of the fail-safe ballot provisions of the National Voting Rights Act on the experience with provisional voting in 2004.

We understand that the Commission must submit the final draft Voter ID report to the same review process by your advisory boards as was followed with the Provisional Voting paper. We understand that step is a prerequisite for wider release. We would appreciate your advice on how to handle this review, given the rapidly approaching end of our contract.

We hope the commission will use both reports, as intended from the outset of this project, as the basis for recommendations for better, if not best, practices to the states. If the Commission cannot decide to issue such recommendations to the states, we hope it will promptly release the reports to provide the states and the broader elections community with this information, analysis and perspective on the issues.

We recognize, based on the reactions at the meetings of the Standards Board and, particularly, the Board of Advisors, that some of the findings, conclusions, and recommendations of the reports will be controversial with some of the Commission's constituencies. But we also believe, based on the comments of the Peer Review Group, the advisors assembled by the Commission, and our response to their critiques, that the reports are grounded on solid research by a well-qualified, nonpartisan team and that the reports will provide new information for the policy process. We believe this information will contribute to achieving the EAC mission of providing helpful information that the states may or may not choose to implement.

---

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

---

Tel: (732) 932-9384  
Fax: (732) 932-6778

THE STATE UNIVERSITY OF NEW JERSEY  
**RUTGERS**

E-mail: eagleton@rci.rutgers.edu  
Web: www.eagleton.rutgers.edu

008484

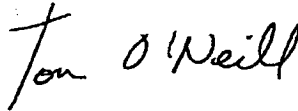
June 8, 2006 letter to Chairman DeGregorio from Thomas O'Neill

page 2

The information in the reports can improve the policy process by raising the level of debate over increasingly volatile issues related to election administration. We believe our reports will prove useful to the states as they complete preparations for the 2006 elections. Moreover, the elections community is aware of this work, and awaits the analysis and conclusions.

We look forward to working with you to conclude this research in a way that will serve the public interest.

Very truly yours,

A handwritten signature in black ink that reads "Tom O'Neill". The signature is written in a cursive, slightly slanted style.

Thomas M. O'Neill  
Project Director

Jeannie Layson /EAC/GOV  
02/14/2007 03:14 PM

To Bert A. Benavides/EAC/GOV@EAC, sbanks@eac.gov,  
klynndyson@eac.gov  
cc twilkey@eac.gov, jthompson@eac.gov, ggilmour@eac.gov  
bcc

Subject Eagleton documents


Hello everyone,

I am trying to get my arms around exactly what information from either the Eagleton voter ID or provisional voting report was sent from this office to outside parties. Please note that I have had several FOIA requests for both reports, so I need to know exactly what has been released to make sure that I have responded to these requests accurately. In other words, I want to make sure that I have not refused to provide data or information that has been provided to third parties. If you do not find any records regarding this request, please respond to this email "no records found." Thank you.

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

008486

Jeannie Layson /EAC/GOV  
02/14/2007 03:08 PM

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

She thinks it was provisional voting, but she's not sure. I asked Sheila what she sent to Tom Hicks, and she can't find the email.

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 02:53 PM

To Jeannie Layson/EAC/GOV@EAC  
cc  
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

008487



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

008488

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](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](http://www.eac.gov)

008489


Jeannie Layson /EAC/GOV  
02/14/2007 02:54 PM

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

I will make sure...

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 02:53 PM

To Jeannie Layson/EAC/GOV@EAC  
cc  
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


008490

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](#)

008491

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](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](http://www.eac.gov)

008492

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

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

History

 This message has been replied to

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

008493

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


008494

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](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](http://www.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  
bcc  
Subject Re: Eagleton 

History

 This message has been replied to

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 so.

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

008496

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](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](http://www.eac.gov)

008497

Jeannie Layson /EAC/GOV  
02/14/2007 02:07 PM


To jthompson@eac.gov, klynndyson@eac.gov,  
twilkey@eac.gov  
cc  
bcc  
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](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](http://www.eac.gov)

008498

Karen Lynn-Dyson/EAC/GOV  
02/14/2007 03:24 PM

To Jeannie Layson/EAC/GOV@EAC  
cc Bert A. Benavides/EAC/GOV@EAC, ggilmour@eac.gov,  
jthompson@eac.gov, sbanks@eac.gov, twilkey@eac.gov  
bcc  
Subject Re: Eagleton documents 

As discussed- I have checked my e-mail and have no documents found.  
Also, as discussed I am aware that Mike McDonald was sent materials and Tom Hicks materials related to the Eagleton reports. Neither set of materials was sent directly by me, however.

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 03:14 PM


To Bert A. Benavides/EAC/GOV@EAC, sbanks@eac.gov, klynndyson@eac.gov  
cc twilkey@eac.gov, jthompson@eac.gov, ggilmour@eac.gov  
Subject Eagleton documents

Hello everyone,  
I am trying to get my arms around exactly what information from either the Eagleton voter ID or provisional voting report was sent from this office to outside parties. Please note that I have had several FOIA requests for both reports, so I need to know exactly what has been released to make sure that I have responded to these requests accurately. In other words, I want to make sure that I have not refused to provide data or information that has been provided to third parties. If you do not find any records regarding this request, please respond to this email "no records found." Thank you.

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

008499

Karen Lynn-Dyson/EAC/GOV  
02/14/2007 02:18 PM

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

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](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](http://www.eac.gov)

008500

Karen Lynn-Dyson/EAC/GOV  
10/04/2006 03:02 PM

To Thomas R. Wilkey/EAC/GOV@EAC  
cc Jeannie Layson/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC  
bcc  
Subject Re: Eagleton Response  


Tom-

As I believe you are aware, The Eagleton Institute 'sTim Vercellotti " Analysis of Effects of Voter ID Requirements on Turnout" was made public at the American Political Science Association meeting and was subsequently referenced on Dan Tokaji's blog.

We have sent the following:

**To Mike McDonald :**

Appendix C: Provisional Ballot Litigation by Issue

Appendix D: Provisional Ballot Litigation by State

**To Tom Hicks :**

Appendix A: Summary of Voter ID Requirements by State

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

Appendix D: Annotated Bibliography on Voter Identification Issues

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

Thomas R. Wilkey/EAC/GOV

Thomas R. Wilkey/EAC/GOV  
10/04/2006 01:50 PM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc Juliet E. Hodgkins/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC  
Subject Eagleton Response

Karen;

Could you please put a list of items we have released and what has not been released on the two Eagleton Reports.

I would like to get back to John on this on want us ALL to be on the same page.

008501

Thanks  
Tom

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

008502

Karen Lynn-Dyson/EAC/GOV

08/24/2006 05:06 PM

To twilkey@eac.gov, Jeannie Layson/EAC/GOV@EAC, Juliet E.  
Thompson-Hodgkins/EAC/GOV@EAC

cc Bert A. Benavides/EAC/GOV@EAC

bcc

Subject letter to John Weingart/Eagleton

Tom-

Here is my draft of a letter to Weingart. I know you want to get this out ASAP.

I'm certain that what I said re: voter id should be edited by Jeannie and Julie.

K



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

008503



John Weingart  
Associate Director  
Eagleton Institute of Politics  
Rutgers University

New Brunswick, NJ

Dear Mr. Weingart:

Thank you for your recent inquiry of August 16, 2006 regarding the anticipated release of data contained in the Eagleton Institute of Politics and Moritz College of Law studies on provisional voting and voter identification, which were conducted for the U.S. Election Assistance Commission.

As you note in your letter, with the upcoming 2006 elections, election officials could benefit from information, which the EAC could provide, regarding provisional balloting and voter identification processes and procedures. Realizing the importance of providing this information the Commission anticipates releasing its report on provisional voting within the next several weeks. However, in light of ongoing litigation surrounding the topic of voter identification and its impact on the voting process, the Commission does not anticipate releasing a research report, at this time, regarding voter identification processes and their possible impact on voter turnout.

The body of the EAC provisional voting report will contain a series of recommendations for sound practices to be used in the provisional voting process. The information will be drawn from the recommendations and summaries provided in the final Eagleton report. A review by EAC found that the information contained in the state summaries section of the Eagleton provisional voting report was not completely accurate and would require a more thorough review and vetting process by states. Therefore, this information will not be contained in the EAC report. The information contained in the case law section of the Eagleton report will be captured in the information to be provided in EAC's online legal clearinghouse.

I hope that this clarifies how the EAC will be proceeding with the information and research which Eagleton performed related to its contract with the EAC.

Sincerely,

Thomas Wilkey  
Executive Director

008504

Karen Lynn-Dyson/EAC/GOV

09/25/2006 12:20 PM

To twilkey@eac.gov, Juliet E. Hodgkins/EAC/GOV@EAC

cc Sheila A. Banks/EAC/GOV@EAC

bcc

Subject Distribution of Voter ID Report Appendices to Tom Hicks

Commissioner Hillman has asked a follow-up question regarding the sharing of EAC's information, on the Eagleton study on Voter ID requirements, with Tom Hicks.

I have given Sheila the following appendices for possible distribution to Tom Hicks:

1. Summary of Voter ID Requirements by State
2. Court Decisions and Literature on Voter Identification and Related Issues Court decisions
3. Annotated bibliography on Voter Identification Issues

I have **not** given Sheila, for distribution, these Appendices or parts of the report:

1. Analysis of Effects of Voter ID Requirements on Turnout
2. The Executive Summary and Recommendations
3. Summary of Research
4. State Statutes and Regulations Affecting Voter Identification (electronic version only)


**\*\*You'll also recall that I 'm awaiting Tom 's approval to send to Mike McDonald , various appendices from the Eagleton Provisional Voting report**

Thanks

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

008505

Karen Lynn-Dyson/EAC/GOV  
09/15/2006 10:34 AM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc twilkey@eac.gov, Bert A. Benavides/EAC/GOV@EAC  
bcc  
Subject Re: Call to discuss release of Rutgers Voter ID report 

History

 This message has been replied to.

Julie-

I haven't heard from Tom on his availability-

All-

Can we do a call at 1:30?

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

008506

Karen Lynn-Dyson/EAC/GOV

To Juliet E. Hodgkins/EAC/GOV@EAC, twilkey@eac.gov

09/15/2006 09:31 AM

cc Bert A. Benavides/EAC/GOV@EAC

bcc

Subject Call to discuss release of Rutgers Voter ID report

History

This message has been replied to

Julie and Tom-

Commissioner Hillman has asked me to meet with each of you this morning regarding the sharing of the information of this report with Hill staffers.

Could we have a call at 10:30 or 11:00 this morning to reach a decision on how to proceed with this request?

I understand this is a time-sensitive matter that will need to be resolved by early afternoon.

Thanks

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

008507



Sheila A. Banks/EAC/GOV  
09/25/2006 04:32 PM

To twilkey@eac.gov, Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Distribution of Voter ID Report Appendices to Tom Hicks

History This message has been replied to

As a follow up to Karen's email, I have additional questions regarding the appendices she gave me:

1. Should I give you the materials I have already for approval?
2. Does a DRAFT watermark need to be on the document?
3. Should the names on the document be removed and add EAC?
4. Should I send Tom Hicks a hard copy or scanned copy?

Thanks,

Sheila

— Forwarded by Sheila A. Banks/EAC/GOV on 09/25/2006 12:53 AM —

Karen Lynn-Dyson/EAC/GOV

09/25/2006 12:20 PM

To twilkey@eac.gov, Juliet E. Hodgkins/EAC/GOV@EAC  
cc Sheila A. Banks/EAC/GOV@EAC  
Subject Distribution of Voter ID Report Appendices to Tom Hicks

Commissioner Hillman has asked a follow-up question regarding the sharing of EAC's information, on the Eagleton study on Voter ID requirements, with Tom Hicks.

I have given Sheila the following appendices for possible distribution to Tom Hicks:

1. Summary of Voter ID Requirements by State
2. Court Decisions and Literature on Voter Identification and Related Issues Court decisions
3. Annotated bibliography on Voter Identification Issues

I have not given Sheila, for distribution, these Appendices or parts of the report:

1. Analysis of Effects of Voter ID Requirements on Turnout
2. The Executive Summary and Recommendations
3. Summary of Research
4. State Statutes and Regulations Affecting Voter Identification (electronic version only)

**\*\*You'll also recall that I 'm awaiting Tom 's approval to send to Mike McDonald , various appendices from the Eagleton Provisional Voting report**

Thanks

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

tel:202-566-3123

008509



Gracia Hillman/EAC/GOV

10/10/2006 10:46 AM

To pdegregorio@eac.gov, Ddavidson@eac.gov, Thomas R. Wilkey/EAC/GOV@EAC, Juliet E. Hodgkins/EAC/GOV@EAC, jlayson@eac.gov,  
cc sbanks@eac.gov

bcc

Subject Letter from Barbara Arnwine

As you have heard me say on more than one occasion, "the honeymoon is over." Our ongoing communications with our working groups is ever so important, especially to explain lengthy delays and/or changes in strategy.

008510



Gracia Hillman/EAC/GOV

10/10/2006 12:12 PM

To Margaret Sims/EAC/GOV@EAC

cc "Julie Thompson-Hodgkins" <jthompson@eac.gov>, "Tom Wilkey" <twilkey@eac.gov>, sbanks@eac.gov

bcc

Subject Re: Letter from Barbara Arnwine 

The letter was addressed to the commissioners. I will ask Sheila to give a copy to you.

Per our normal procedures, I would guess a reply should be drafted for the Chairman's signature (especially as he is the DFO for the Board of Advisors) but you should check that with Tom.

Thanks.

008511



TO: Thomas Wilkey  
FROM: Karen Lynn-Dyson  
SUBJECT: Peer Review of Eagleton Statistical Analyses  
DATE: April 14, 2006

As we've discussed, there are lingering doubts on the part of several Commissioners and EAC staff about the accuracy and validity of the statistical analysis which Eagleton has performed on its voter identification study. Many of Eagleton's conclusions, observations and recommendations rest on this statistical analysis.

A statistical analysis was also performed. Although their conclusions and recommendations are based on statistical analysis and research, they do not rest on findings as they are for the voter identification study.

*Tom's docs  
& emails  
Feinstein*

onal voting.  
rely on their  
his study's

Before a final Eagleton report on Provisional Voting is issued, the EAC Standards Board and Board of Commissioners should recommend that a small peer review group be convened. A review by a small panel, comprised of 3-4 experts with backgrounds in election research methodologies and statistics, should yield us the validation and verification of the reliability and validity of the Eagleton research, which we are seeking.

ication are given to  
lay meeting, I  
A review by a

I am further recommending that such a panel be convened either telephonically or in person at EAC's offices on May 10 or May 11. In addition to select EAC staff and interested Commissioners, Eagleton's key researchers/statisticians responsible for conducting the research and analysis would be present during the review. Prior to the review panelists would be given background materials describing, in detail, the methodology and analysis used in the provisional voting and voter identification studies.

The peer review panelists which have been recommended to me include:

Jonathan Nagler- NYU  
Jan Leighley- University of Arizona  
Ben Highton -UC Davis  
Adam Berinsky- MIT  
Bernard Grofman- UC Irvine

008512

There may be one or two others whom the Commissioners or EAC staff may wish to recommend.

As you will note, the proposed review panel represents a wide geographic diversity. While budgetary constraints might make a one day in-person peer review meeting unrealistic, it is likely to yield a richness of review and exchange that will not be possible through a series of conference calls with the review panel. Such a one-day peer-review meeting is likely to cost in the range of \$7,000. This figure would include a small honoraria that would be given to each peer reviewer.

I look forward to your comments and recommendations. Planning for such a review will need to begin as soon as possible.

008513



"Tom O'Neill"

05/04/2006 05:00 PM

To klynndyson@eac.gov

cc tokaji.1@osu.edu, foley.33@osu.edu,  
lauracw@columbus.rr.com, "Tim Vercellotti"  
<tim.vercellotti@rutgers.edu>, arapp@rci.rutgers.edu,  
bcc

Subject Revised Voter ID Analysis

Karen,

Attached is Tim Vercellotti's Voter ID analysis revised to use Citizen Voting Age population as the base for turnout calculations and to take account of comments or issues raised by the EAC and our Peer Review Group. This draft is for distribution to the reviewers who will meet by teleconference on May 11, at, we understand, 11:30 a.m.

You are receiving this at the same time that it is being distributed to the ~~Engleton-Moritz team~~ so that the new reviewers will have a week to prepare for our conversation on the 11. Early next week you will receive a revised summary paper on Voter ID that incorporates the new data and findings in Tim's revised analysis. That too will be for distribution to the new reviewers.

Tom O'Neill



VoterIDAnalysis VercRev0504.doc

008514

# Analysis of Effects of Voter Identification Requirements on Turnout

Tim Vercellotti

Eagleton Institute of Politics

Rutgers University

May 4, 2006

## Introduction

A key area of disagreement in the policy debate over voter identification requirements concerns whether such requirements dampen voter turnout. Opponents of voter identification laws argue that they constitute an institutional barrier to voting, particularly among the poor, African-Americans, Hispanics, the elderly and people with disabilities (Baxter and Galloway 2005, Electionline.org 2002, Jacobs 2005, Young 2006). This argument holds that voter identification requirements create an extra demand on voters, and thus may discourage some of them from participating in elections. Further, critics of voter identification requirements contend that the effect is greater for some specific types of requirements. For example, critics argue that requiring voters to produce government-issued photo identification on Election Day is more demanding than, say, requiring that they state their names at the polling place. Supporters of voter identification requirements, on the other hand, argue that the requirements are necessary to combat voter fraud, safeguard the integrity of the electoral process, and engender faith in the electoral process among citizens (Young 2006).

This report examines the potential variation in turnout rates based on the type of voter identification requirement in place in each state on Election Day 2004. It draws on two sets of data – aggregate turnout data at the county level for each state, as compiled by the Eagleton Institute of Politics, and individual-level survey data included in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. Classification of voter identification requirements comes from a review of state statutes conducted by the Moritz College of Law at the Ohio State University.

## Types of voter identification requirements

Based on research performed for this study by the Moritz College of Law, states had one of five types of requirements in place on Election Day 2004. Upon arrival at polling places, voters had to: state their names (nine states); sign their names (13 states and the District of Columbia); match their signature to a signature on file with the local election board (eight states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (five states).<sup>1</sup> It was then possible to code the states according to these requirements, and test the assumption that voter identification requirements would pose an increasingly demanding requirement in this order: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification, and providing a form of photo identification.

---

<sup>1</sup> Oregon conducts elections entirely by mail. Voters sign their mail-in ballots, and election officials match the signatures to signatures on file. For the purposes of this analysis, Oregon is classified as a state that requires a signature match.

008515

Deliberative Process  
Privilege

But election laws in numerous states offer exceptions to these requirements if individuals lack the necessary form of identification, and laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). Thus it is also possible to categorize states based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota). The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states). For the purposes of this analysis I treated the array of minimum identification requirements also in terms of increasing demand on the voter: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit.

### **Estimating turnout among citizens in the voting-age population**

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

In the aggregate data, determining the percentage of the voting-age population that has U.S. citizenship posed a methodological challenge. The Census Bureau gathers information on the citizenship status of adults ages 18 and older only during the decennial census. While the Census Bureau provides annual estimates of the population to account for changes between decennial censuses, the bureau does not offer estimates for the proportion of the adult population who are citizens as part of the annual estimates. To address this issue I estimated the 2004 citizen voting-age population for each county using a method reported in the analysis of the 2004 Election Day Survey conducted for the U.S. Election Assistance Commission (U.S. Election Assistance Commission, 2005). I calculated the percentage of the 2000 voting-age population who were citizens in 2000, and applied that percentage to the July 1, 2004 estimates for voting-age population in each county. In other words, I assumed that the percentage of the voting-age population that had U.S. citizenship in 2004 was similar to the percentage of the voting-age population who were citizens in 2000.<sup>2</sup>

<sup>2</sup> McDonald and Popkin (2001) recommend an even more stringent approach to voter turnout calculations. They point out that voting-age population estimates include adults who are ineligible to vote (such as convicted felons), and the estimates overlook eligible citizens living overseas. While estimates of the voting-eligible population are available at the state level, I was unable to find such estimates for individual counties, which provide the unit of analysis for the aggregate data analyzed here.

## Analysis of aggregate data

If one treats maximum voter identification requirements as an ordinal variable, with photo identification as the most demanding requirement, one finds some statistical support for the premise that as the level of required proof increases, turnout declines. Averaging across counties in each state, statewide turnout is negatively correlated with maximum voter identification requirements ( $r = -.30, p < .0001$ ). In considering the array of minimum requirements, with affidavit as the most demanding requirement, voter identification also is negatively correlated with turnout ( $r = -.20, p < .0001$ ). Breaking down the turnout rates by type of requirement reveals in greater detail the relationship between voter identification requirements and voter turnout.

[Table 1 here]

The aggregate data show that 60.9 percent of the estimated citizen voting age population voted in 2004. Differences in voter turnout at the state level in 2004 varied based on voter identification requirements. Taking into account the maximum requirements, an average of 64.6 percent of the voting age population turned out in states that required voters to state their names, compared to 58.1 percent in states that required photo identification. A similar trend emerged when considering minimum requirements. Sixty-three percent of the voting age population turned out in states requiring voters to state their names, compared to 60.1 percent in states that required an affidavit from voters.

Voter identification requirements alone, however, do not determine voter turnout. Multivariate models that take into account other predictors of turnout can paint a more complete picture of the relationship between voter identification requirements and turnout. I estimated the effects of voter identification requirements in multivariate models that also took into account the electoral context in 2004 and demographic characteristics of the population in each county. I coded the voter identification requirements on a scale of one to five, with one representing the least demanding form of identification and five representing the most demanding form of identification. To capture electoral context I included whether the county was in a presidential battleground state (any state in which the margin of victory for the winning candidate was five percent or less), and whether the county was in a state with a competitive race for governor and/or the U.S. Senate (also using the threshold of a margin of victory of five percent or less). Drawing from U.S. Census projections for 2003, I included the percentage of the voting-age population in each county that was Hispanic or African-American to control for ethnicity and race. I controlled for age using the 2003 Census projection for the percentage of county residents age 65 and older, and I controlled for socioeconomic status by including the percentage of individuals who fell below the poverty line in each county in the 2000 Census.

I estimated a series of random intercept models to account for the likelihood that data from counties were correlated within each state (for further explanation of random intercept and other multilevel models, see Bryk and Raudenbush 1992, Luke 2004, Singer 1998).<sup>3</sup> The

<sup>3</sup> The data analyses provided evidence that there was, indeed, a clustering of data within each state. The intraclass correlation, bounded by 0 and 1, measures the variation between the states. A random intercept model using only the

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

[Table 2 here]

Turning first to an analysis using the maximum identification requirements, those requirements had a small and negative effect on turnout in 2004 controlling for electoral context and demographic factors. Both contextual factors (whether the county was in a state that was a battleground state and whether that state had a competitive race for governor and/or U.S. Senate) increased voter turnout. As the percentage of senior citizens in the county increased, so did turnout. The percentage of African-Americans in the county exerted a positive effect on voter turnout, and the percentage of individuals living below the poverty line had a negative effect. The effect of the percentage of Hispanic adults in the county on turnout fell just short of statistical significance ( $p = .05$ ).

I then sought to test the hypothesis that voter identification requirements dampen turnout among minorities and the poor, a claim voiced by some critics of the requirements. To test this idea I incorporated a series of interactions between the maximum voter identification requirements and the percentage of African-Americans, Hispanics, and poor individuals in the counties. The interaction involving African-Americans was not significant, but those involving Hispanics and poor individuals were significant.<sup>4</sup> In addition, adding the interactions to the model resulted in the percentage of Hispanics in the population having a direct and negative effect on turnout. The interactions suggest that voter identification requirements have a greater effect for Hispanics and those living below the poverty line. A chi-square test of the difference in the deviance for each model (represented by  $-2 \log$  likelihood in Table 2), shows that the model with interactions provides a better fit to the data ( $p < 0.005$ ).

I also estimated the effects of the minimum voter identification requirements holding constant the effects of electoral context and the demographic variables.

[Table 3 here]

The effects of the minimum requirements fell short of statistical significance ( $p = 0.08$ ). The battleground state variable continued to exert a positive influence on turnout, while the presence of a competitive race for governor and/or U.S. Senate had no statistically significant effect. As in the maximum identification requirement model, as the percentage of the population that is poor increased, turnout declined. As the percentage of elderly increased, so did turnout. The proportion of African-Americans in the population had a positive effect on turnout, while the percentage of Hispanics did not affect turnout.

---

intercept as a predictor generated an intraclass correlation of .43, indicating considerable variation between the states.

<sup>4</sup> The interactions are labeled in Tables 2 and 3 as VID\*African-American, VID\*Hispanic, and VID\*Poverty. To calculate the effects of voter identification requirements for a specific group, one must add the estimates for voter identification, the group, and the interaction. Doing so for Hispanic adults results in an estimate of  $-0.13 [-0.03$  (voter id)  $- 0.13$  (Hispanic)  $+ 0.03$  (voter id X Hispanic)].

Adding interactive effects to the model resulted in a statistically significant and negative effect of minimum voter identification requirements on turnout. The percentage of Hispanic adults in the county had a significant and negative effect on turnout, and the percentage of individuals below the poverty line continued to have a negative effect. Interactions between the percentages of Hispanics and those below the poverty line and minimum voter identification requirements also were significant. The percentage of African-Americans in the county and the interaction between African-Americans and voter identification requirements were not significant. A chi-square test for the difference in fit between the two models showed that the model with interactions provides a better fit to the data ( $p < .025$ ).

Analysis of the aggregate data at the county level generates some support for the hypothesis that as the demands of voter identification requirements increase, turnout declines. This is particularly so for counties with concentrations of Hispanic residents or individuals who live below the poverty line. But aggregate data cannot fully capture the individual demographic factors that may figure into the decision to turn out to vote. For example, previous research has found that education is a powerful determinant of turnout (Wolfinger and Rosenstone 1980, but see also Nagler 1991).<sup>5</sup> Married individuals also are more likely to vote than those who are not married (Alvarez and Ansolabehere 2002; Alvarez, Nagler and Wilson 2004; Fisher, Kenny, and Morton 1993). To fully explore the effects of voter identification requirements on turnout, it is important to examine individual-level data as well.

### Individual-level analysis

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

One of the advantages of the CPS is the sheer size of the sample. The survey's Voting and Registration Supplement consisted of interviews, either by telephone or in person, with 96,452 respondents.<sup>6</sup> The large sample size permits analyses of smaller groups, such as Black or Hispanic voters or voters with less than a high school education. The analyses reported here are based on reports from self-described registered voters. I omitted those who said they were not registered to vote. I also excluded those who said they cast absentee ballots because the identification requirements for absentee ballots may differ from those required when one votes in person. In addition, I eliminated from the sample respondents who said they were not U.S.

<sup>5</sup> A reviewer for an earlier version of this paper recommended adding an education variable to the aggregate model. One version of the aggregate model not reported here included the percentage of adults in the county who had at least a college degree. The measure was highly collinear with the percentage of residents living below the poverty line, necessitating removal of the college degree variable from the model.

<sup>6</sup> It is important to note that the Census Bureau allows respondents to answer on behalf of themselves and others in the household during the interview. While proxy reporting of voter turnout raises the possibility of inaccurate reports concerning whether another member of the household voted, follow-up interviews with those for whom a proxy report had been given in the November 1984 CPS showed 99 percent agreement between the proxy report and the information given by the follow-up respondent (U.S. Census Bureau 1990).



citizens because the questionnaire design skipped those individuals past the voter registration and turnout questions in the survey.

The dependent variable in these analyses is whether a respondent said he or she voted in the November 2004 election.<sup>7</sup> As in the analysis of aggregate data, I coded voter identification requirements for each respondent's state of residence on a scale of one to five, with one representing the least demanding requirement (stating one's name) and five representing the most demanding requirement (photo identification or affidavit).

In addition to the voter identification requirements, the models include two other state-level factors that might have influenced turnout in 2004: whether the state was considered a battleground state in the presidential election, and whether there was a gubernatorial and/or U.S. Senate race in the state (see Alvarez and Ansolabehere 2002, Alvarez et al. 2004, and Kenny et al. 1993 for similar approaches). As in the aggregate data analysis, the threshold that determined whether the state was a battleground state or had a competitive statewide race was a margin of victory of five percent or less. At the individual level, I controlled for gender, age in years, education, household income, and dummy variables representing whether a voter was Black/non-Hispanic, Hispanic, or another non-white race (with white/non-Hispanic voters as the omitted category for reference purposes).<sup>8</sup> Drawing on previous research on voting behavior, I also controlled for whether an individual was employed, or at least a member of the workforce (as opposed to being a full-time student, a homemaker, or retired). Both employment and workforce membership have been shown to be positive predictors of turnout (see Mitchell and Wlezien 1995). Marital status, whether one is a native-born citizen and residential mobility also have emerged as significant predictors of turnout (Alvarez and Ansolabehere 2002, Alvarez et al. 2004, Kenney et al. 1993, Wolfinger and Rosenstone 1980). I included in the model variables for whether a respondent was married (coded 1 if yes, 0 otherwise), and whether one was a native-born citizen (coded 1 if yes, 0 otherwise). I measured residential mobility by coding for whether the respondent had moved to a new address in the six months prior to the interview (coded 1 if yes, 0 otherwise).

## Results

The dependent variable is whether a respondent said he or she voted in the November 2004 election (coded 1 for yes, 0 for no). I estimated models using probit analysis, which

<sup>7</sup> The U.S. Census Bureau reported, based on the November 2004 CPS, that 89 percent of those who identified themselves as registered voters said they voted in 2004 (U.S. Census Bureau 2005). Previous research has shown that, generally speaking, some survey respondents overstate their incidence of voting. Researchers speculate that over-reports may be due to the social desirability that accompanies saying one has done his or her civic duty, or a reluctance to appear outside the mainstream of American political culture (U.S. Census Bureau 1990). It is also possible that voting is an indication of civic engagement that predisposes voters to agree to complete surveys at a higher rate than non-voters (Flanigan and Zingale 2002). Hence the voter turnout rates reported in the CPS tend to be up to 10 percentage points higher than the actual turnout rate for the nation (Flanigan and Zingale 2002). Even with this caveat, however, the CPS serves as a widely accepted source of data on voting behavior.

<sup>8</sup> Asian-Americans are included in the "other non-white races" category. In response to a request from officials at the U.S. Election Assistance Commission who had read an earlier version of this paper and were curious about the experiences of Asian-Americans, I ran models using Asian-Americans as a separate category in addition to the models presented here. Voter identification requirements did not have a statistically significant effect on whether Asian-American voters said they turned out in the 2004 election.

calculates the effects of independent variables on the probability that an event occurred -- in this case whether a respondent said he or she voted. I estimated the models using robust standard errors to control for correlated error terms for observations from within the same state.

[Table 4 here]

The two models in Table 4 use either the maximum or minimum voter identification requirements in each state. The two models generate virtually identical results. Voter identification requirements exert a statistically significant, negative effect on whether survey respondents said they had voted in 2004. Of the other state factors, only the competitiveness of the presidential race had a significant effect on turnout. In terms of demographic influences, African-American voters were more likely than white voters to say they had cast a ballot, while those of other non-white races were less likely than white voters to say they had turned out. Hispanic voters were not statistically different from white voters in terms of reported turnout. Consistent with previous research, age, education, income, and marital status all were positive predictors of voting. Women also were more likely to say they voted than men. Those who had moved within six months before the interview were less likely to say they had voted.

While the probit models provide statistical support for the influence of voter identification requirements and other variables on turnout, probit coefficients do not lend themselves to intuitive interpretation. Another common approach in studies of election requirements is to examine how the predicted probability of voter turnout would vary as election requirements vary. I used the probit coefficients to calculate the predicted probability of voting at each level of voter identification requirements while holding all other independent variables in the models at their means.<sup>9</sup> I calculated the probabilities taking into account both maximum and minimum requirements, with photo identification serving as the most demanding of the maximum requirements and affidavits as the most demanding minimum requirement.

[Table 5 here]

Allowing the voter identification requirement to vary while holding constant all other variables in the model showed that the predicted probability of turnout ranged from 0.912 for stating one's name to 0.887 for photo identification under the maximum requirements. In other words, the probability of voting dropped with each level of voter identification requirement, with a total drop of .025, or 2.5 percent, across the five types of identification.<sup>10</sup> When taking into account the minimum requirement for identification, the probability showed a similar decline, with a slightly larger total drop of 3.3 percent.

Among the key variables of interest in the debate over voter identification requirements are race, age, income, and education. Given the large sample size (54,973 registered voters), it

<sup>9</sup> In the case of dichotomous independent variables, holding them at their mean amounted to holding them at the percentage of the sample that was coded 1 for the variable (Long 1997).

<sup>10</sup> The voter turnout percentages may seem disproportionately high compared to the turnout rates reported in the aggregate data analysis. It is important to consider that the turnout rates in the aggregate data were a proportion of all citizens of voting-age population, while the turnout rates for the individual-level data are the proportion of only registered voters who said they voted.

was possible to break the sample into sub-samples along those demographic lines to explore variation in predicted probability by group. I disaggregated the sample by the variable of interest, omitting that variable while I re-ran the probit model with the remaining predictors of voter turnout, including the voter identification requirements.<sup>11</sup> If the analysis showed that the voter identification requirements had a statistically significant effect on turnout, I used the probit coefficients from the model to calculate the predicted probability of voting for each group across the five requirements while holding the other variables in the model constant.

[Table 6 here]

Both the maximum and minimum identification requirements had negative and statistically significant effects for White/Non-Hispanic voters. Allowing the requirements to vary from stating one's name to providing photo identification or an affidavit showed drops of 2.5 percent and 3.2 percent respectively in the predicted probability of voting. The identification requirements had no effect on the probability of Black/Non-Hispanics voting, but the minimum identification requirements had a comparatively sizable effect on voter turnout among Hispanics. The predicted probability of Hispanics voting ranged from 87 percent if stating one's name was the required form of identification to 77.3 percent if a voter would have to provide an affidavit in order to vote, a difference of 9.7 percent.

The effects of voter identification requirements also varied by age, with the greatest variation occurring among voters ages 18 to 24.

[Table 7 here]

Voters in that age group had a predicted probability of 83.9 percent when the maximum requirement was stating one's name, and the probability dropped 8.9 percentage points if voters would have to provide photo identification. The range was from 83.1 percent to 75.4 percent under the minimum requirements. The gap in probability narrowed in older age groups (4.8 percent for the maximum requirements and 5.8 percent for the minimum requirements for those ages 25 to 44; 1.8 percent for the minimum requirements for those ages 45 to 64, and 2.4 percent for the minimum requirements for those ages 65 and older).

Breaking down the 18- to 24-year-old age group by race shed additional light on the effects of voter identification requirements on specific groups.

[Table 8 here]

The gap in predicted probability that White/Non-Hispanic voters in the 18- to 24-year-old category would turn out was 9.2 percent when the identification requirements varied from stating one's name to providing photo identification. The gap was 7.8 percent when taking into account the minimum requirements. The effects of maximum voter identification requirements also were statistically significant for African-Americans in the 18- to 24-year-old age group, with a gap in

<sup>11</sup> See Nagler 1991 for a similar approach in analyzing the effects of registration closing dates broken down by education levels.

the predicted probability of voting of 10.6 percent. Maximum and minimum voter identification requirements were not a significant predictor of voting among Hispanics ages 18 to 24.

Variation also emerged along the lines of income, with the effects of voter identification requirements varying to a greater extent for voters in households below the poverty line compared to those living above the poverty line.<sup>12</sup>

[Table 9 here]

While the maximum set of requirements did not have a statistically significant effect for voters living below the poverty line, the minimum set of requirements had a significant and negative effect. The probability of voting was .784 for poor voters if they would have to identify themselves by giving their name, and the probability declined to .731 if they would have to provide an affidavit attesting to their identity. Both the maximum and minimum sets of requirements had a significant and negative effect on voters living above the poverty line, but the difference in probability across the effects was narrower (2.3 percent for the maximum requirements and 3.1 percent for the minimum requirements). Given that political discourse about voter identification requirements includes concerns about the effects of the requirements on poor and minority voters, I also ran probit analyses for sub-samples of white and minority voters who fell below the poverty line. The voter identification requirements did not exert statistically significant effects on turnout among poor White/Non-Hispanic and Hispanic voters, but did have a significant effect on Black/Non-Hispanic voters who were below the poverty line.<sup>13</sup> Allowing the maximum voting requirement to vary from the least to the most demanding, the probability that African-American voters below the poverty line said they had voted dropped by 7.5 percent.

The effects of voter identification requirements varied across education levels as well, with those lowest in education demonstrating the widest variation in probabilities as identification requirements ranged from least to most demanding.

[Table 10 here]

Registered voters who had less than a high school education had a 77.5 percent probability of voting if the maximum requirement would be stating one's name, and a 70.8 percent probability if they would have to provide photo identification under the maximum requirement, a difference of 6.7 percent. The difference from the lowest to the highest requirement among the minimum requirements was 7.4 percent. The difference in probabilities ranged from 3.3 percent for the maximum requirements to 4.5 percent for the minimum requirements for voters with a high school diploma. The range of effects of voter identification requirements was smaller among those with higher levels of education (and non-existent for one category – voters with some college education).

<sup>12</sup> I coded respondents as being above or below the U.S. Census Bureau's 2004 poverty line based on respondents' reported annual household income and size of the household.

<sup>13</sup> The lack of significant effects for poor Hispanic voters is in contrast to the results from the aggregate data analysis. The sub-sample of poor Hispanic voters was small (n = 491), which may have contributed to the lack of statistical significance.

## Discussion and conclusion

The results presented here provide evidence that as the level of demand associated with voter identification requirements increases, voter turnout declines. This point emerged from both the aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements. The overall effect for all registered voters was fairly small, but still statistically significant.

The effects of voter identification requirements were more pronounced for specific subgroups. Hispanic voters and the poor appeared to be less likely to vote as the level of required identification became more demanding, according to both the aggregate and the individual-level data. In the individual-level data, for Hispanic voters, the probability of voting dropped by 9.7 percent across the various levels of minimum identification requirements. Survey respondents living in poor households were 5.3 percent less likely to vote as the requirements varied from stating one's name to attesting to one's identity in an affidavit. African-American voters from households below the poverty line were 7.5 percent less likely to vote as the maximum requirements varied from stating one's name to providing photo identification.

Effects of voter requirements also varied with education. Registered voters who had not graduated from high school were 6.7 percent less likely to say they voted as the maximum requirements ranged from stating one's name to providing photo identification. When considering the minimum requirements, those with less than a high school education were 7.4 percent less likely to say they voted if the requirement was an affidavit as opposed to stating one's name. Age was also a key factor, with voters ages 18 to 24 being 7.7 percent to 8.9 percent less likely to vote as the requirements ranged from stating one's name to providing a photo identification or affidavit. Breaking down the age group by race, the effects were significant for young White/Non-Hispanic and Black/Non-Hispanic voters.

The results shed additional light on the effects of voter identification requirements on two groups often projected as being particularly sensitive to such requirements: African-American voters and elderly voters. The effects on African-American voters were pronounced for two specific sub-samples: African-American voters living below the poverty line and those in the 18- to 24-year-old age group. Also, the elderly, while they would be slightly less likely to vote as requirements ranged from least to most demanding, would not necessarily be affected in the dramatic manner predicted by some opposed to photo identification requirements in particular.

In examining the effects of voter identification requirements on turnout, there is still much to learn. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If these requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements?<sup>14</sup> Or, do the requirements result in some voters

<sup>14</sup> The individual-level data offer some insight here. If advance knowledge of the voter identification requirements were to dampen turnout, it is reasonable to expect that advance knowledge of those requirements also could discourage some individuals from registering to vote. I ran the same probit models using voter registration as the dependent variable (coded 1 if the respondent said he or she was registered, and 0 if the respondent was not

being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer this question. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for election judges to handle questions about, and potential disputes over, voter identification requirements.

---

registered). Neither the maximum nor minimum array of voter identification requirements had a statistically significant effect on the probability that a survey respondent was registered to vote.

## References

- Alvarez, R. Michael, and Stephen Ansolabehere. (2002). *California Votes: The Promise of Election Day Registration*. New York: Demos. Retrieved online Feb. 23, 2006 at [http://www.demos.org/pubs/california\\_votes.pdf](http://www.demos.org/pubs/california_votes.pdf)
- Alvarez, R. Michael, Jonathan Nagler, and Catherine H. Wilson. (2004). *Making Voting Easier: Election Day Registration in New York*. New York: Demos. Retrieved online Feb. 23, 2006 at <http://www.demos.org/pubs/EDR%20-%20NY%20report%20b&w%20-%20Aug%202004.pdf>
- Baxter, Tom, and Jim Galloway. (2005). Latinos weigh in on voter ID debate. *The Atlanta Journal-Constitution*, March 21, 2005, p. 2-B.
- Bryk, Anthony S., and Stephen W. Raudenbush. (1992). *Hierarchical Linear Models: Applications and Data Analysis Methods*. Newbury Park, CA: Sage Publications.
- Electionline.org. (2002). *Election Reform Briefing: Voter Identification*. Washington, D.C.: Electionline.org.
- Filer, John E., Lawrence W. Kenny, and Rebecca B. Morton. (1993). Redistribution, income, and voting. *American Journal of Political Science*, 37:63-87.
- Flanigan, William H., and Nancy H. Zingale. (2002). *Political Behavior of the American Electorate, 10<sup>th</sup> Ed.* Washington, DC: CQ Press.
- Jacobs, Sonji. (2005). Legislature '05: Black lawmakers plot path in photo ID fight. *The Atlanta Journal-Constitution*, March 24, 2005, p. 1-C.
- Long, J. Scott. (1997). *Regression Models for Categorical and Limited Dependent Variables*. Thousand Oaks, CA: Sage Publications.
- Luke, Douglas A. (2004). *Multilevel Modeling*. Thousand Oaks, CA: Sage Publications.
- McDonald, Michael P., and Samuel L. Popkin. (2001). The myth of the vanishing voter. *The American Political Science Review*, 85:963-974.
- Mitchell, Glenn E., and Christopher Wlezien. (1995) The impact of legal constraints on voter registration, turnout, and the composition of the American electorate. *Political Behavior*, 17:179-302.
- Nagler, Jonathan. (1991). The effect of registration laws and education on U.S. voter turnout. *The American Political Science Review*, 85:1393-1405.
- Singer, J.D. (1998). Using SAS PROC MIXED to fit multilevel models, hierarchical models, and linear growth models. *Journal of Educational and Behavioral Statistics*, 24:323-355

U.S. Census Bureau. (1990). *Studies in the Measurement of Voter Turnout*. Retrieved online March 13, 2006, at <http://www.census.gov/population/socdemo/voting/p23-168>.

U.S. Census Bureau. (2005). U.S. voter turnout up in 2004, Census Bureau Reports. News release issued May 26, 2005. Retrieved online March 13, 2006 at <http://www.census.gov/Press-Release/www/releases/archives/voting/004986.html>

Election Assistance Commission. (2005) Election Day Survey. Retrieved online March 28, 2006 at [http://www.eac.gov/election\\_survey\\_2004/html/EDS-chap%201%20pop%20estimates2.htm](http://www.eac.gov/election_survey_2004/html/EDS-chap%201%20pop%20estimates2.htm).

Wolfinger, Raymond E., and Steven J. Rosenstone. (1980). *Who Votes?* New Haven, CT: Yale University Press.

Young, Virginia. (2006). ID foe says bill smacks of "Jim Crow" era. *The St. Louis Post-Dispatch*, Feb. 14, 2006, p. B-1.



**Table 1 – Variation in 2004 State Turnout Based on Voter Identification Requirements**

| <b>Maximum Requirement</b>                         |   | <b>Minimum Requirement</b>                         |   |
|--|---|--|---|
| <b>Voter Identification Required in the States</b> | <b>Mean Voter Turnout for States in that Category</b> | <b>Voter Identification Required in the States</b> | <b>Mean Voter Turnout for States in that Category</b> |
| <b>State Name</b>                                  | 64.6 %  | <b>State Name</b>                                  | 63.0 %  |
| <b>Sign Name</b>                                   | 61.1 %  | <b>Sign Name</b>                                   | 60.8 %  |
| <b>Match Signature</b>                             | 60.9 %  | <b>Match Signature</b>                             | 61.7 %  |
| <b>Provide Non-Photo ID</b>                        | 59.3 %  | <b>Provide Non-Photo ID</b>                        | 59.0 %  |
| <b>Provide Photo ID</b>                            | 58.1 %  | <b>Swear Affidavit</b>                             | 60.1 %  |
| <b>Average Turnout for All States</b>              | 60.9 %  |  |   |

**Table 2. Predictors of 2004 turnout at the county level taking into account maximum voter identification requirements**

| Variable                           | Basic Model             |                | Model with Interactions |                |
|------------------------------------|-------------------------|----------------|-------------------------|----------------|
|                                    | Unstandardized Estimate | Standard Error | Unstandardized Estimate | Standard Error |
| Intercept                          | 0.64                    | 0.01           | 0.69                    | 0.02           |
| Voter ID requirements              | -0.01**                 | 0.003          | -0.03**                 | 0.004          |
| Battleground State                 | 0.04*                   | 0.01           | 0.04*                   | 0.02           |
| Competitive Senate/Governor's Race | 0.04*                   | 0.02           | 0.04*                   | 0.02           |
| % Age 65 and Older                 | 0.48**                  | 0.03           | 0.50**                  | 0.03           |
| % African-American                 | 0.05**                  | 0.01           | 0.06                    | 0.03           |
| % Hispanic                         | -0.02                   | 0.01           | -0.13**                 | 0.05           |
| % Below poverty line               | -0.01**                 | 0.0002         | -0.01**                 | 0.001          |
| VID * African-American             | ----                    | ----           | -0.004                  | 0.01           |
| VID * Hispanic                     | ----                    | ----           | 0.03*                   | 0.01           |
| VID * Poverty                      | ----                    | ----           | 0.001**                 | 0.0002         |
| -2 Log Likelihood                  | -8638.0                 |                | -8651.1                 |                |

Coefficients are restricted maximum likelihood estimates. N = 3,111. \* p < .05 \*\* p < .01 (two-tailed tests)

**Table 3. Predictors of 2004 turnout at the county level taking into account minimum voter identification requirements**

| Variable                           | Basic Model             |                | Model with Interactions |                |
|------------------------------------|-------------------------|----------------|-------------------------|----------------|
|                                    | Unstandardized Estimate | Standard Error | Unstandardized Estimate | Standard Error |
| Intercept                          | 0.63                    | 0.02           | 0.66                    | 0.02           |
| Voter ID requirements              | -0.009                  | 0.005          | -0.02**                 | 0.006          |
| Battleground State                 | 0.04*                   | 0.02           | 0.04*                   | 0.02           |
| Competitive Senate/Governor's Race | 0.03                    | 0.02           | 0.03                    | 0.02           |
| % Age 65 and Older                 | 0.48**                  | 0.03           | 0.48**                  | 0.03           |
| % African-American                 | 0.05**                  | 0.01           | 0.04                    | 0.03           |
| % Hispanic                         | -0.12                   | 0.01           | -0.13**                 | 0.04           |
| % Below poverty line               | -0.01**                 | 0.0003         | -0.01**                 | 0.001          |
| VID * African-American             | ----                    | ----           | 0.01                    | 0.01           |
| VID * Hispanic                     | ----                    | ----           | 0.03*                   | 0.01           |
| VID * Poverty                      | ----                    | ----           | 0.001**                 | 0.0002         |
| -2 Log Likelihood                  | -8630.8                 |                | -8620.1                 |                |

Coefficients are restricted maximum likelihood estimates. N = 3,111. \* p < .05 \*\* p < .01 (two-tailed tests)

| <b>Table 4. Probit model of voter turnout.</b> |                                |                       |                                |                       |
|--|--------------------------------|-----------------------|--------------------------------|-----------------------|
|  | <b>Maximum requirements</b>    |                       | <b>Minimum requirements</b>    |                       |
| <b>Variable</b>                                | <b>Unstandardized Estimate</b> | <b>Standard Error</b> | <b>Unstandardized Estimate</b> | <b>Standard error</b> |
| <b>Voter ID requirements</b>                   | -0.04*                         | 0.01                  | -0.05**                        | 0.01                  |
| <b>Hispanic</b>                                | -0.06                          | 0.05                  | -0.05                          | 0.05                  |
| <b>Black</b>                                   | 0.22**                         | 0.04                  | 0.22**                         | 0.04                  |
| <b>Other race</b>                              | -0.23**                        | 0.04                  | -0.23**                        | 0.04                  |
| <b>Age in years</b>                            | 0.01**                         | 0.001                 | 0.01**                         | 0.001                 |
| <b>Education</b>                               | 0.12**                         | 0.005                 | 0.11**                         | 0.005                 |
| <b>Household income</b>                        | 0.03**                         | 0.003                 | 0.03**                         | 0.003                 |
| <b>Married</b>                                 | 0.20**                         | 0.02                  | 0.20**                         | 0.02                  |
| <b>Female</b>                                  | 0.09**                         | 0.01                  | 0.09**                         | 0.01                  |
| <b>Battleground state</b>                      | 0.18**                         | 0.04                  | 0.19**                         | 0.04                  |
| <b>Competitive race</b>                        | 0.05                           | 0.05                  | 0.05                           | 0.05                  |
| <b>Employed</b>                                | 0.05                           | 0.04                  | 0.05                           | 0.04                  |
| <b>Member of workforce</b>                     | -0.04                          | 0.05                  | -0.04                          | 0.05                  |
| <b>Native-born citizen</b>                     | 0.03                           | 0.04                  | 0.04                           | 0.05                  |
| <b>Moved within past 6 months</b>              | -0.27**                        | 0.03                  | -0.27**                        | 0.03                  |
| <b>Constant</b>                                | -4.48**                        | 0.20                  | -4.46**                        | 0.20                  |
| <b>Pseudo-R-Squared</b>                        | 0.09                           |                       | 0.09                           |                       |

Notes:

N = 54,973 registered voters

p < .05\* p < .01\*\* (two-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

| <b>Table 5. Predicted probability of voter turnout – full model</b>   |                            |                            |
|---|----------------------------|----------------------------|
|   | <b>Maximum requirement</b> | <b>Minimum requirement</b> |
| <b>State name</b>   | 0.912                      | 0.911                      |
| <b>Sign name</b>  | 0.906                      | 0.903                      |
| <b>Match signature</b>  | 0.900                      | 0.895                      |
| <b>Non-photo ID</b>   | 0.894                      | 0.887                      |
| <b>Photo ID</b>   | 0.887                      | ----                       |
| <b>Affidavit</b>  | ----                       | 0.878                      |
| <b>Total difference from lowest to highest</b>  | 0.025                      | 0.033                      |
| <b>N</b>  | 54,973                     |                            |
| <p>Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant.</p> <p>Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.</p> |                            |                            |

| <b>Table 6. Predicted probability of voter turnout – White and Hispanic voters</b>  |                                  |                            |                            |
|---|----------------------------------|----------------------------|----------------------------|
|   | <b>White/Non-Hispanic voters</b> |                            | <b>Hispanic voters</b>     |
|   | <b>Maximum requirement</b>       | <b>Minimum requirement</b> | <b>Minimum requirement</b> |
| <b>State name</b>   | 0.920                            | 0.922                      | 0.870                      |
| <b>Sign name</b>  | 0.915                            | 0.915                      | 0.849                      |
| <b>Match signature</b>  | 0.909                            | 0.907                      | 0.826                      |
| <b>Non-photo ID</b>   | 0.902                            | 0.899                      | 0.800                      |
| <b>Photo ID</b>   | 0.895                            | ----                       | ----                       |
| <b>Affidavit</b>  | ----                             | 0.890                      | 0.773                      |
| <b>Total difference from lowest to highest</b>  | 0.025                            | 0.032                      | 0.097                      |
| <b>N</b>  | 44,760                           |                            | 2,860                      |
| <p>Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for Hispanic voters. Maximum and minimum voter identification requirements were not a significant predictor for African-American voters.</p> <p>Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.</p> |                                  |                            |                            |

**Table 7. Predicted probability of voter turnout – Age groups**

|   | 18 - 24              |                      | 25 - 44              |                      | 45 - 64              | 65 and older         |
|---|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
|   | Maximum requirements | Minimum requirements | Maximum requirements | Minimum requirements | Minimum requirements | Minimum requirements |
| <b>State name</b>                           | 0.839                | 0.831                | 0.831                | 0.831                | 0.936                | 0.916                |
| <b>Sign name</b>                            | 0.819                | 0.814                | 0.820                | 0.817                | 0.932                | 0.910                |
| <b>Match signature</b>                      | 0.797                | 0.795                | 0.808                | 0.803                | 0.927                | 0.904                |
| <b>Non-photo ID</b>                         | 0.774                | 0.775                | 0.796                | 0.788                | 0.923                | 0.898                |
| <b>Photo ID</b>                             | 0.750                | ----                 | 0.783                | ----                 | ----                 | ----                 |
| <b>Affidavit</b>                            | ----                 | 0.754                | ----                 | 0.773                | 0.918                | 0.892                |
| <b>Total difference – lowest to highest</b> | 0.089                | 0.077                | 0.048                | 0.058                | 0.018                | 0.024                |
| <b>N</b>                                    | 5,065                |                      | 20,066               |                      | 20,758               | 9,084                |

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for voters ages 45 to 64 and 65 and older.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

**Table 8. Predicted probability of voter turnout – Age groups by race**

|   | White/Non-Hispanic<br>18 - 24 |                         | Black/Non-Hispanic<br>18 - 24 |
|---|-------------------------------|-------------------------|-------------------------------|
|   | Maximum<br>requirements       | Minimum<br>requirements | Maximum<br>requirements       |
| <b>State name</b>                           | 0.844                         | 0.836                   | 0.899                         |
| <b>Sign name</b>                            | 0.823                         | 0.818                   | 0.877                         |
| <b>Match signature</b>                      | 0.801                         | 0.799                   | 0.852                         |
| <b>Non-photo ID</b>                         | 0.777                         | 0.779                   | 0.824                         |
| <b>Photo ID</b>                             | 0.752                         | ----                    | 0.793                         |
| <b>Affidavit</b>                            | ----                          | 0.758                   | ----                          |
| <b>Total difference – lowest to highest</b> | 0.092                         | 0.078                   | 0.106                         |
| <b>N</b>                                    | 3,814                         |                         | 562                           |

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Minimum voter identification requirements were not a significant predictor of voting for Black/Non-Hispanic voters ages 18 to 24. Maximum and minimum voter identification requirements were not a significant predictor of voting for Hispanic voters ages 18 to 24.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.



**Table 9. Predicted probability of voter turnout – Voters above and below the poverty line**

|   | All voters above the poverty line |                     | All voters below the poverty line | Black/Non-Hispanic voters below the poverty line |
|---|-----------------------------------|---------------------|-----------------------------------|--|
|   | Maximum requirement               | Minimum requirement | Minimum requirement               | Maximum requirement                              |
| State name                              | 0.920                             | 0.922               | 0.784                             | 0.833  |
| Sign name                               | 0.915                             | 0.915               | 0.772                             | 0.816  |
| Match signature                         | 0.909                             | 0.907               | 0.758                             | 0.798  |
| Non-photo ID                            | 0.903                             | 0.899               | 0.745                             | 0.778  |
| Photo ID                                | 0.897                             | ----                | ----                              | 0.758  |
| Affidavit                               | ----                              | 0.891               | 0.731                             |  |
| Total difference from lowest to highest | 0.023                             | 0.031               | 0.053                             | 0.075  |
| N                                       | 49,935                            |                     | 5,038                             | 1,204  |

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for white and Hispanic voters who were below the poverty line. Minimum voter identification requirements were not a significant predictor of voting for Black voters below the poverty line.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

**Table 10. Predicted probability of voter turnout – By education**

|                                      | Less than high school |                     | High school         |                     | College             |                     | Graduate school     |                     |
|--------------------------------------|-----------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
|                                      | Maximum requirement   | Minimum requirement | Maximum requirement | Minimum requirement | Maximum requirement | Minimum requirement | Maximum requirement | Minimum requirement |
| State name                           | 0.775                 | 0.779               | 0.866               | 0.869               | 0.960               | 0.959               | 0.977               | 0.979               |
| Sign name                            | 0.759                 | 0.762               | 0.858               | 0.859               | 0.956               | 0.954               | 0.973               | 0.973               |
| Match signature                      | 0.743                 | 0.743               | 0.850               | 0.848               | 0.951               | 0.950               | 0.968               | 0.967               |
| Non-photo ID                         | 0.725                 | 0.724               | 0.842               | 0.836               | 0.945               | 0.945               | 0.963               | 0.959               |
| Photo ID                             | 0.708                 | ----                | 0.833               | ----                | 0.939               | ----                | 0.957               | ----                |
| Affidavit                            | ----                  | 0.705               | ----                | 0.824               | ----                | 0.940               | ----                | 0.950               |
| Total difference – lowest to highest | 0.067                 | 0.074               | 0.033               | 0.045               | 0.021               | 0.019               | 0.020               | 0.029               |
| N                                    | 4,903                 |                     | 16,361              |                     | 11,017              |                     | 5,739               |                     |

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum and minimum voter identification requirements were not a significant predictor of voting for those with some college education.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

008535

**Karen Lynn-Dyson/EAC/GOV**  
06/15/2006 11:26 AM

To [twilkey@eac.gov](mailto:twilkey@eac.gov), Bert A. Benavides/EAC/GOV@EAC  
cc  
bcc

Subject Eagleton letter in response to the Chairman

History

 This message has been replied to.

Tom-

Attached is a letter which I have drafted for you summarizing the Commissioner's discussion on the Eagleton contract and which will respond to John Weingart's letter to the Chairman.

K

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



tel:202-566-3123 [Wilkey Eagleton close out letter.doc](#)

008537



U. S. ELECTION ASSISTANCE COMMISSION  
OFFICE OF THE EXECUTIVE DIRECTOR  
1225 New York Avenue, NW, Suite 1100  
Washington, DC. 20005

June 15, 2006

John Weingart, Associate Director  
Eagleton Institute of Politics  
Rutgers University  
191 Ryders Lane  
New Brunswick NJ 08901-8557

Dear Mr. Weingart:

During a recent briefing by staff, the EAC discussed and reviewed possible next steps with the provisional voting and voter identification studies as well as the Eagleton contract which is scheduled to conclude on June 30, 2006.

We were in agreement that Eagleton's work on the EAC contract should conclude, as scheduled, by June 30, 2006. In preparation for this conclusion, the EAC requests that the comments and suggestions which were noted during the EAC's recent Board of Advisors and Standards Boards meeting (and were described in Mr. O'Neil's June 8, 2006 letter to Chairman DeGregorio) be included in the final draft report on provisional voting which Eagleton will deliver to the EAC on or about June 30, 2006. The Commissioners have determined that they will take this final draft report and, from it, may develop guidance and best practice recommendations that will be presented to the Board of Advisors and Standards Boards for further review.

The EAC Commissioners have also reviewed and considered next steps with the voter identification draft report which Eagleton has prepared. While the final disposition of the results and findings of this study, on the part of the EAC, are still unclear, the Commissioners have asked that the final draft report of this study also be prepared and submitted to the EAC not later than June 30, 2006.

We look forward to receiving these reports. On behalf of the EAC thank you for the considerable time and energy which the Eagleton/Moritz team has devoted to these critical election issues.

Sincerely,

  
Thomas R. Wilkey

008538



U. S. ELECTION ASSISTANCE COMMISSION  
OFFICE OF THE EXECUTIVE DIRECTOR  
1225 New York Avenue, NW, Suite 1100  
Washington, DC. 20005

June 29, 2006

Mr. John Weingart, Associate Director  
Eagleton Institute of Politics  
Rutgers University  
191 Ryders Lane  
New Brunswick, NY 08901-8557

Mr. Weingart:

On June 30, 2006, your contract with the U.S. Election Assistance Commission, Research Assistance for the Development of Voluntary Guidance on Provisional Voting and Voter Identification procedures, is scheduled to conclude. In the process of closing out this contract and completing the paperwork related to it EAC staff have noted several items related to the contract's deliverables.

Our records indicate that while Eagleton has submitted drafts of its provisional voting and voter identification study reports, formal monthly reports have not been submitted for the months of April and May, 2006. In addition to the submission of these reports, EAC anticipates that a final June monthly report will be delivered by Eagleton two weeks after the contract's conclusion.

EAC has, under the termination for convenience clause of its contract with Rutgers University, and, in the best interest of the Government, elected to terminate the portions of the contract which required the Eagleton Institute of Politics/Moritz School of Law to develop guidance on provisional voting and on voter identification and to hold public hearings related to each of these topics (sections 3.6, 3.7, 3.8, 3.9, 3.13, 3.14, 3.15 and 3.16 of the contract).

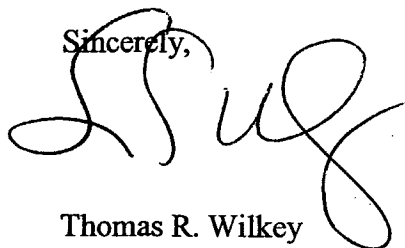
It is EAC's understanding that Rutgers University has not invoiced EAC for the activities and services related to these project deliverables. EAC staff have reviewed the invoices for this contract and have noted that invoices for the months of May and June are outstanding. It is anticipated that EAC will be in receipt of this final contract invoices within the next thirty days.

008539

Should you have any questions or concerns regarding the close-out of this EAC contract, please do not hesitate to contact me at 202-566-3100.

Again, on behalf of EAC, thank you for the valuable research you and your staff have provide for these critical and timely election topics.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Wilkey', written in a cursive style.

Thomas R. Wilkey

008540



U.S. ELECTION ASSISTANCE COMMISSION  
1225 NEW YORK AVENUE, N.W., SUITE 1100  
WASHINGTON, D.C. 20005

OFFICE OF THE CHAIRMAN

October 19, 2006

The Honorable Rush Holt  
1019 Longworth Building  
Washington, DC 20515

**Via Facsimile Transmission ONLY**  
**202-225-6025**

RE: October 16, 2006 Letter

Dear Congressman Holt:

Your letter of October 16, 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.

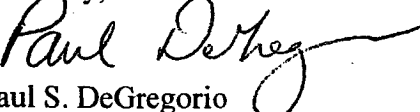
In late 2005, EAC hired two consultants for the purpose of assisting EAC with two things: 1) developing a uniform definition of the phrase voter fraud, and 2) making recommendations on how to further study the existence, prosecution, and means of deterring such voter fraud. In May 2006, a status report 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

008541



---

## EAGLETON INSTITUTE OF POLITICS

---

August 16, 2006

Thomas R. Wilkey, Executive Director  
United States Election Assistance Commission  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005  
Fax: (202) 566-3127

Dear Mr. <sup>T</sup>Wilkey:

I want to follow up with you about the reports the Eagleton Institute of Politics and Moritz College of Law have submitted on Provisional Voting and Voter Identification. As you know, your office has accepted them as the final work products required under our contract with the EAC.

With the new academic year about to begin, we want now to make the two reports available for use by researchers, legislators, election officials, and others interested in these topics. We have already received requests for them from other researchers who are interested in reviewing our findings for their own work. Also, at both Eagleton and the Moritz College of Law, we intend to draw on this research for teaching, scholarship and possibly public seminars. That the EAC originally commissioned these studies to offer lessons for the 2006 elections based on experience in 2004 further supports the importance of quick action.

As we noted in our June 29th submission of the final reports, we would of course prefer that notice of their availability be issued jointly by the EAC, Rutgers, and Ohio State. If, however, the Commission would rather not proceed in that direction, then the two universities will work on our own to make the reports publicly available.

I would appreciate it if you would give me a call this week or next at the latest to discuss the best way to move forward.

Sincerely,

John Weingart, Associate Director  
Eagleton Institute of Politics

Cc: EAC Commissioners  
Karen Lynn-Dyson

008542

---

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557





U.S. ELECTION ASSISTANCE COMMISSION  
1225 NEW YORK AVENUE, N.W., SUITE 1100  
WASHINGTON, D.C. 20005

John Weingart, Associate Director  
Eagleton Institute of Politics  
Rutgers, The State University of New Jersey  
191 Ryders Lane  
New Brunswick, NJ 08901-8557

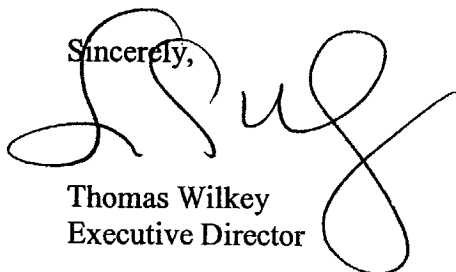
Dear Mr. Weingart:

Thank you for your recent inquiry of August 16, 2006 regarding the anticipated release of data contained in the Eagleton Institute of Politics and Moritz College of Law studies on provisional voting and voter identification, which were conducted for the U.S. Election Assistance Commission.

While your assertion that election officials could benefit from the data compiled in the course of your research may be true, I would urge Eagleton and Moritz to exercise caution in the release of this information without further work to ensure its accuracy and completeness. Eagleton and Moritz received information from several election officials at the Standards Board and Board of Advisors meetings that information contained in the data set and draft report are inaccurate or incomplete. Furthermore, as you will recall, EAC accepted the report based on your data in "draft" due to our concerns about the data and the analysis of that data. In light of those concerns, EAC has not yet completed its review of the "draft" report and has not made final determinations on the release of any future document based on that data and draft report.

As such, you may release the data gathered by Eagleton or Moritz; however this data may not be released in conjunction with or using EAC's name as endorsing the content, quality or veracity of such data. You may not release the draft report that you provided the EAC under contract as this report has not been finalized and has not been officially released EAC. Release of draft reports prior to final action by EAC will only serve to foster confusion and defeat the purpose of the contract for which Eagleton/Moritz was hired. I trust that this clarifies how Eagleton and Moritz may use the data gathered in the performance of its contract with the EAC. If you have any questions, please feel free to contact me.

Sincerely,



Thomas Wilkey  
Executive Director



## EAGLETON INSTITUTE OF POLITICS

Thomas Wilkey, Executive Director  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, D.C. 2005

September 13, 2006

Dear Tom:

Thank you for your response to my August 16<sup>th</sup> letter.

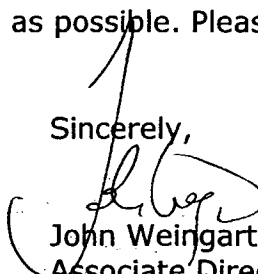
First, we appreciate the EAC's recognition that, apart from the two reports themselves, we may go forward now as scholars and academic institutions with the use of the research we conducted to prepare the reports, including data we collected and analyzed, for purposes of teaching, additional research, and dissemination to other scholars and colleagues at other academic institutions. We will honor your request that we not attribute the EAC's endorsement to this research and thus, insofar as future scholarly activity undertaken by Eagleton or Moritz refers to research conducted pursuant to our work for the EAC, we will note this research does not purport to represent the views of the EAC.

Second, as for the reports themselves, we continue to look forward to their public release in one of two ways: (a) either as reports of the EAC itself, prepared by the Eagleton-Moritz team; or (b) as Eagleton-Moritz reports prepared and received by the EAC, but without the EAC's endorsement or ratification. We need the EAC to quickly resolve which of these two alternatives it prefers. While we of course would welcome the choice of the first alternative, we do not feel it is necessary to achieve much of the purpose of this project, which was to provide information and analysis to the EAC, its stakeholder constituencies, and the public at large, which the EAC itself would be free to use to whatever extent it wishes it preparing advisories to the states and pursuing other policy objectives. These purposes could be achieved by the EAC simply releasing the reports with the disclaimer that that they do not reflect the EAC's views but rather serve as the basis for further public discussion of the issues addressed therein. Indeed, we think any further delay in the release of these reports will serve to defeat the project's purposes.

Therefore, we would be happy to discuss if there is anything we can do to facilitate a speedy determination of which alternative the EAC would like to adopt for the release of these reports.

I look forward to your response as quickly as possible. Please don't hesitate to call me to discuss these issues if that would be helpful.

Sincerely,

  
John Weingart  
Associate Director

008544

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

THE STATE UNIVERSITY OF NEW JERSEY  
**RUTGERS**

Tel: (732) 932-9384 ext. 290  
Fax: (732) 932-6778

E-mail: [john.weingart@rutgers.edu](mailto:john.weingart@rutgers.edu)  
Web: [www.eagleton.rutgers.edu](http://www.eagleton.rutgers.edu)



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

October 17, 2006

Ms. Wendy R. Weiser  
Deputy Director, Democracy Program  
Brennan Center for Justice at NYU School of Law  
161 Avenue of the Americas, 12th Floor  
New York, NY 10013

Dear Ms. Weiser:

Thank you for your request for information regarding U.S. Election Assistance Commission (EAC) research projects on voter fraud and voter intimidation, provisional ballots and voter identification.

The status report on voter fraud and voter intimidation, prepared by EAC staff, and the draft report on provisional voting, prepared by the Eagleton Institute of Politics and the Moritz College of Law, are enclosed. EAC personnel are in the process of drafting a report about voter identification. The report will be made available upon completion.

Status documents about voter fraud and voter intimidation and provisional voting were presented to the EAC's Standards Board and Board of Advisors at a public meeting held in May 2006. Neither of these documents were final EAC reports. Per the Help America Vote Act (HAVA), the EAC works with its advisory boards to gather input on activities, including research projects. After discussing the provisional voting research with our advisory boards, they requested further research and clarification and noted that some of information was inaccurate or incomplete. Please see the attached resolutions passed by both entities outlining their concerns. As such, EAC is currently reviewing the draft report on provisional voting to address the concerns of the agency's advisory boards.

As a small agency of only 23 employees, including four commissioners, it is necessary for EAC to contract with third parties and experts to conduct research. The information provided by third parties is used by staff to develop EAC final policy or reports. No documents, drafts or third party recommendations submitted to EAC constitute official EAC policy or opinion and should not be identified or referred to as such.

Please note that our Standards Board and Advisory Board meetings are open to the public and are publicized on the EAC website at [www.eac.gov](http://www.eac.gov) and posted in the Federal Register.

Thank you for your interest, and let us know if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wilkey", written over the word "Sincerely,".

Tom Wilkey  
Executive Director

008545



US ELECTION ASSISTANCE COMMISSION

FACSIMILE TRANSMITTAL SHEET

TO:

FROM:

JOHN WEINGARTEN

Bert A. Benavides (for Tom Wilkey)

COMPANY:

DATE:

EAGLETON

10/18/2006

FAX NUMBER:

TOTAL NO. OF PAGES, INCLUDING COVER:

732-932-6778

2

SENDER'S PHONE NUMBER:

SENDER'S FAX NUMBER

202-566-3114 (Asst.: Bert Benavides)

202-566-3128

RE:

RESPONSE TO BRENNAN CENTER  
FOR JUSTICE, NYU SCHOOL OF  
LAW

URGENT

FOR REVIEW



PLEASE COMMENT

X PLEASE REPLY



PLEASE RECYCLE

NOTES/COMMENTS:

Attached is sent to you at the request of Executive Director, Thomas R. Wilkey.

008546

MESSAGE CONFIRMATION

OCT-18-2006 08:17 AM WED

FAX NUMBER : 2025663128  
NAME : EAC

NAME/NUMBER : 917329326778  
PAGE : 2  
START TIME : OCT-18-2006 08:16AM WED  
ELAPSED TIME : 00' 26"  
MODE : STD ECM  
RESULTS : [ O.K ]

---

008547



"Tova Wang" <wang@tcf.org>

09/27/2006 03:51 PM

To twilkey@eac.gov  
cc tomwilkey@comcast.net  
bcc

Subject Board status report

History

 This message has been replied to.

Hi Tom,

Got your message. Thanks. Job and I actually did not do the presentation, Peg did. Attached is what she sent to us at the time as what she was presenting, but I was not actually in attendance <<...>>.

Tova

Tova Andrea Wang, Democracy Fellow  
**The Century Foundation**  
1333 H Street, NW, Washington, D.C. 20005

Visit our Web site, [www.tcf.org](http://www.tcf.org), for the latest news, analysis, opinions, and events.



PS EAC Board Status Report.doc

008548

## **INTRODUCTION**

### **LEGAL AUTHORITY**

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

### **IMPETUS FOR AND FOCUS OF CURRENT RESEARCH**

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. In September 2005, the Commission hired two consultants with expertise on these subject matters (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

## PROJECT WORKING GROUP

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.)

The Working Group is scheduled to meet at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

## DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud), but excluding campaign finance violations and election administration mistakes. This draft will be discussed by the Working Group and probably refined.

## LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at **fraud** appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". Books written about this subject seem to all have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections". Again, this is something that it is hoped will be addressed in the "second phase" of this EAC project by doing follow up research on allegations made in reports, books and newspaper articles.



Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists. Consultants suggest that this gap will be filled in the "second phase" of this EAC project.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate, but some reports say it is a major problem, albeit hard to identify.
- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

## INTERVIEWS

The consultants jointly selected experts from ???

## Common Themes

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.
- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate – including representatives from DOJ -- that for various reasons, the Department of Justice is bringing fewer voter intimidation and suppression cases now and is focusing on matters such as noncitizen voting, double voting and felon voting. While the civil rights section continues to focus on systemic patterns of malfeasance, the public integrity section is focusing now on individuals, on isolated instances of fraud.

- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

**Common Recommendations:**

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.
  - With respect to the civil rights section, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and the section has not pursued any such cases.
  - Craig Donsanto of the public integrity section says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases the department is investigating and the number of indictments the section is pursuing are both up dramatically. Since 2002, the department has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so it can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.

- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected nonpartisanly they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas is a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.
- A few recommend returning to allowing use of absentee ballots "for cause" only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the scheme contemplated in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

## NEWS ARTICLES

Consultants conducted a search of related Nexis articles published between ? and ? The search terms used were jointly agreed upon, and are available upon request. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview provided by the consultants.

### Overview of the Articles

???

### **Absentee Ballots**

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

### **Voter Registration Fraud**

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota and Wisconsin.

### **Voter Intimidation and Suppression**

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;
- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from “battleground” states. There were several such reports out of Florida, Ohio and Pennsylvania.

### **“Dead Voters and Multiple Voting”**

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made

in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found 5 such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### **Vote Buying**

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations in three particular jurisdictions as detailed in the vote buying summary (attached). There were more official investigations, indictments and convictions/pleas in this area. All of these cases are concentrated in the Midwest and South.

### **Deceptive Practices**

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida,

Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of voter registration forms. There were no reports of prosecutions or any other legal proceeding.

### **Non-citizen Voting**

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case charges were filed against ten individuals. In one case a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

### **Felon Voting**

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem has the large number of ineligible felons that remained on the voting list.

### **Election Official Fraud**

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### **Recommendation**

Phase 2 should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.



## **CASE LAW RESEARCH**

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, consultants found comparatively few which are applicable to this study. Of those that are applicable, no apparent thematic pattern emerges. However, it seems that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

### **Recommendation**

Because so few cases provided a picture of these current problems, consultants suggest that case law research for the second phase of this project concentrate on state trial-level decisions.

## **FINAL REPORT**

**Attachment A**

**Voting Fraud-Voter Intimidation Project Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, TX

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

*(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)*

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.

Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice

**Attachment B**

**Rough Summary of Department of Justice**

**Public Integrity Section Activities**

**October 2002-January 2006<sup>1</sup>**

**Prosecutions and Convictions-- Individuals**

Noncitizen voting: 20  
Vote buying: 49  
Double voting: 12  
Registration fraud: 13  
Civil Rights: 4  
Voter Intimidation: 2  
Unclear: 1

**Open Investigations** (note: a few cases overlap with prosecutions and convictions)

Noncitizen voting: 3  
Vote buying: 25  
Double voting: 15  
Registration fraud: 29  
Absentee ballot fraud: 9  
Official: 8  
Ineligibles: 4  
Deceptive Practices: 1  
Civil Rights: 14  
Intimidation: 6  
Other: 2

**Cases and Investigations Closed for Lack of Evidence**

Civil Rights: 8  
Official: 12  
Registration Fraud: 12  
Absentee Ballot Fraud: 14  
Ineligible Voting: 3  
Intimidation: 8  
Double Voting: 5

---

<sup>1</sup> Based upon information available as of January 2006

Ballot Box Stuffing: 1

Vote Buying: 14

Ballot/machine tampering: 2

Other: 8

Unclear: 3

## Attachment C

### MAJOR VOTE BUYING CASES SUMMARY

Between 2001 and 2006, allegations and convictions for vote buying and conspiracies to buy votes were concentrated in three states: Illinois, West Virginia and Kentucky.

In East St. Louis, Illinois, nine individuals, including a former city council member and the head of the local Democratic Party, Charles Powell, Jr., were convicted or pled guilty to vote buying and conspiracy to commit election fraud during the 2004 general election. The government's conspiracy case was almost entirely based on taped conversations in which the defendants discussed buying votes for \$5 and whether this would be adequate. Federal prosecutors alleged that the vote buying was financed with \$79,000 transferred from the County Democratic Party shortly before the election, although county officials have not been charged. Four defendants were convicted of purchasing or offering to purchase at least one vote directly, while Democratic Party chairman was only convicted of conspiracy.<sup>2</sup> Earlier, three precinct officials and one precinct worker pled guilty to buying votes for \$5 or \$10 in that same election.<sup>3</sup>

Eastern Kentucky has witnessed a series of vote buying cases over the last several years. The most recent revolved around Ross Harris, a Pike County political fundraiser and coal executive, and his associate Loren Glenn Turner. Harris and Turner were convicted in September 2004 of vote buying, mail fraud, and several other counts.<sup>4</sup> Prosecutors alleged Harris and Turner conspired to buy votes and provided the necessary funds in an unsuccessful 2002 bid for Pike County district judge by former State Senator Doug Hays. Harris supplied nearly \$40,000, Turner laundered the money through straw contributors, and the cash was then disbursed in the form of \$50 checks ostensibly for 'vote hauling', the legal practice of paying campaign workers to get voters to the polls which is notorious as a cover for buying votes.<sup>5</sup> Harris attempted to influence the race on behalf of Hays in order to get revenge on Hays' opponent for a personal matter.<sup>6</sup>

---

<sup>2</sup> "Five convicted in federal vote-fraud trial" Associated Press, June 30, 2005; "Powell gets 21 months" Belleville News-Democrat, March 1, 2006.

<sup>3</sup> "Four Plead Guilty To Vote-Buying Cash Was Allegedly Supplied By St. Clair Democratic Machine" Belleville News-Democrat, March 23, 2005.

<sup>4</sup> "2 found guilty in pike county vote-fraud case; Two-year sentences possible," Lexington Herald Leader, September 17, 2004.

<sup>5</sup> "Jury weighing vote-fraud case," Lexington Herald Leader, September 16, 2004.

<sup>6</sup> "Pike Election Trial Goes To Jury" Lexington Herald Leader, January 1, 2006.

A grand jury initially indicted 10 individuals in connection with the Harris and Turner case, including Hays and his wife, and six campaign workers. Of the remaining defendants, only one, Tom Varney, also a witness in the Hays case, pled guilty. The others were either acquitted of vote buying charges or had vote buying charges dropped.<sup>7</sup> Prosecutors have announced that their investigation continues into others tied to Harris and may produce further indictments.

The Harris case follows a series of trials related to the 1998 Knott County Democratic primary. Between 2003 and 2004, 10 individuals were indicted on vote buying charges, including a winning candidate in those primaries, Knott County judge-executive Donnie Newsome, who was reelected in 2002. In 2004 Newsome and a supporter were sent to jail and fined. Five other defendants pled guilty to vote buying charges, and three were acquitted. The primary means of vote buying entailed purchasing absentee votes from elderly, infirm, illiterate or poor voters, usually for between \$50 and \$100. This resulted in an abnormally high number of absentee ballots in the primary.<sup>8</sup> Indictments relating to that same 1998 primary were also brought in 1999, when 6 individuals were indicted for buying the votes of students at a small local college. Five of those indicted were convicted or pled guilty.<sup>9</sup>

Absentee vote buying was also an issue in 2002, when federal prosecutors opened an investigation in Kentucky's Clay County after an abnormal number of absentee ballots were filed in the primary and the sheriff halted absentee voting twice over concerns.<sup>10</sup> Officials received hundreds of complaints of vote-buying during the 2002 primary, and state investigators performed follow up investigations in a number of counties, including Knott, Bell, Floyd, Pike, and Maginoff.<sup>11</sup> No indictments have been produced so far.

So far, relatively few incidents of vote-buying have been substantially identified or investigated in the 2004 election. Two instances of vote buying in local 2004 elections have been brought before a grand jury. In one, a Casey County man was indicted for purchasing votes in a local school board race with cash and whiskey.<sup>12</sup> In the second, the grand jury chose not to indict an

---

<sup>7</sup> "Former state senator acquitted of vote buying," Lexington Herald Leader, November 2, 2004.

<sup>8</sup> "Knott County, KY., Judge Executive sentenced on vote-buying conspiracy charges," Department of Justice, March 16, 2004.

<sup>9</sup> "6 men accused of vote fraud in '98 Knott primary; Charges include vote buying and lying to FBI"

<sup>10</sup> "Election 2002: ABSENTEE BALLOTING; State attorney general's office investigates voting records in some counties" The Courier-Journal, November 7, 2002.

<sup>11</sup> "Election 2002: Kentucky; VOTE FRAUD; Investigators monitor 17 counties across state" The Courier-Journal, November 6, 2002.

<sup>12</sup> "Jury finds man guilty on vote-buying charges" Associated Press, November 11, 2005.

individual accused of offering to purchase a teenager's vote on a local proposal with beer.<sup>13</sup>

An extensive vote buying conspiracy has also been uncovered in southern West Virginia. The federal probe, which handed down its first indictment in 2003, has yielded more than a dozen guilty pleas to charges of vote buying and conspiracy in elections since the late 1980s. As this area is almost exclusively dominated by the Democratic Party, vote-buying occurred largely during primary contests.

The first phase of the probe focused on Logan County residents, where vote buying charges were brought in relation to elections in 1996, 2000, 2002 and 2004. In an extraordinary tactic, the FBI planted the former mayor of Logan City, Tom Esposito, as a candidate in a state legislative race. Esposito's cooperation led to guilty pleas from the Logan County Clerk, who pled guilty to selling his vote to Esposito in 1996,<sup>14</sup> and another man who took money from Esposito for the purpose of vote buying in 2004.<sup>15</sup>

Guilty pleas were also obtained in connection with former county sheriff Johnny Mendez, who pled guilty to buying votes in two primary elections in order to elect candidates including himself. In 2000, with a large amount of funding from a prominent local lawyer seeking to influence a state delegate election for his wife, Mendez distributed around \$10,000 in payments to voters of \$10 to \$100. Then, in the 2004 primary, Mendez distributed around \$2,000 before his arrest.<sup>16</sup> A deputy of Mendez', the former Logan police chief, also pled guilty to a count of vote buying in 2002.<sup>17</sup>

Prosecutors focusing on neighboring Lincoln County have alleged a long-standing vote-buying conspiracy extending back to the late 1980s. The probe identified Lincoln County Circuit Clerk Greg Stowers as head of a Democratic Party faction which routinely bought votes in order to maintain office. Stowers pled guilty in December 2005 to distributing around \$7,000 to buy votes in the 2004 primary. The Lincoln County Assessor, and Stowers' longtime political ally, Jerry Allen Weaver, also pled guilty to conspiracy to buy votes.<sup>18</sup> These were accompanied by four other guilty pleas from party workers for vote buying in primaries. While most specific charges focused on

---

<sup>13</sup> "Man in beer vote case files suit" The Cincinnati Enquirer, March 17, 2005.

<sup>14</sup> "Two plead to vote fraud; Logan clerk sold vote; politician tried to buy votes" Charleston Gazette, December 14, 2005.

<sup>15</sup> "Logan man gets probation in vote-fraud scandal" Charleston Gazette, March 1, 2006.

<sup>16</sup> "Mendez confined to home for year Ex-Logan sheriff was convicted of buying votes" Charleston Gazette, January 22, 2005.

<sup>17</sup> "Ex-Logan police sentenced for buying votes" Associated Press, February 15, 2005.

<sup>18</sup> "Clerk says he engaged in vote buying" Charleston Gazette, December 30, 2005.

vote buying in the 2004 primary, defendants also admitted buying votes as far back as the 1988, 1990, and 1992 primaries.

The leading conspirators would give party workers candidate slates and cash, which workers would then take to the polling place and use to purchase votes for amounts between \$10 and \$40 and in one instance, for liquor. Voters would be handed the slate of chosen candidates, and would then be paid upon exiting the polling place. In other cases, the elected officials in question purchased votes in exchange for non-cash rewards, including patronage positions, fixed tickets, favorable tax assessments, and home improvements.<sup>19</sup>

The West Virginia probe is ongoing, as prosecutors are scrutinizing others implicated during the proceedings so far, including a sitting state delegate, who may be under scrutiny for vote buying in a 1990 election, and one of the Lincoln county defendants who previously had vote buying charges against him dropped.<sup>20</sup>

---

<sup>19</sup> "Lincoln clerk, two others plead guilty to election fraud" Charleston Daily Mail, December 30, 2005.

<sup>20</sup> "Next phase pondered in federal vote-buying probe" Associated Press, January 1, 2006.



## Attachment D

### SUMMARY OF RECENT IRREGULARITIES IN SOUTH DAKOTA, WASHINGTON STATE, AND WISCONSIN

#### 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.<sup>21</sup>

A month before the election, several counties reported irregularities in some of the voter registration documents they'd received. In response to these reports, South Dakota Attorney General, Mark Barnett, with the state US Attorney and the FBI, launched an investigation.<sup>22</sup> 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.<sup>23</sup> The following allegations were also picked up by out-of-state newssources, including Fox News and the Wall Street Journal:

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

Barnett, who was alerted to the affidavits when he read an early media report that referred to them, stated that these allegations were either false or didn't warrant concern. "Most of the stuff that's in those other 47 affidavits are the kind of problems that we see in every election. People parking too close to the polling place with a sign in their window, people shooting their

---

<sup>21</sup> Kafka, Joe. "More people registered to vote." *Associated Press State and Local Wire*. October 29, 2002.

<sup>22</sup> Kafka, Joe. "Voter registration fraud being investigated." *Associated Press State and Local Wire*. October 11, 2002.

<sup>23</sup> "Barnett: No evidence that fraud affected vote." *Associated Press State and Local Wire*. Sioux Falls, South Dakota. November 21, 2002.

mouths off at the polling place. The kind of things that local election officials generally do a pretty good job of policing.”<sup>24</sup> The allegations of voter bribery were false.

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

- The most high-profile case was that of Becky Red Earth-Villeda. Ms. Red Earth-Villeda was hired by the state Democratic party to register voters on the American Indian reservations. She was charged with 19 counts of forgery. No fraudulent voting was associated with Ms. Red Earth-Villeda, nor was there any evidence that fraudulent voting occurred in the state.<sup>25</sup> 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.<sup>26</sup>
- 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.<sup>27</sup>

## 2004

In October 2004, just before the general election, eight people working for a campus GOP Get-out-the-Vote organization resigned their positions after they were accused of submitting absentee ballot requests that had not been notarized properly. Because many of these ballot requests had already been processed and the ballots themselves had been cast, county auditors decided not to pursue the issue.<sup>28</sup>

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

---

<sup>24</sup> Kafka, Joe. “Woman charged in voter-fraud case, other claims false.” *Associated Press State and Local Wire*. Pierre, South Dakota. December 14, 2002.

<sup>25</sup> Kafka, Joe. “Woman charged in voter-fraud case, other claims false.” *Associated Press State and Local Wire*. Pierre, South Dakota. December 14, 2002.

<sup>26</sup> Walker, Carson. “Charges dropped against woman accused of voter fraud.” *Associated Press State and Local Wire*. Sioux Falls, South Dakota. January 28, 2004.

<sup>27</sup> “Rapid City man arrested for voter fraud.” *Associated Press State and Local Wire*. Rapid City, South Dakota. October 18, 2002.

<sup>28</sup> Melmer, David. “Voting problems resurface in South Dakota.” *Indian Country Today*. October 27, 2004.

2002.<sup>29</sup> 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. <sup>30</sup>

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 believe Brenner started the rumor himself. As there was no evidence for either side, the claims were not taken seriously. <sup>31</sup>

**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:

---

<sup>29</sup> Melmer, David. "Election Day goes smoothly on Pine Ridge, S.D., reservation." *Indian Country Today*. November 10, 2004.

<sup>30</sup> Walker, Carson. "Observer alleges vote buying; worker says he never went to Pine Ridge." *Associated Press State and Local Wire*. October 31, 2004.

<sup>31</sup> Walker, Carson. "Some problems and oddities reported on Election Day." *Associated Press State and Local Wire*. November 2, 2004.

- 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.<sup>32</sup>
- 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.<sup>33</sup>
- 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.<sup>34</sup>
- The system for verifying the eligibility of voters who had cast provisional ballots was found to be questionable.<sup>35</sup>
- 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.<sup>36</sup>

The trial also revealed that most of these problems were the result of understaffing and human error.<sup>37</sup> 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.<sup>38</sup> Further, despite the scrutiny that the election 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.<sup>39</sup>
- 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.

---

<sup>32</sup> 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.

<sup>33</sup> Ervin, Keith. "Voters irked by uncounted ballots." *The Seattle Times*. June 17, 2005.

<sup>34</sup> Postman, David. "Judge left to mull vote-fraud claim." *The Seattle Times*. June 5, 2005.

<sup>35</sup> 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.

<sup>36</sup> Ervin, Keith. "Prosecutors to challenge 110 voters; They are said to be felons – 2 counties discover uncounted ballots." *The Seattle Times*. April 29, 2005.

<sup>37</sup> 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.

<sup>38</sup> Borders v. King County. Court's Oral Decision. 6. June. 2005.

<sup>39</sup> Johnson, Gene. "Two plead guilty to voting twice in 2004 general election." *Associated Press*. June 2, 2005.

- A homeless resident of Seattle cast two ballots, one in the name of Dustin Ocoilain.<sup>40</sup>

### **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)<sup>41</sup>
- 1 has been acquitted<sup>42</sup>
- 1 has been found guilty in trial (Kimberly Prude)<sup>2</sup>
- 3 have reached plea agreements (Milo Ocasio<sup>43</sup>)
- [names: Ethel M. Anderson, Correan F. Edwards, Jiyto L. Cox, Joseph J. Gooden<sup>44</sup>]
  
- 4 were instances of double voting:
- 1 produced a hung jury (Enrique Sanders)<sup>2</sup>
- 1 was found incompetent to stand trial and his case was dismissed
- 1 initially pleaded guilty but now wants a trial.<sup>45</sup>
- 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.<sup>46</sup>

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

---

<sup>40</sup> Ervin, Keith. "6 accused of casting multiple votes; King County voters face criminal charges - Jail time, fines possible." *Seattle Times*. June 22, 2005.

<sup>41</sup> Barton, Gina. "Man acquitted in voter fraud trial; Felon had been under supervision at time." *Milwaukee Journal-Sentinel*. October 6, 2005.

<sup>42</sup> Schultze, Steve. "No vote fraud plot found. Inquiry leads to isolated cases, Biskupic says." *Milwaukee Journal-Sentinel*. December 5, 2005.

<sup>43</sup> "Felon says he voted illegally." *Milwaukee Journal-Sentinel*. September 17, 2005.

<sup>44</sup> Barton, Gina. "4 charged with voting illegally in November." *Milwaukee Journal-Sentinel*. August 17, 2005.

<sup>45</sup> Milwaukee J-S. December 5, 2005.

<sup>46</sup> Milwaukee J-S. December 5, 2005.

Community Organizations for Reform Now; the other two were felons who voted illegally.<sup>47</sup>

*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 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.<sup>48</sup>

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; and
- 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.<sup>49</sup>

---

<sup>47</sup> Milwaukee J-S. December 5, 2005.

<sup>48</sup> Borowski, Greg J. "State audit digs up wider vote problems; Thousands of voters on rolls more than once." *Milwaukee Journal-Sentinel*. September 17, 2005

### *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.<sup>50</sup> 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*

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

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

**Felons:** Comparing a list of felons from the Department of Corrections to their voter registration data lists, LAB found 453 felons who were registered to vote. This is largely because, although municipal clerks are informed of federal felony convictions, they have no way of obtaining records on state felony convictions.<sup>51</sup>

---

<sup>49</sup> "An Evaluation: Voter Registration." *Legislative Audit Bureau*. Madison, Wisconsin. September 2005. Pg. 50-52.

<sup>50</sup> 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.

<sup>51</sup> Legislative Audit Bureau Report: pg 43-47.



U.S. ELECTION ASSISTANCE COMMISSION  
1225 NEW YORK AVENUE, N.W., SUITE 1100  
WASHINGTON, D.C. 20005

OFFICE OF THE CHAIRMAN

October 19, 2006

Ralph G. Neas  
President, People for the American Way Foundation  
2000 M Street, NW  
Suite 400  
Washington, DC 20036

**Via Facsimile Transmission ONLY**  
**202-293-2672**

RE: October 18, 2006 Letter

Dear Mr. Neas:

Your letter of October 18, 2006 requests the release of EAC's Voter Fraud and Intimidation Report. I would like to take this opportunity to clarify the purpose and status of this study.

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

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

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


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

Sincerely,

Paul S. DeGregorio  
Chairman



**Margaret Sims/EAC/GOV**  
10/25/2006 11:59 AM

To Thomas R. Wilkey/EAC/GOV@EAC  
cc ecartes@eac.gov  
bcc  
Subject Re: Question-Voting Fraud-Voter Intimidation Report 

Tom:

I sent the consolidated draft of the report last week (minus the Nexis and case law charts) to the lawyers (with a cc: to you), along with the following comments:

- As you know, references to DOJ actions/responses have caused some concern at DOJ. But both consultants are adamantly opposed to EAC making substantive changes to their report. Perhaps using footnotes clearly labeled as EAC footnotes would be a method of addressing this issue?
- There are some recommendations regarding DOJ that we (the consultants and I) were told would not be supported by DOJ, and other references to DOJ, none of which have been reviewed by the department. I think we ought to give Craig Donsanto and John Tanner a chance to provide feedback on each of these sections.
- I am a little concerned about the naming of names, particularly in the section that addresses working group concerns. If we publish it as is, it might end up as fodder for some very negative newspaper articles.
- The report currently uses three different voices: third person, first person singular, first person plural. I think this looks really clumsy. If we are not actually making substantive changes, perhaps we could get away with making the presentation consistent in this regard.
- Because the consultants submitted the report in pieces, they did not include proper segues. I don't know if we should leave it as is, or insert them where needed.

The only comments I've received so far were from Gavin, who said, "I would put forth one point at the outset... if we are creating an EAC report, let create an EAC report. Tova and Job contract employees... I do not see why we can't use all, some or none of their work without footnote or comment."

The series of supporting charts can be found in the shared drawer under **T:\RESEARCH IN PROGRESS\VOTING FRAUD-VOTER INTIMIDATION\Report\Consolidated Copy** in the subfolders marked **Case Charts** and **Nexis Charts**. I continue to work on the formatting of these charts, but at least you and Edgardo can access them. (I would have attached copies to this message, but it would involve too many files.)

We may want to schedule a teleconference on this with the attorneys and Jeannie.

I hope you are feeling better. --- Peggy

Thomas R. Wilkey/EAC/GOV

**Thomas R. Wilkey/EAC/GOV**  
10/25/2006 10:46 AM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Question

**Deliberative Process  
Privilege 008575**

Hi Peggy;

Sorry I missed you yesterday when you were here and hope you are beginning to feel better.

As you know the Voter Fraud and Intimidation Report is causing quite a stir.

Can you give me some ball park timeframe for how long it may take to wrap up our review and get a report to the Commissioners

Is there anything I can do to assist with getting you some help on this.

I know you have other things on your mind but I need to find a way to wrap this up soon.

Also I believe that there were some charts of some sort that were not included in the report we got from Tova and Job, are they available for Edgardo to find so that I may take a look at this.

Thanks so much and hope things are getting better for you.

Tom

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

008576



## EAGLETON INSTITUTE OF POLITICS

Thomas Wilkey, Executive Director  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, D.C. 20005  
Mailed and Faxed to (202) 566-3128

October 27, 2006

Dear Tom:

Thank you for faxing me a copy of your October 17th response to Wendy Weiser of the Brennan Center. We are pleased that you have made public the report on Provisional Voting but disappointed that you are not ready to do the same with our report on Voter Identification. We would appreciate knowing approximately when you expect to complete the review and consideration of advisory board concerns you mention to Ms. Weiser.

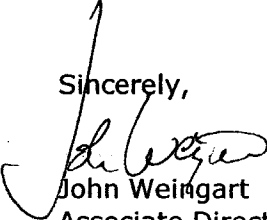
In the meantime, both Eagleton and Moritz plan to place the report on Provisional Voting on our websites along with a paper based on the data compiled for the Voter Identification report. Consistent with your letter faxed to us on August 31st, we plan to include approximately the following language:

"This report on *Best Practices To Improve Provisional Voting* was prepared by the Eagleton Institute of Politics at Rutgers University (Eagleton) and the Moritz College of Law at Ohio State University (Moritz) under contract to the U.S. Election Assistance Commission (EAC). It was submitted to the Commission on June 28th, 2006. Please note that the EAC has not yet made final determinations on the release of any future documents based on this report and its supporting data.

A separate report on *Best Practices To Improve Voter Identification Requirements* was prepared by Eagleton and Moritz under the same contract and also submitted to the EAC on June 28th, 2006. The Commission is currently reviewing this report and has asked that it not be made public until their review is complete. Timothy Vercellotti and David Anderson of Rutgers University's Eagleton Institute of Politics and Political Science Department respectively presented a paper based on the data compiled for this report at the 2006 meeting of the American Political Science Association. The paper, *Protecting The Franchise, or Restricting It? The Effects of Voter Identification Requirements on Turnout*, can be viewed by clicking here."

We look forward to your response concerning the release of the Voter Identification report. As always, please let us know if need additional information or if there are other ways in which we can be of assistance with your important and difficult work.

Sincerely,

  
John Weingart  
Associate Director

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

THE STATE UNIVERSITY OF NEW JERSEY  
**RUTGERS**

Tel: (732) 932-9384 ext. 290  
Fax: (732) 932-6778

E-mail: john.weingart@rutgers.edu  
Web: www.eagleton.rutgers.edu

008577

November 8, 2006

Mr. Tom Wilkey  
Executive Director  
U.S. Election Assistance Commission  
1225 New York Ave., N.W., Suite 1100  
Washington, DC 20005

Re: Request for Records Pursuant to the Freedom of Information Act

Dear Mr. Wilkey:

I write to follow up on the Freedom of Information Act ("FOIA") request I made to the Election Assistance Commission ("EAC") on October 11, 2006 for: (1) the report on voter identification prepared by the Eagleton Institute of Politics and the Moritz College of Law ("the voter ID report"), and (2) the report on voting fraud and voter intimidation prepared by Tova Wang and Job Serebrov, in consultation with a bipartisan work group ("the voting fraud report").<sup>1</sup> Both reports were prepared using federal funds distributed by the EAC and both were finalized and submitted to the EAC several months ago. I received your October 17, 2006 letter and the accompanying EAC status report, EAC board resolutions, and the report on provisional voting prepared by the Eagleton Institute of Politics and the Moritz College of Law. I thank you for the report on provisional voting and the other information, but unfortunately, the material you provided is only partially responsive to my request because it failed to include a copy of the voter ID report and the voting fraud report.

Under FOIA, any federal agency, including the EAC, is required to make records "promptly available to any person" who properly requests them. 5 U.S.C. § 552(a)(3)(A) (2006). If an agency decides to withhold the requested records, it must "immediately notify" the person making the request of the "reasons" for the agency's decision and of the person's right to appeal that decision. *Id.* § 552(a)(6)(A)(i). Your October 17 response, in addition to excluding the requested reports, provided no explanation as to why they were being withheld, as required by federal law. Since there is no basis for the EAC to withhold the voter ID and voting fraud reports, proffered or otherwise, I respectfully appeal your decision to deny access to those reports and also request expedited review.<sup>2</sup> Immediate disclosure of those reports is both in the public interest and within the EAC's statutory mandate to serve as a national clearinghouse on election-related information and to make studies available to the public.

---

<sup>1</sup> Unlike the usage adopted by the EAC in its October 26, 2006 public meeting, the term "report" in this letter does not refer to a report authored by the EAC or officially approved by the EAC and containing EAC recommendations. Rather, the term should be construed in its ordinary English meaning.

<sup>2</sup> Expedited review of our FOIA request is warranted under 5 U.S.C. § 552(a)(6)(E)(v)(II) (2006).

008578

## **Immediate Disclosure of the Requested Reports is in the Public Interest**

The information and research contained in the voter ID and voting fraud reports are urgently needed to assist citizens, policymakers, and courts in their ongoing deliberations on issues of the highest public concern. As you are no doubt aware, the issues of voter ID and voting fraud are currently being considered in the courts, in Congress, and in the state legislatures.

Indeed, on October 20, 2006, three days after the EAC denied my request for the voter ID and voting fraud reports, a unanimous United States Supreme Court underscored the need for more research on voting fraud and the effects of voter ID requirements in the context of a case challenging Arizona's new voter ID law.<sup>3</sup> Justice Stevens explained in his concurrence that factual information is needed to determine "the scope of the disenfranchisement that the novel identification requirements will produce, and the prevalence and character of the fraudulent practices that allegedly justify those requirements." The two factual issues identified by the Court are precisely the subjects of the voter ID and voting fraud reports being withheld by the EAC.

Public disclosure of the voter ID and voting fraud reports is important not only to assist the courts in examining the constitutionality of recently-enacted voter ID laws, but also to assist Congress and state legislatures in their deliberations over proposed voter ID legislation. For example, this summer, the U.S. House of Representatives passed a voter ID bill, H.R. 4844, which is currently being considered by the United States Senate. Given the dearth of studies and research on voter ID and voting fraud, the Senate's deliberations would be greatly enhanced by disclosure of the voter ID and voting fraud reports.

Given how quickly the issues of voter ID and voting fraud are being raised in the courts and in the legislatures, the public simply cannot afford any further delay in the release of the highly-anticipated voter ID and voting fraud reports. Scholars, advocates, and policy makers have long awaited the release of these reports, and many have refrained from undertaking similar studies in the interim. Because the data and other research in those reports were gathered over the course of many months, it would be impossible for others to collect similar information in time to inform the public debate.

The requested reports will provide an invaluable contribution to the national discussion on voter ID and voting fraud. Both reports were prepared by nationally-known experts on election administration. The voting fraud study was also prepared in consultation with a bipartisan working group that held a full-day meeting with the EAC and the researchers on May 18, 2006 to discuss the research results.<sup>4</sup> Both reports consumed substantial time and resources: the EAC granted scholars from the Moritz College of Law and the Eagleton Institute of Politics the voter ID research contract in late 2004, and Tova Wang and Job Serebrov the voting fraud contract in September 2005. Both reports contain substantial data collected over many months of research. And, in both cases, the authors prepared and submitted final reports of their research

---

<sup>3</sup> *Purcell v. Gonzalez*, 549 U.S. \_\_\_, 2006 WL 2988365, at \*3 (2006) (noting that facts are "hotly contested").

<sup>4</sup> U.S. Election Assistance Commission, *Status Report on the Voting Fraud-Voter Intimidation Research Project*, at 11 (May 17, 2006).

008579

to the EAC several months ago.<sup>5</sup> The EAC is doing the public a disservice by refusing to release these important reports, at least one of which is within its exclusive control, in a timely manner.

Moreover, the EAC's decision to withhold these reports starkly contrasts with the express policies of other federal agencies that distribute public funds for studies. For example, policy of both the National Institutes of Health and National Science Foundation is to disclose as much information as possible so that the public, including other researchers, can examine and benefit from federally-funded research.<sup>6</sup>

The Brennan Center publishes and disseminates reports, publications, and other informational materials to educate individuals, institutions, the press, legislators, and other policymakers on a variety of issues, including issues related to voting and elections. As an organization primarily engaged in disseminating information, the Brennan Center is well-situated to make the information in the voter ID and voting fraud reports available to the public. The Center also intends to make use of the research in those reports to assist in our own research and proposals on issues of national concern.

### **Disclosure of the Requested Reports Is Within the EAC's Mandate**

As you know, the Election Assistance Commission was established by Congress in the Help America Vote Act of 2002 ("HAVA") to "serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal elections."<sup>7</sup> In other words, the EAC's primary function is to make information available to the public. It is inconsistent with this mission for the EAC to delay the release of valuable research, to suppress research with which some or even all Commissioners disagree, or to withhold research while the EAC determines its own position on the issues addressed by the requested reports.

The requested voter ID and voting fraud reports were prepared at the request of the EAC pursuant to the Commission's statutory duty to "conduct and *make available to the public* studies regarding . . . election administration issues."<sup>8</sup> HAVA specifically mandated the EAC to make available studies concerning "nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office," and "identifying deterring, and investigating methods of voter intimidation," among other things.<sup>9</sup> It was in light of these statutory provisions that the EAC provided federal funding to well-respected experts to conduct research and prepare the voter ID and voting fraud reports. Those same provisions require the EAC to make those reports "available to the public."

---

<sup>5</sup> Cf. *id.* ("After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations.")

<sup>6</sup> See Nat'l Insts. of Health, NIH Grants Policy Statement: Availability of Research Results: Publications, Intellectual Property Rights, and Sharing Research Resources (2003), available at [http://grants1.nih.gov/grants/policy/nihgps\\_2003/NIHGPs\\_Part7.htm#\\_Availability\\_of\\_Research](http://grants1.nih.gov/grants/policy/nihgps_2003/NIHGPs_Part7.htm#_Availability_of_Research); Nat'l Science Found., Policies & Important Links, available at <http://www.nsf.gov/policies/foia.jsp>.

<sup>7</sup> 42 U.S.C.S. § 15322 (2006).

<sup>8</sup> 42 U.S.C.S. § 15381(a) (2006) (emphasis added).

<sup>9</sup> *Id.* § 15381(b)(6) - (7).

008580

In short, by withholding the requested reports, not only does the EAC violate the broad disclosure provisions of FOIA, discussed more fully below, but it also shirks its statutory responsibility to be a source of public information regarding election administration.

### **There is No Basis in Law for the EAC to Withhold the Requested Reports**

Under FOIA, the EAC is required to disclose all requested documents within its control unless they fall into one of the enumerated statutory exemptions.<sup>10</sup> These exemptions are very narrowly construed, because “[t]he basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.”<sup>11</sup> Moreover, to qualify for an exemption, the EAC is required to explain its reasons for withholding a document with specificity.<sup>12</sup> The EAC has simply not satisfied its burden of showing that the voter ID and voting fraud reports qualify for an exemption. Indeed, it cannot.

#### *The Withheld Reports Do Not Qualify for a FOIA Exemption*

Despite the fact that you gave no reason for the EAC’s decision to withhold the requested documents, based on your counsel’s statement at the Commission’s public meeting held on October 26, 2006,<sup>13</sup> we assume that you intend to assert the deliberative process privilege under Exemption 5 of FOIA. That exemption, however, applies only to: (a) intra-agency memoranda that are both (b) predecisional, and (c) deliberative.<sup>14</sup> The voter ID and voting fraud reports meet none of these criteria. Neither report can be said to reveal the decision-making or thought processes of the Commission in any way—which is the essence of the deliberative process privilege. That privilege does not apply here for three independent reasons.

First, although the requested reports are within the EAC’s exclusive control, they cannot be withheld as “intra-agency” memoranda because they were independently prepared by experts outside of the EAC. The mere receipt of federal funds to perform research does not transform an outsider into an arm of the agency.<sup>15</sup> We do not dispute that, under certain circumstances, persons outside an agency can so actively participate in an agency’s policymaking process that they are appropriately considered part of the agency. But in this case, the report authors were essentially grantees whose work product lacked the “extensive, detailed, and virtually day-to-day supervision” that “convert[s] the acts of the [fund] recipient from private acts to governmental acts.”<sup>16</sup>

<sup>10</sup> 5 U.S.C. § 552(a)-(b); *U. S. Dep’t of Justice v. Tax Analysts*, 492 U.S. 136, 144-46 (1989) (documents over which agency obtains control are covered by FOIA).

<sup>11</sup> *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978); see also *Klamath*, 532 U.S. at 8; *id.* at 9 (purpose of exemptions “is not to protect Government secrecy pure and simple”).

<sup>12</sup> 5 U.S.C. § 552(a); see also *Parke, Davis & Co. v. Califano*, 623 F.2d 1, 6 (6th Cir. 1980) (holding that “specificity and detail” are required in support of an Exemption 5 claim).

<sup>13</sup> See [http://www.eac.gov/public\\_meeting\\_102606.asp](http://www.eac.gov/public_meeting_102606.asp).

<sup>14</sup> *Nat’l Council of La Raza v. U.S. Dep’t of Justice*, 411 F.3d 350, 356 (2d Cir. 2005).

<sup>15</sup> *Forsham v. Harris*, 445 U.S. 169, 180 (1980); see also *Missouri v. U.S. Dep’t of Interior*, 297 F.3d 745, 750 (8th Cir. 2002).

<sup>16</sup> *Forsham*, 445 U.S. at 180.

Second, the withheld reports are not “predecisional” because they were not prepared to assist the EAC in making a policy decision, but rather were commissioned pursuant to the agency’s statutory obligations under HAVA to disseminate studies.<sup>17</sup> Predecisional documents are those “prepared in order to assist an agency decisionmaker in arriving at his decision.”<sup>18</sup> They are typically drafts or “suggestions or recommendations as to what agency policy should be,” or “advice to a superior,” or “suggested dispositions of a case.”<sup>19</sup> A document is only predecisional if the agency can demonstrate that the document is related to a specific decision confronting the agency. Here, however, “[n]o ‘decision’ is being made or ‘policy’ being considered”<sup>20</sup> in connection with the voter ID and voting fraud reports. The EAC did not fund those reports with the expectation that the reports would effectuate policies with the force of law or complete an adjudicatory process. Instead, the reports are “resource opinion[s]” about a state of facts completely unrelated to a tangential policy decision that the EAC may make.<sup>21</sup> As a result, they are not predecisional. To the extent that the EAC claims that the reports relate to “a decision that possibly may be made at some undisclosed time in the future,” that is an insufficient basis to withhold them under Exemption 5.<sup>22</sup>

Third, the withheld reports are not “deliberative” because they do not “reflect[] the give-and-take of the [agency’s] consultative process.”<sup>23</sup> The requested reports cannot become exempted from disclosure merely because the EAC is reviewing them.<sup>24</sup> A document is deliberative if its disclosure is likely “to stifle honest and frank communication within the agency.”<sup>25</sup> There is no danger that disclosure of the voter ID and voting fraud reports would stifle the agency’s communications, since they were prepared independently of the EAC and thus cannot reveal anything about any deliberations or candid communications within the EAC.

#### *The Preparation of an EAC Report is no Justification for Withholding the Requested Reports*

The EAC is obligated under FOIA and HAVA to disclose the requested reports regardless of whether it intends to write its own report on voter identification, as your letter suggests.<sup>26</sup>

<sup>17</sup> See 42 U.S.C.S. § 15381.

<sup>18</sup> *Renegotiation Bd. v. Grumman Aircraft Eng’g Corp.*, 421 U.S. 168, 184 (1975); see also *Nat’l Council of La Raza*, 411 F.3d at 356; *Nat’l Ass’n of Home Builders v. Norton*, 309 F.3d 26, 39 (D.C. Cir. 2002); *Carter v. U.S. Dep’t of Corr.*, 307 F.3d 1084, 1089 (9th Cir. 2002); *Ethyl Corp. v. U.S. Envtl. Prot. Agency*, 25 F.3d 1241, 1248 (4th Cir. 1994); *Fl. House of Representatives v. U. S. Dep’t of Commerce*, 961 F.2d 941, 945 (11th Cir. 1992).

<sup>19</sup> *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 868 (D.C. Cir. 1980).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Assembly of Cal. v. U.S. Dep’t of Commerce*, 968 F.2d 916, 921 (9th Cir. 1992).

<sup>23</sup> *Coastal States*, 617 F.2d at 866.

<sup>24</sup> The DC Circuit has also rejected an interpretation of predecisional that “would result in a huge mass of material being forever screened from public view,” because “[t]he public has an interest in decisions deferred, avoided, or simply not taken for whatever reason, equal to its interest in decisions made, which from their very nature may more easily come to public attention than those never made.” *Vaughn v. Rosen*, 523 F.2d 1136, 1146 (D.C. Cir. 1975).

<sup>25</sup> *Coastal States*, 617 F.2d at 866.

<sup>26</sup> It is unclear as to why the EAC’s intent to write a report on voter identification would have any bearing on the EAC’s decision to withholding of the fraud report. Likewise, the inaccuracies in the provisional voting report alleged in your October 17 letter are wholly immaterial to the issue of whether the reports on voter ID and voting fraud should be disclosed. In any event, while inaccuracies may explain why the EAC would choose not to adopt a particular report, it is insufficient to support withholding the documents under FOIA. See *Petroleum Info. Corp. v. U.S. Dep’t of Interior*, 976 F.2d 1429, 1437 n.10 (D.C. Cir. 1992) (holding risk of public confusion “does not



Neither the voting fraud report nor the voter ID report could “inaccurately reflect or prematurely disclose the views of the agency,”<sup>27</sup> because both reports were written and reviewed by scholars outside the EAC and submitted to the EAC in final form. Factual material that does not reveal an agency’s deliberative process is not protected under Exemption 5,<sup>28</sup> nor are expert opinions that do not reflect the agency’s own deliberations concerning its own decision- or policy-making.<sup>29</sup> Moreover, the mere fact that the EAC might rely on information in the voter ID or voting fraud reports to issue its own report does not transform those reports into deliberative agency materials. As the United States Court of Appeals for the D.C. Circuit explained,

[A]nyone making a report must of necessity select the facts to be mentioned in it; but a report does not become a part of the deliberative process merely because it contains only those facts which the person making the report thinks material. If this were not so, every factual report would be protected as a part of the deliberative process.<sup>30</sup>

### *Any Segregable Information Must Be Released*

Irrespective of any claimed exemptions, the EAC is under an obligation to release any “reasonably segregable” nonexempt information to requestors.<sup>31</sup> Both the voter ID and voting fraud reports are unlikely to reveal anything about the deliberative process of the EAC, and to the extent that either does, those limited portions can be excised and the balance of the reports released.

### **Additional FOIA Request**

In the event that the EAC denies my renewed request for the voter ID and voting fraud reports or delays another week in providing those materials, we respectfully request copies of (1) all requests for proposals and contracts relating to the voter ID and voting fraud reports; and (2) all written and electronic communications concerning the voter ID and voting fraud reports between the EAC and (a) the Eagleton Institute of Politics, (b) the Moritz College of Law, (c) Tova Wang, (d) Job Serebrov, and (e) any other individuals or entities, including but not limited

---

support a blanket exemption for information marred by errors”); *Assembly of Cal.*, 968 F.2d at 923 (“[I]t is not among FOIA’s functions to control the use of disclosed information.”); *Carter v. U.S. Dep’t of Commerce*, 186 F. Supp. 2d 1147, 1154 (D. Or. 2001) (“the determination of whether the rejected data is predecisional does not turn on the articulated reasons for its rejection) (internal quotation and citation omitted), *aff’d*, 307 F.3d 1084 (9th Cir. 2002); *Assembly of California v. U.S. Dep’t of Commerce*, 797 F. Supp. 1554, 1565-67 (D. Cal. 1992) (holding that information expressly prepared for public disclosure cannot be withheld under FOIA because it was ultimately rejected), *aff’d*, 968 F.2d 916 (9th Cir. 1992).; *see also Burka v. U.S. Dep’t of Health & Human Servs.*, 87 F.3d 508, 521 (D.C. Cir. 1996) (future publication of agency report is an insufficient justification for asserting an Exemption 5 privilege under FOIA).

<sup>27</sup> *Coastal States*, 617 F.2d at 866.

<sup>28</sup> *Local 3, Int’l Bhd. of Electrical Workers v. NLRB*, 845 F.2d 1177, 1180 (2d Cir. 1988).

<sup>29</sup> *Parke, Davis & Co.*, 623 F.2d at 6.

<sup>30</sup> *Playboy Enters., Inc. v. U. S. Dep’t of Justice*, 677 F.2d 931, 935 (D.C. Cir. 1982) (remanding for the lower court to order disclosed investigative facts within a report the government wanted to withhold in its entirety).

<sup>31</sup> 5 U.S.C. § 552(b).

008583

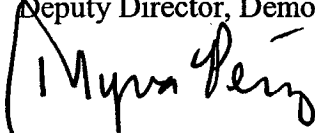
to outside reviewers. The public undoubtedly has a right to know under FOIA what the EAC is "up to."<sup>32</sup>

Thank you for your attention to this matter. Because the country is making decisions concerning voter ID and voting fraud today, we trust that you will respond as soon as possible, and no later than in two weeks.

Sincerely,



Wendy R. Weiser  
Deputy Director, Democracy Program



Myrna Pérez  
Counsel

cc.

Hon. William H. Frist, United States Senate Majority Leader  
Hon. Harry Reid, United States Senate Minority Leader  
Hon. Dennis J. Hastert, Speaker of the House  
Hon. Nancy Pelosi, Minority Leader, United States House of Representatives  
Hon. Trent Lott, Chair, Senate Rules Committee  
Hon. Christopher Dodd, Ranking Member, Senate Rules Committee  
Hon. Vernon Ehlers, Chair, House Administration Committee  
Hon. Juanita Millender-McDonald, Ranking Member, House Administration Committee  
Chair Paul DeGregorio, U.S. Election Assistance Commission  
Commissioner Gracia Hillman, U.S. Election Assistance Commission  
Commissioner Donetta Davidson, U.S. Election Assistance Commission  
Lloyd Leonard, League of Women Voters of the United States

---

<sup>32</sup> *Assembly of Cal.*, 968 F.2d at 923 (citing *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773 (1989)).

008584

To: Members of the United States Election Assistance Commission  
Cc: Thomas Wilkey, Executive Director, and Julie Thompson Hodgkins, General Counsel, Election Assistance Commission  
From: Tova Andrea Wang  
Re: Project on Voter Fraud and Intimidation  
Date: December 7, 2006

As one of the consultants and authors of the report on voter fraud and intimidation released by the Election Assistance Commission today, I am writing to request that the EAC restore the information that has been altered and removed from the research report we submitted to the EAC in July, 2006.

Job Serebrov and I spent over a year and hundreds of hours working on the report on voter fraud and voter intimidation in a bipartisan and highly effective manner. The report we wrote was a reflection of the detailed and laborious research we did over these many months. Unfortunately, the report the EAC released today does not fully reflect our research and the report of our findings submitted to the EAC in July, 2006.

After being unable to get any action taken on the report for months, I learned very recently that the General Counsel of the EAC would be taking responsibility for "revising" the report. On November 15 of this year I requested that Job Serebrov and I be permitted to review any revisions or changes made by EAC staff to the draft we submitted. We both offered to work collaboratively and cooperatively with EAC staff to ensure that the document produced was the most informative and useful product possible. This request was denied. Again, on November 29, 2006, upon learning that the report was to become public at an upcoming EAC meeting, I requested in writing that Job Serebrov and I be at least allowed to see embargoed copies of the report to be released before that December 7, 2006 meeting. That request was denied. On December 4, 2006 I offered to sign a confidentiality agreement whereby I would agree not to discuss the report before its public release. That request was also denied.

It is my understanding that with other research reports for which the EAC has contracted consultants there has been a process of give and take between the consultants and the EAC staff and commissioners prior to public release of the report. The consultants in this instance were repeatedly denied that opportunity, leading to today's result.

The issues around voter fraud and intimidation are controversial, making it all the more necessary that the research around it be as free from politics as possible. That is why the EAC made this project a bipartisan effort, with a bipartisan team of consultants and a bipartisan working group to inform and advise us on our work.

The EAC has a statutory obligation to provide the Congress and the American public the best research, data and guidance it can. Knowledge about the extent and nature of voter fraud and intimidation is fundamental to ensuring the right of every eligible American to vote and that every legitimate vote is counted.

008585

**Deliberative Process  
Privilege**

I hope the EAC will reconsider its actions of today and release the report that was written by the consultants so that the Congress and the voters can engage in an informed and honest discussion about one of the most serious issues confronting our democracy today.

Please respond to this request by Monday, December 11. Thank you for your timely consideration.



Committee on Rules and Administration

United States Senate

Washington, DC 20510

202-224-6352

Fax (Main) 202-224-5400

Fax (Minority) 202-224-3036

Fax (Audit) 202-224-1912

CCS  
GH  
RR  
@H  
JT  
GG  
JL  
TW  
KLD

Date: April 13, 2007

To: Donetta Davidson, EAC Chairman

From: Howard Gantman, Staff Director

Subj: Letter to Commission

Phone Number Called: (202) 566-3127

No. of Pages including Cover: 6

Comments:

Please find attached a letter from Senators Feinstein and Durbin.

**United States Senate**  
WASHINGTON, DC 20510

April 12, 2007

The Honorable Donetta Davidson  
Chairman  
U.S. Election Assistance Commission  
1225 New York Avenue, N.W.  
Suite 1100  
Washington, DC 20005

Dear Commissioner Davidson:

We are writing to seek a response to very troubling news reports that included allegations that the Commission may have altered or delayed release of two taxpayer-funded studies of election issues for political purposes.

While the Commission is within its rights to decide what guidance it issues to election officials, it is critical that its actions are not perceived as politically motivated and it is imperative that you provide full documentation about the Commission's proceedings on these matters.

On Wednesday, the *New York Times* reported that a bipartisan team of election law experts hired by the Commission to research voter fraud in federal elections found that there was little such fraud around the nation, but the Commission revised the report to say that the pervasiveness of voter fraud was still open to debate.

On Monday, *Roll Call* reported that the Commission two weeks ago rejected the findings of a report, prepared as part of a \$560,000 contract with Rutgers University's Eagleton Institute and Ohio State University's Moritz College of Law. That report found that voter identification laws may reduce election turnout, especially by minorities.

008588

Commissioner Davidson

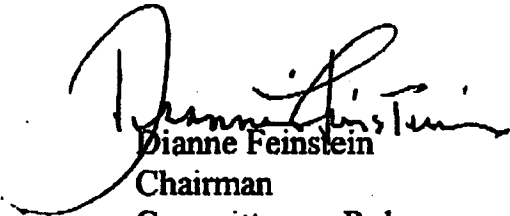
- 2 -

April 12, 2007

It is imperative that the Commission's actions and deliberations are unbiased, free from political influence and transparent. While the Commission does not have to agree with the experts who perform its research, it should make the research available unfettered and unfiltered.

Attached are a series of questions, we would like the Commission to address. We look forward to your timely response.

Sincerely,



Dianne Feinstein  
Chairman  
Committee on Rules  
and Administration



Richard J. Durbin  
Chairman  
Subcommittee on Financial  
Services and General  
Government  
Committee on Appropriations

We request information and documentation from the Commission that answer the following questions:

**COMMISSION'S OVERSIGHT ON EAGLETON CONTRACT TO PERFORM A STUDY ON VOTER IDENTIFICATION**

1. Did the Commissioners or Commission senior staff receive any outside communication or pressure to change or not release the entire draft report or portions of the draft language on the voter fraud report? If so, who made those requests?
2. Would you please provide a copy of the approved Request For Proposals, as well as any contract modifications that were agreed to between the Commission and Eagleton Institute and subcontractors?
3. Can you provide the names and qualifications of Election Assistance Commission staff that worked on the Eagleton Institute project?
4. Please indicate how many project meetings occurred during the term of the Eagleton contract, including in-person meetings, conference calls regarding the status of the report, and any meeting where Commissioners were present for at least part of the meeting. Please provide copies of any minutes from those meetings.
5. Please identify the names and affiliations of members of the Peer Review group or groups that examined the Eagleton Institute drafts. Please also indicate the dates upon which any such review of the Eagleton research was conducted, and the specific concerns or complaints that were raised by members of the Peer Review group as to either the analysis or statistical methodology, if any. Please provide copies of any minutes from those meetings.
6. If certain members of the Peer Review groups had concerns with the data or methodology of the Eagleton study, was that information communicated to Eagleton, and were any changes made to the study based on Peer Review group concerns with methodology or data?
7. Who were the individuals (and what were their academic qualifications) that advised the Commission that the data, methodology, or the results of the Eagleton Contract were so flawed that the Commission should reject the report? At what point did the Commission receive input from those individuals?



8. The Commission previewed its research on the Eagleton Institute's study on Provisional Voting at its May 2006 Advisory Board meetings—why was the Voter Identification Draft Study not discussed at that time? What is the status of the Provisional Voting report?
9. In rejecting the Eagleton report, the Commission indicated concerns that there was only one year's worth of data. Given that this was the first year that Commission had studied the results, isn't "one year" what was originally contemplated in the Eagleton contract? Isn't the reason for having a major research institute conduct this study is so they can draw initial assessments from that data—even though that data can be augmented in future years? Because of the rejected report, will the Commission start anew for research in the 2008 elections?
10. What was the final, total cost of the Eagleton contract, and what was produced or released by that Commission as a result of that contract?

#### **COMMISSION'S OVERSIGHT OVER VOTER FRAUD/INTIMIDATION STUDY**

1. Did the Commissioners or Commission senior staff receive any outside communication or pressure to change or not release the entire draft report or portions of the draft language on the voter fraud report? If so, who made those requests?
2. Given the bipartisan nature of the Working Group that guided the Voter Fraud/Intimidation report, and the bipartisan nature of the contracted experts who uniformly support the results of this report, what concerns lead the Commission to determine the report should not be released?
3. If there were points in the report that the Commission objected to, were there attempts to work with the contractors to deal with specific concerns? If there were such attempts, please describe them.

008591

4. Who drafted the Commission summary (released in December, 2006) of the Voter Fraud/Intimidation report, and what were their credentials and involvement in the original research process? Were there instructions or guidance given from Commissioners or senior staff as to what portions of the research should be emphasized? Who at the Commission reviewed the summarized report? Since the contracted experts are referred to in the Commission's released report, were the contractors allowed a chance to review or edit that Commission's final report that was released in December, 2006?
5. Please provide copies of any electronic or written communications between Commission employees that relate to the editing of the Voter Fraud/Intimidation report.
6. Please explain what Mr. Job Serebrov was referring to in his email referenced in the *New York Times* article of April 11, 2007. Please provide any documents in the Commission's possession where employees or contracted experts discussed pressure, political sensitivities, or the failure of the Commission to adopt the Voter Fraud/Intimidation report from March 1, 2006 to present.
7. While we realize that the Commission voted to release its summary report in December 2006, was there a public vote taken to reject the Draft Voter Fraud/Intimidation report? Such a monumental decision to reject the contract experts' work is a policy decision, and one that should be done in public. When was the decision made to reject the original report, and what notice was provided to the public that the Commission would reject that report?
8. Prior to the Draft Voter Fraud/Intimidation report's release, had other organizations requested a copy of that original report? Please include copies of your responses to those organizations, if any.
9. Had any States requested that the Commission or staff provide guidance related to voter identification requirements in the Help America Vote Act, or identification requirements generally? Please provide those requests, and any responses from the Commission.
10. Please indicate what steps the Commission is taking to ensure that political considerations do not impact the agency's research and that decisions are handled in a public and transparent manner.



---

**EAGLETON INSTITUTE OF POLITICS**

---


April 19, 2007

Donetta Davidson, Chair  
U.S. Election Assistance Commission  
1225 New York Avenue, NW  
Suite 1100  
Washington, D.C. 20005

Dear Chair Davidson:

I am attaching a copy of a memo I am sending to Adam Abroggi, Counsel for the Senate Committee on Rules and Administration, responding to his request for information about the Eagleton Institute of Politics' contract with the EAC. If you or your staff notice any errors or significant omissions in my summary of our work and coordination with you, please let me know. Also, please don't hesitate to contact us if there are any other ways in which we can help you to advance informed public consideration of provisional voting, voter identification and the other important issues within your purview.

Sincerely,

  
John Weingart  
Associate Director

Cc: Tom Wilkey, Executive Director  
U.S. EAC

---

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

Tel: (732) 932-9384 ext. 290  
Fax: (732) 932-6778

THE STATE UNIVERSITY OF NEW JERSEY  
**RUTGERS**

E-mail: [john.weingart@rutgers.edu](mailto:john.weingart@rutgers.edu)  
Web: [www.eagleton.rutgers.edu](http://www.eagleton.rutgers.edu)

008593



---

## EAGLETON INSTITUTE OF POLITICS

---

To: Adam Ambrogi, Counsel  
Senate Committee on Rules and Administration

From: John Weingart, Associate Director  
Eagleton Institute of Politics

April 19, 2007

Adam

In response to your April 10<sup>th</sup> request, I have pulled together some information about the Eagleton Institute of Politics' contract with the U.S. Election Assistance Commission. Although I did not have a chance to do the thorough review, including comparing notes with all the members of our research team, that would be necessary to compile a full chronology of our work, I hope the following will be useful to you. I will be giving a copy of this memo to EAC Chair Donetta Davidson and Executive Director Tom Wilkey for any assistance it may offer them in responding to Senators Feinstein and Durbin's April 12<sup>th</sup> letter.

By way of background, Rutgers University's Eagleton Institute of Politics submitted a proposal to the EAC on March 25, 2005 to provide "research assistance to the Election Assistance Commission for the development of voluntary guidance on provisional voting and voter identification procedures." The proposal was submitted after extensive discussions with EAC Commissioners and staff that had begun on Election Day, 2004 when Eagleton had received a phone call from the EAC's then-Executive Director asking if the Institute would be interested in undertaking this work.

The proposal was prepared and submitted in partnership with the Moritz College of Law at Ohio State University. At the EAC's request, we proposed to handle the two research topics in sequence, first submitting a report on Provisional Voting and then preparing and submitting the report on Voter Identification. In describing the Voter Identification portion of the study, the proposal stated:

"We propose to test the hypothesis that more stringent voter ID requirements depress voter participation in general or for the poor, minorities and older voters in particular."

The proposal also included a plan to form a peer review group composed of scholars and practitioners in the areas of elections and voting to examine and comment on the research

The following pages provide a preliminary summary of our major contacts with the EAC during the course of the contract, with a focus on our work on Voter Identification. More extensive review of our files, including the monthly progress reports we submitted to the EAC, may find other relevant discussions, but this list at a minimum should provide a good overview.

---

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

Tel: (732) 932-9384 ext. 290  
Fax: (732) 932-6778

THE STATE UNIVERSITY OF NEW JERSEY  
**RUTGERS**

E-mail: [john.weingart@rutgers.edu](mailto:john.weingart@rutgers.edu)  
Web: [www.eagleton.rutgers.edu](http://www.eagleton.rutgers.edu)

008594

**May 25, 2005** - Contract awarded

**May 26, 2005** - First meeting of Eagleton-Moritz team with EAC Commissioners and staff in Washington. After general discussion of EAC interest in both topics, Commissioner DiGregorio expresses concern that the composition of the project's peer review group was politically unbalanced. Eagleton had proposed including the following five individuals: R. Michael Alvarez, Professor of Political Science at California Institute of Technology; Martha E. Kropf, Assistant Professor of Political Science at the University of Missouri-Kansas City; Daniel H. Lowenstein, Professor of Law at UCLA; Tim Storey, Program Principal at the National Conference of State Legislatures; and Peter G. Verniero, former New Jersey Attorney General and Supreme Court Justice and current Counsel to Sills, Cummis, Epstein and Gross.

Commissioner DiGregorio subsequently suggests other names for our consideration. We are impressed by the list of people he provides and add three of them to the Peer Review Group: John C. Harrison, Professor of Law at the University of Virginia; Timothy G. O'Rourke, Dean of the Fulton School of Liberal Arts at Salisbury University; and Bradley Smith, Professor of Law at Capital University Law School. The Project Peer Review Group then had eight participants.

**July 28, 2005** - Brief EAC Commissioners at a public meeting at Cal Tech on progress on the research. Briefing includes this status report on the Voter ID phase of the work: "statistical analysis to gauge the effect of a state's voter ID regime on turnout, especially turnout by minority and elderly voters will be complete in late August."

**August 9, 2005** - First telephone conference with Peer Review Group. Focus is draft Provisional Voting report.

**September 6, 2005** - Meet with the EAC in Washington. Brief the Commission on the status of the research on provisional voting.

**September 21, 2005** - Second telephone meeting of Project Peer Review Group.

**September 30, 2005** - Conference call with EAC Commissioner Martinez and three members of the staff. Commissioner Martinez indicates EAC is generally more comfortable playing the role of a national clearinghouse and therefore prefers to issue reports as "Best Practices" than as "Provisional Guidance." Staff says Eagleton emphasis should be on what states should do as opposed to suggesting how they would do it. Commissioner Martinez concludes meeting saying, "We have been very well served by all the work you and Moritz have done."

008595

**Feb. 22, 2006** - Conference call with Project Peer Review Group members after they have reviewed first draft of Voter Identification report. The Peer Reviewers suggest the statistical analysis: (1) Look at whether voter identification requirements are related to voter registration rates, as well as turnout; (2) Describe in further detail the basis for the aggregate and individual-level data analyses; (3) Clarify whether the report is examining turnout among citizens eligible to vote, or all individuals of voting age; (4) Stress in a footnote that Hispanics in the individual-level analysis are Hispanics who describe themselves as citizens who are eligible to vote; (5) Discuss in the Appendix the reasons why turnout rates appear to be higher in the Current Population Survey data than in other sources of data; and (6) Use predicted probabilities as opposed to odds ratios to describe the relationship between voter identification requirements and turnout.

*Eagleton subsequently revises draft of the statistical analysis to address all these issues.*

**March 28, 2006** - Conference call with EAC staff and Eagleton-Moritz research team in advance of team's scheduled briefings of EAC Commissioners in Washington, D.C. on Provisional Voting and Voter Identification reports.

**April 3, 2006** - Eagleton-Moritz morning meeting in Washington with EAC Commissioners Davidson and Hillman and staff members. Series of questions and responses on Voter ID methodology.

Commissioners ask whether respondents to the Current Population Survey might be non-citizens who said they were registered and voted. In a subsequent follow-up e-mail, Tim Vercellotti of Eagleton writes that the design of the CPS questionnaire skips non-citizens past questions about registration and voting. Commissioner Davidson asks if the team could examine the relationship between identification requirements and turnout over time. Team members respond that the information on state identification requirements for previous election cycles would require additional extensive research. Commissioner Hillman asks if the report could break out the relationship between voter identification and turnout for African-Americans with education levels of a high school diploma or less, or African-Americans below the poverty line.

*Subsequent analyses examined these subgroups as suggested.*

Eagleton-Moritz afternoon meeting with Commissioners DiGregorio and Martinez and EAC staff. Series of questions and answers. Commissioner Digregorio concludes he is "disappointed" with the report. Commissioner Martinez says he "appreciates" it.

**April 13, 2006** - Conference call between Eagleton and EAC staff. EAC requests that Eagleton convene a conference call of the Project Peer Review Group with EAC staff and/or Commissioners to discuss the statistical analysis of the effects of various Voter Identification requirements on turnout.

EAC staff also reports that the EAC is going to convene its own second peer review group to seek feedback on review by the Project Peer Review Group.

008596

**(April 13, 2006 continued)**

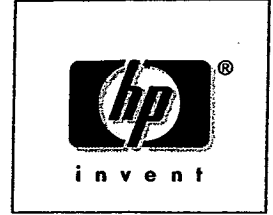
EAC staff also reports that Eagleton is on the preliminary schedule to present Voter ID findings to the EAC's Advisory Board May meeting but that the date and location have not yet been set. EAC staff say they are "unsure where Voter ID project is going. We're going to have to see. We saw lines really drawn politically over Voter ID piece. We'll have to see what statements the agency chooses to make over this topic. It is the topic - It has nothing to do with you. The timing is such that Voter ID is a hot topic."

**April 28, 2006** -Eagleton informs EAC by email of the

008597

HP LaserJet 3390

# Fax Call Report



HP LASERJET FAX

Apr-19-2007 4:06PM

| Job | Date      | Time      | Type    | Identification | Duration | Pages | Result         |
|-----|-----------|-----------|---------|----------------|----------|-------|----------------|
| 339 | 4/19/2007 | 4:02:05PM | Receive | 7329326778     | 4:08     | 6     | Comm Error 232 |

7329326778

09:33:08 a.m 04-19-2007

1/8



EAGLETON INSTITUTE OF POLITICS

### FAX COVER SHEET

Date: 4/19/07

To: Tom Wilkey

Fax Number: 202-566-3127

Phone Number: \_\_\_\_\_

Total Number of Pages (including cover sheet): 8

Comments:

From: John Wengert

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

Tel: 732/932-9384  
Fax: 732/932-6778



E-mail: eagleton@rci.rutgers.edu  
Web: www.eagleton.rutgers.edu

008598





**EAGLETON INSTITUTE OF POLITICS**

**FAX COVER SHEET**

Date: 4/19/07

To: Tom Wilkey

Fax Number: 202-566-3127

Phone Number: \_\_\_\_\_

Total Number of Pages (including cover sheet): 8

Comments:

From: John Wengert

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

Tel: 732/932-9384  
Fax: 732/932-6778



E-mail: eagleton@rci.rutgers.edu  
Web: www.eagleton.rutgers.edu

008599



**bbenavides@eac.gov**  
04/26/2007 09:57 AM

To  
cc  
bcc Thomas R. Wilkey/EAC/GOV  
Subject Fw: fraud and intimidation project

This is one of the two e-mails I have.

----- Forwarded by Bert A. Benavides/EAC/GOV on 04/26/2007 09:56 AM -----

Thomas R.  
Wilkey/EAC/GOV

03/13/2006 04:37  
PM

Bert A. Benavides/EAC/GOV@EAC

To

cc

Subject  
Fw: fraud and intimidation project

FYI

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

----- Forwarded by Thomas R. Wilkey/EAC/GOV on 03/13/2006 03:38 PM -----

Thomas R.  
Wilkey/EAC/GOV

03/13/2006 03:36  
PM

"Tova Wang"  
<wang@tcf.org>@GSAEXTERNAL

To

cc

Subject  
Re: fraud and intimidation project  
(Document link: Thomas R. Wilkey)

008600

Howq about after 3 tomorrow until 5 9-10 on Wednesday or 3-5 on Wednesday.  
If you call my assistant Bert she will find you a good time frame.  
Sorry that"s my life these days.  
Tom

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

"Tova Wang"  
<wang@tcf.org>

03/13/2006 12:13  
PM

twilkey@eac.gov

To

cc

Subject  
fraud and intimidation project

Hey Tom,

How are you? I hope you're doing well.

I'd like to talk to you about some issues we are having with respect to the  
project when you have a free moment. Is there a good time to call?  
Thanks. Tova

Tova Andrea Wang  
Senior Program Officer and Democracy Fellow  
The Century Foundation  
41 East 70th Street - New York, NY 10021  
phone: 212-452-7704 fax: 212-535-7534

Visit our Web site, [www.tcf.org](http://www.tcf.org), for the latest news, analysis, opinions,  
and events. Click here to receive our weekly e-mail updates.

008601



**bbenavides@eac.gov**  
04/26/2007 09:58 AM

To  
cc  
bcc Thomas R. Wilkey/EAC/GOV  
Subject Fw: fraud and intimidation project

This is the other e-mail I have for you.

----- Forwarded by Bert A. Benavides/EAC/GOV on 04/26/2007 09:57 AM -----

Thomas R.  
Wilkey/EAC/GOV

03/13/2006 04:37  
PM

Bert A. Benavides/EAC/GOV@EAC

To  
cc

Subject  
Fw: fraud and intimidation project

FYI

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

----- Forwarded by Thomas R. Wilkey/EAC/GOV on 03/13/2006 03:38 PM -----

Thomas R.  
Wilkey/EAC/GOV

03/13/2006 03:36  
PM

"Tova Wang"  
<wang@tcf.org>@GSAEXTERNAL

To  
cc

Subject  
Re: fraud and intimidation project  
(Document link: Thomas R. Wilkey)

008602

Howq about after 3 tomorrow until 5 9-10 on Wednesday or 3-5 on Wednesday.  
If you call my assistant Bert she will find you a good time frame.  
Sorry that"s my life these days.  
Tom

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

"Tova Wang"  
<wang@tcf.org>

03/13/2006 12:13  
PM

twilkey@eac.gov

To

cc

Subject  
fraud and intimidation project

Hey Tom,

How are you? I hope you're doing well.

I'd like to talk to you about some issues we are having with respect to the  
project when you have a free moment. Is there a good time to call?  
Thanks. Tova

Tova Andrea Wang  
Senior Program Officer and Democracy Fellow  
The Century Foundation  
41 East 70th Street - New York, NY 10021  
phone: 212-452-7704 fax: 212-535-7534

Visit our Web site, [www.tcf.org](http://www.tcf.org), for the latest news, analysis, opinions,  
and events. Click here to receive our weekly e-mail updates.

008603

## **Defining Election Fraud**

Election fraud is any intentional action, or intentional failure to act when there is a duty to do so, that corrupts the election process in a manner that can impact on election outcomes. This includes interfering in the process by which persons register to vote; the way in which ballots are obtained, marked, or tabulated; and the process by which election results are canvassed and certified.

Examples include the following:

- falsifying voter registration information pertinent to eligibility to cast a vote, (e.g. residence, criminal status, etc);
- altering completed voter registration applications by entering false information;
- knowingly destroying completed voter registration applications (other than spoiled applications) before they can be submitted to the proper election authority;
- knowingly removing eligible voters from voter registration lists, in violation of HAVA, NVRA, or state election laws;
- intentional destruction by election officials of voter registration records or balloting records, in violation of records retention laws, to remove evidence of election fraud;
- vote buying;
- voting in the name of another;
- voting more than once;
- coercing a voter's choice on an absentee ballot;
- using a false name and/or signature on an absentee ballot;
- destroying or misappropriating an absentee ballot;
- felons, or in some states ex-felons, who vote when they know they are ineligible to do so;
- misleading an ex-felon about his or her right to vote;
- voting by non-citizens who know they are ineligible to do so;
- intimidating practices aimed at vote suppression or deterrence, including the abuse of challenge laws;
- deceiving voters with false information (e.g.; deliberately directing voters to the wrong polling place or providing false information on polling hours and dates);
- knowingly failing to accept voter registration applications, to provide ballots, or to accept and count voted ballots in accordance with the Uniformed and Overseas Citizens Absentee Voting Act;
- intentional miscounting of ballots by election officials;
- intentional misrepresentation of vote tallies by election officials;

008604

- acting in any other manner with the intention of suppressing voter registration or voting, or interfering with vote counting and the certification of the vote.

Voting fraud does not include mistakes made in the course of voter registration, balloting, or tabulating ballots and certifying results. For purposes of the EAC study, it also does not include violations of campaign finance laws.

## **Existing Literature Reviewed**

### **Reports**

The Long Shadow of Jim Crow, People for the American Way and the NAACP

The New Poll Tax, Laughlin McDonald

Wisconsin Audit Report, Voter Registration Elections Board

Preliminary Findings, Milwaukee Joint Task Force Investigating Possible Election Fraud

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

Response to the Report of the 2005 Commission on Federal Election Reform (Carter/Baker Report), The Brennan Center and Professor Spencer Overton

Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – or Both?, Chandler Davidson

A Crazy Quilt of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law, Alec Ewald

Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election, American Center for Voting Rights

America's Modern Poll Tax, The Advancement Project

Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General, The Brennan Center and Professor Michael McDonald

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

Department of Justice Public Integrity Reports 2002, 2003, 2004

Prosecution of Election Fraud under United States Federal Law, Craig Donsanto

Election Protection 2004, Election Protection Coalition

The Federal Crime of Election Fraud, Craig Donsanto

Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote, General Accounting Office



Securing the Vote: An Analysis of Election Fraud, Lori Minnite

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

**Books**

Stealing Elections, John Fund

Steal this Vote: Dirty Elections and the Rotten History of Democracy in American, Andrew Gumbel

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

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

Fooled Again, Mark Crispin Miller

**Legal**

*Indiana Democratic Party vs. Rokita*

*Common Cause of Georgia vs. Billup*

U.S. Department of Justice Section 5 Recommendation Memorandum (Georgia voter identification)

## Interviews

### Common Themes

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, “dead” voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.
- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate – including representatives from DOJ – that for various reasons, the Department of Justice is bringing fewer voter intimidation and suppression cases now and is focusing on matters such as noncitizen voting, double voting and felon voting. While the civil rights section continues to focus on systemic patterns of malfeasance, the public integrity section is focusing now on individuals, on isolated instances of fraud.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

Common Recommendations:

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.
  - With respect to the civil rights section, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one’s definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and the section has not pursued any such cases.
  - Craig Donsanto of the public integrity section says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases the department is investigating and the number of indictments the section is pursuing are both up dramatically. Since 2002, the department has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so it can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment
- Several people advocate passage of Senator Barak Obama’s “deceptive practices” bill
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected nonpartisanly they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas is a problem that must be addressed in some fashion. Suggestions included moving

election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots "for cause" only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the scheme contemplated in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

**List of Experts Interviewed**

Wade Henderson, Executive Director, Leadership Conference for Civil Rights

Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

William Groth, attorney for the plaintiffs in the Indiana voter identification litigation

Lori Minnite, Barnard College, Columbia University

Neil Bradley, ACLU Voting Rights Project

Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

Pat Rogers, attorney, New Mexico

Rebecca Vigil-Giron, Secretary of State, New Mexico

Sarah Ball Johnson, Executive Director of the State Board of Elections, Kentucky

Stephen Ansolobhere, Massachusetts Institute of Technology

Chandler Davidson, Rice University

Tracey Campbell, author, *Deliver the Vote*

Douglas Webber, Assistant Attorney General, Indiana, (defendant in the Indiana voter identification litigation)

Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

Jason Torchinsky, Assistant General Counsel, American Center for Voting Rights

Robin DeJarnette, Executive Director, American Center for Voting Rights

Joseph Rich, former Director of the Voting Section, Civil Rights Division, U.S. Department of Justice

Joseph Sandler, Counsel to the Democratic National Committee

John Ravitz, Executive Director, New York City Board of Elections

John Tanner, Director, Voting Section, Civil Rights Division, U.S. Department of Justice

Kevin Kennedy, Executive Director of the State Board of Elections, Wisconsin

Evelyn Stratton, Justice, Supreme Court of Ohio

Tony Sirvello, Executive Director, International Association of  
Clerks, Recorders, Election Officials and Treasurers

Harry Van Sickle, Commissioner of Elections, Pennsylvania

Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice

Sharon Priest, former Secretary of State, Arkansas

## **Nexis Articles Analysis**

Note: The search terms used were ones agreed upon by both Job Serebrov and Tova Wang and are available upon request. A more systematic, numerical analysis of the data contained in the Nexis charts is currently being undertaken. What follows is an overview.

Recommendation: In phase 2, consultants should conduct a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

## **Overview of the Articles**

### *Absentee Ballots*

According to press reports, absentee ballots are abused in a variety of ways:

1. Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters
2. Workers for groups and individuals have attempted to vote absentee in the names of the deceased
3. Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

### *Voter Registration Fraud*

According to press reports, the following types of allegations of voter registration fraud are most common:

1. Registering in the name of dead people
2. Fake names and other information on voter registration forms
3. Illegitimate addresses used on voter registration forms
4. Voters being tricked into registering for a particular party under false pretenses

5. Destruction of voter registration forms depending on the party the voter registered with

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported on included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota and Wisconsin.

*Voter Intimidation and Suppression*

This is the area which had the most articles in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places.
- Improper demands for identification
- Poll watchers harassing voters
- Poll workers being hostile to or aggressively challenging voters
- Disproportionate police presence
- Poll watchers wearing clothes with messages that seemed intended to intimidate
- Insufficient voting machines and unmanageably long lines

Although the incidents reported on occurred everywhere, not surprisingly, many came from "battleground" states. There were several such reports out of Florida, Ohio and Pennsylvania.

*"Dead Voters and Multiple Voting"*

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations



turning out to be accurate according to investigations by the newspapers themselves, elections officials and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking of voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person taking criminal advantage of that. In total, the San Francisco Chronicle found 5 such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### *Vote Buying*

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations in three particular jurisdictions as detailed in the vote buying summary. There were more official investigations, indictments and convictions/pleas in this area. All of these cases are concentrated in the Midwest and South.

### *Deceptive Practices*

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction

of voter registration forms. There were no reports of prosecutions or any other legal proceeding.

### *Non-citizen Voting*

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case charges were filed against ten individuals. In one case a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this nexis search, remained just allegations of noncitizen voting.

### *Felon Voting*

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem has the large number of ineligible felons that remained on the voting list.

### *Election Official Fraud*

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

**Rough Summary of Department of Justice, Public Integrity Section Activities,  
October 2002-January 2006\***

**Prosecutions and Convictions-- Individuals**

Noncitizen voting: 20  
Vote buying: 49  
Double voting: 12  
Registration fraud: 13  
Civil Rights: 4  
Voter Intimidation: 2  
Unclear: 1

**Open Investigations** (note: a few cases overlap with prosecutions and convictions)

Noncitizen voting: 3  
Vote buying: 25  
Double voting: 15  
Registration fraud: 29  
Absentee ballot fraud: 9  
Official: 8  
Ineligibles: 4  
Deceptive Practices: 1  
Civil Rights: 14  
Intimidation: 6  
Other: 2

**Cases and Investigations Closed for Lack of Evidence**

Civil Rights: 8  
Official: 12  
Registration Fraud: 12  
Absentee Ballot Fraud: 14  
Ineligible Voting: 3  
Intimidation: 8  
Double Voting: 5  
Ballot Box Stuffing: 1  
Vote Buying: 14  
Ballot/machine tampering: 2  
Other: 8  
Unclear: 3

\*Based upon information available as of January 2006

## **Case Summaries**

After reviewing over 40,000 cases, the majority of which came from appeals courts, I have found comparatively very few which are applicable to this study. Of those that are applicable, no apparent thematic pattern emerges. However, it seems that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility. But because so few cases provided a picture of these current problems, I suggest that case research for the second phase of this project concentrate on state trial-level decisions.

*Job Serebrov*  
*May 2006*

**Determining a Methodology for Measuring Voter Fraud and Intimidation:  
Recommendations of Political Scientists**

The following is a summary of interviews conducted with a number of political scientists and experts in the field as to how one might undertake a comprehensive examination of voter fraud and intimidation. A list of the individuals interviewed and their ideas are available, and all of the individuals welcome any further questions or explanations of their recommended procedures.

- 1) In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that ask whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. (Stephen Ansolobhere, MIT)
- 2) Several political scientists with expertise in these types of studies recommended a methodology that includes interviews, focus groups, and a limited survey. In determining who to interview and where the focus groups should be drawn from, they recommend the following procedure:
  - Pick a number of places that have historically had many reports of fraud and/or intimidation; from that pool pick 10 that are geographically and demographically diverse, and have had a diversity of problems
  - Pick a number of places that have not had many reports of fraud and/or intimidation; from that pool pick 10 places that match the geographic and demographic make-up of the previous ten above (and, if possible, have comparable elections practices)
  - Assess the resulting overall reports and impressions resulting from these interviews and focus groups, and examine comparisons and differences among the states and what may give rise to them.

In conducting a survey of elections officials, district attorneys, district election officers, they recommend that:

- The survey sample be large in order to be able to get the necessary subsets
- The survey must include a random set of counties where there have and have not been a large number of allegations

(Allan Lichtman, American University; Thad Hall, University of Utah; Bernard Grofman, UC – Irvine)

- 3) Another political scientist recommended employing a methodology that relies on qualitative data drawn from in-depth interviews with key critics and experts on all sides of the debate on fraud; quantitative data collected through a survey of state and local elections and law enforcement officials; and case studies. Case studies should focus on the five or ten states, regions or cities where there has been a history of election fraud to examine past and present problems. The survey should be mailed to each state's attorney general and secretary of state, each county district attorney's office and each county board of elections in the 50 states. (Lorraine Minnite, Barnard College)
- 4) The research should be a two-step process. Using LexisNexis and other research tools, a search should be conducted of news media accounts over the past decade. Second, interviews with a systematic sample of election officials nationwide and in selected states should be conducted. (Chandler Davidson, Rice University)
- 5) One expert in the field posits that we can never come up with a number that accurately represents either the incidence of fraud or the incidence of voter intimidation. Therefore, the better approach is to do an assessment of what is most likely to happen, what election violations are most likely to be committed – in other words, a risk analysis. This would include an analysis of what it would actually take to commit various acts, e.g. the cost/benefit of each kind of violation. From there we could rank the likely prevalence of each type of activity and examine what measures are or could be effective in combating them. (Wendy Weiser, Brennan Center of New York University)
- 6) Replicate a study in the United States done abroad by Susan Hyde of the University of California- San Diego examining the impact of impartial poll site observers on the incidence of election fraud. Doing this retrospectively would require the following steps:
  - Find out where there were federal observers
  - Get precinct level voting information for those places
  - Analyze whether there was any difference in election outcomes in those places with and without observers, and whether any of these results seem anomalous.

Despite the tremendous differences in the political landscapes of the countries examined by Hyde in previous studies and the U.S., Hyde believes this study could be effectively replicated in this country by sending observers to a random sample of precincts. Rather than compare the incumbent's vote share, such factors such as voter complaints, voter turnout, number of provisional ballots used, composition of the electorate, as well as any anomalous voting results could be compared between sites with and without monitors.

For example, if intimidation is occurring, and if reputable monitors make intimidation less likely or voters more confident, then turnout should be higher on average in monitored precincts than in unmonitored precincts. If polling station officials are intentionally refusing to issue provisional ballots, and the polling station officials are

more likely to adhere to regulations while being monitored, the average number of provisional ballots should be higher in monitored precincts than in unmonitored precincts. If monitors cause polling station officials to adhere more closely to regulations, then there should be fewer complaints (in general) about monitored than unmonitored precincts (this could also be reversed if monitors made voters more likely to complain).

Again, random assignment controls for all of the other factors that otherwise influence these variables.

One of the downsides of this approach is it does not get at some forms of fraud, e.g. absentee ballot fraud; those would have to be analyzed separately

7) Another political scientist recommends conducting an analysis of vote fraud claims and purging of registration rolls by list matching. Allegations of illegal voting often are based on matching of names and birth dates. Alleged instances of double voting are based on matching the names and birth dates of persons found on voting records. Allegations of ineligible felon (depending on state law), deceased, and of non-citizen voting are based on matching lists of names, birth dates, and sometimes addresses of such people against a voting records. Anyone with basic relational database skills can perform such matching in a matter of minutes.

However, there are a number of pitfalls for the unwary that can lead to grossly over-estimating the number of fraudulent votes, such as missing or ignored middle names and suffixes or matching on missing birth dates. Furthermore, there is a surprising statistical fact that a group of about three hundred people with the same first and last name are almost assured to share the exact same birth date, including year. In a large state, it is not uncommon for hundreds of Robert Smiths (and other common names) to have voted. Thus, allegations of vote fraud or purging of voter registration rolls by list matching almost assuredly will find a large proportion of false positives: people who voted legally or are registered to vote legally.

Statistics can be rigorously applied to determine how many names would be expected to be matched by chance. A simulation approach is best applied here: randomly assign a birth date to an arbitrary number of people and observe how many match within the list or across lists. The simulation is repeated many times to average out the variation due to chance. The results can then be matched back to actual voting records and purge lists, for example, in the hotly contested states of Ohio or Florida, or in states with Election Day registration where there are concerns that easy access to voting permits double voting. This analysis will rigorously identify the magnitude alleged voter fraud, and may very well find instances of alleged fraud that exceed what might have otherwise happened by chance.

This same political scientist also recommends another way to examine the problem: look at statistics on provisional voting: the number cast might provide indications of intimidation (people being challenged at the polls) and the number of those not counted

would be indications of "vote fraud." One could look at those jurisdictions in the Election Day Survey with a disproportionate number of provisional ballots cast and cross reference it with demographics and number of provisional ballots discarded. (Michael McDonald, George Mason University)

- 8) Spencer Overton, in a forthcoming law review article entitled *Voter Identification*, suggests a methodology that employs three approaches— investigations of voter fraud, random surveys of voters who purported to vote, and an examination of death rolls provide a better understanding of the frequency of fraud. He says all three approaches have strengths and weaknesses, and thus the best studies would employ all three to assess the extent of voter fraud. An excerpt follows:

*1. Investigations and Prosecutions of Voter Fraud*

Policymakers should develop databases that record all investigations, allegations, charges, trials, convictions, acquittals, and plea bargains regarding voter fraud. Existing studies are incomplete but provide some insight. For example, a statewide survey of each of Ohio's 88 county boards of elections found only four instances of ineligible persons attempting to vote out of a total of 9,078,728 votes cast in the state's 2002 and 2004 general elections. This is a fraud rate of 0.00000045 percent. The Carter-Baker Commission's Report noted that since October 2002, federal officials had charged 89 individuals with casting multiple votes, providing false information about their felon status, buying votes, submitting false voter registration information, and voting improperly as a non-citizen. Examined in the context of the 196,139,871 ballots cast between October 2002 and August 2005, this represents a fraud rate of 0.0000005 percent (note also that not all of the activities charged would have been prevented by a photo identification requirement).

A more comprehensive study should distinguish voter fraud that could be prevented by a photo identification requirement from other types of fraud — such as absentee voting and stuffing ballot boxes — and obtain statistics on the factors that led law enforcement to prosecute fraud. The study would demand significant resources because it would require that researchers interview and pour over the records of local district attorneys and election boards.

Hard data on investigations, allegations, charges, pleas, and prosecutions is important because it quantifies the amount of fraud officials detect. Even if prosecutors vigorously pursue voter fraud, however, the number of fraud cases charged probably does not capture the total amount of voter fraud. Information on official investigations, charges, and prosecutions should be supplemented by surveys of voters and a comparison of voting rolls to death rolls.

*2. Random Surveys of Voters*



Random surveys could give insight about the percentage of votes cast fraudulently. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted at the polls in the last election, ask them if they actually voted, and confirm the percentage who are valid voters. Researchers should conduct the survey soon after an election to locate as many legitimate voters as possible with fresh memories.

Because many respondents would perceive voting as a social good, some who did not vote might claim that they did, which may underestimate the extent of fraud. A surveyor might mitigate this skew through the framing of the question (“I’ve got a record that you voted. Is that true?”).

Further, some voters will not be located by researchers and others will refuse to talk to researchers. Photo identification proponents might construe these non-respondents as improper registrations that were used to commit voter fraud.

Instead of surveying all voters to determine the amount of fraud, researchers might reduce the margin of error by focusing on a random sampling of voters who signed affidavits in the three states that request photo identification but also allow voters to establish their identity through affidavit—Florida, Louisiana, and South Dakota. In South Dakota, for example, only two percent of voters signed affidavits to establish their identity. If the survey indicates that 95 percent of those who signed affidavits are legitimate voters (and the other 5 percent were shown to be either fraudulent or were non-responsive), this suggests that voter fraud accounts for, at the maximum, 0.1 percent of ballots cast.

The affidavit study, however, is limited to three states, and it is unclear whether this sample is representative of other states (the difficulty may be magnified in Louisiana in the aftermath of Hurricane Katrina’s displacement of hundreds of thousands of voters). Further, the affidavit study reveals information about the amount of fraud in a photo identification state with an affidavit exception—more voter fraud may exist in a state that does not request photo identification.

### 3. *Examining Death Rolls*

A comparison of death rolls to voting rolls might also provide an estimate of fraud.

Imagine that one million people live in state A, which has no documentary identification requirement. Death records show that 20,000 people passed away in state A in 2003. A cross-referencing of this list to the voter rolls shows that 10,000 of those who died were registered voters, and these names remained on the voter rolls during the November 2004 election. Researchers would look at what percentage of the 10,000 dead-but-registered people who “voted” in the November 2004 election. A researcher should distinguish the votes cast in the name of the dead at the polls from those cast

absentee (which a photo identification requirement would not prevent). This number would be extrapolated to the electorate as a whole.

This methodology also has its strengths and weaknesses. If fraudulent voters target the dead, the study might overestimate the fraud that exists among living voters (although a low incidence of fraud among deceased voters might suggest that fraud among all voters is low). The appearance of fraud also might be inflated by false positives produced by a computer match of different people with the same name. Photo identification advocates would likely assert that the rate of voter fraud could be higher among fictitious names registered, and that the death record survey would not capture that type of fraud because fictitious names registered would not show up in the death records. Nevertheless, this study, combined with the other two, would provide important insight into the magnitude of fraud likely to exist in the absence of a photo identification requirement.



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

October 17, 2006

Ms. Wendy R. Weiser  
Deputy Director, Democracy Program  
Brennan Center for Justice at NYU School of Law  
161 Avenue of the Americas, 12th Floor  
New York, NY 10013

Dear Ms. Weiser:

Thank you for your request for information regarding U.S. Election Assistance Commission (EAC) research projects on voter fraud and voter intimidation, provisional ballots and voter identification.

The status report on voter fraud and voter intimidation, prepared by EAC staff, and the draft report on provisional voting, prepared by the Eagleton Institute of Politics and the Moritz College of Law, are enclosed. EAC personnel are in the process of drafting a report about voter identification. The report will be made available upon completion.

Status documents about voter fraud and voter intimidation and provisional voting were presented to the EAC's Standards Board and Board of Advisors at a public meeting held in May 2006. Neither of these documents were final EAC reports. Per the Help America Vote Act (HAVA), the EAC works with its advisory boards to gather input on activities, including research projects. After discussing the provisional voting research with our advisory boards, they requested further research and clarification and noted that some of information was inaccurate or incomplete. Please see the attached resolutions passed by both entities outlining their concerns. As such, EAC is currently reviewing the draft report on provisional voting to address the concerns of the agency's advisory boards.

As a small agency of only 23 employees, including four commissioners, it is necessary for EAC to contract with third parties and experts to conduct research. The information provided by third parties is used by staff to develop EAC final policy or reports. No documents, drafts or third party recommendations submitted to EAC constitute official EAC policy or opinion and should not be identified or referred to as such.

Please note that our Standards Board and Advisory Board meetings are open to the public and are publicized on the EAC website at [www.eac.gov](http://www.eac.gov) and posted in the Federal Register.

Thank you for your interest, and let us know if we can be of further assistance.

Sincerely,

  
Tom Wilkey  
Executive Director

008625



US ELECTION ASSISTANCE COMMISSION

FACSIMILE TRANSMITTAL SHEET

TO:

JOHN WEINGARTEN

FROM:

Bert A. Benavides (for Tom Wilkey)

COMPANY:

EAGLETON

DATE:

10/18/2006

FAX NUMBER:

732-932-6778

TOTAL NO. OF PAGES, INCLUDING COVER:

2

SENDER'S PHONE NUMBER:

202-566-3114 (Asst.: Bert Benavides)

SENDER'S FAX NUMBER:

202-566-3128

RE:

RESPONSE TO BRENNAN CENTER  
FOR JUSTICE, NYU SCHOOL OF  
LAW

URGENT

FOR REVIEW

PLEASE COMMENT

PLEASE REPLY

PLEASE RECYCLE

NOTES/COMMENTS:

Attached is sent to you at the request of Executive Director, Thomas R. Wilkey.

008626

MESSAGE CONFIRMATION

OCT-18-2006 08:17 AM WED

FAX NUMBER : 2025663128  
NAME : EAC

NAME/NUMBER : 917329326778  
PAGE : 2  
START TIME : OCT-18-2006 08:16AM WED  
ELAPSED TIME : 00'26"  
MODE : STD ECM  
RESULTS : [ O.K ]

---

008627

1

2

3

4

U.S. ELECTION ASSISTANCE COMMISSION  
VOTING FRAUD-VOTER INTIMIDATION MEETING

6

7

Taken on the date of:

8

THURSDAY, MAY 18, 2006

9

10

Taken at the office of the EAC

11

1225 NEW YORK AVENUE, NORTHWEST

12

WASHINGTON, D.C.

13

14

15

16

17

18

19

20

21 Start time: 1:00 o'clock, p.m.

22 Taken before: Jackie Smith, a court reporter

□

2

1 PARTICIPANTS:

2

Tom Wilkey, EAC Director

3

Juliet Thompson, EAC Legal Counsel

4

Paul Decretorial, Chairman, EAC

5

Peggy Sims, EAC Staff

6

Job Serebrov

7 Tova Wang  
8 Todd Rokita  
9 Robert Bauer  
10 Mark Hearne  
11 Jon Greenbaum  
12 Benjamin Ginsberg  
13 Kathy Rogers  
14 Barry Weinberg  
15 J.R. Perez  
16 Gavin Gilmour  
17 Edgardo Cortez  
18 Craig Donsanto

19 - 0 -  
20  
21  
22

3

1 P-R-O-C-E-E-D-I-N-G-S

2 MS. SIMS: We're still missing one.

3 Our chairman and vice-chairman will be coming by  
4 and participating for part of the program.

5 Right now, they are trying to finish up their  
6 own meeting, a little discussion.

7 My name is Peggy Sims. I have been  
8 with the EAC since April, 2004. Prior to that  
9 time, I worked for 18 years with the FEC  
10 national clearinghouse in election  
11 administration, and I am the contracting officer  
12 on this project, so that's how I got involved.

13 I would like to just quickly -- this  
14 is really our consultants' meeting, but before

15 we get into that, I just wanted to review,  
16 review our authority in this area. Obviously,  
17 we have no enforcement authority when it comes  
18 to voting fraud, but under HAVA, we're charged  
19 with developing national statistics on voter  
20 fraud, and methods of deterring and  
21 investigating vote fraud, which we obviously  
22 have to do in consultation with the folks who

4

1 actually do the enforcement.

2           we also are charged with developing  
3 ways of identifying, deterring, and  
4 investigating methods of voter intimidation, as  
5 many of us feel is really a subset of voting  
6 fraud, but it may be something when we get to  
7 the definition phrase, we may want to talk a  
8 little bit more about what we mean by  
9 intimidation because it seems to mean different  
10 things to different people.

11           The focus of this project was to do  
12 some preliminary research just to get us  
13 started. We selected a bipartisan team of  
14 consultants to develop a comprehensive drafted  
15 description of what constitutes voting fraud and  
16 voter intimidation, and to perform some  
17 background research, which they will review, to  
18 establish a project working group, convene the  
19 working group, and basically we're looking for  
20 your ideas as we go along.

21           Once the working group is completed,  
22 we're going to keep a transcript of this

5



1 session. We will also keep lots of notes. They  
2 are going to take your recommendations and fold  
3 those into a final report that goes to our  
4 Commissioners. Ultimately, that report, if we  
5 have any clarifications or corrections, we will  
6 deal with our consultants first, and then it  
7 will go to our Standards Board and Board of  
8 Advisors for review and comment as well. That's  
9 something that we're required to do with all of  
10 our research under HAVA.

11                   The purpose of the working group is  
12 to collect experts in this area. We have  
13 election officials, state and local, we have  
14 applicants, and some serve more than one  
15 function. And given the preliminary research,  
16 and your expertise and EAC authority under HAVA,  
17 we would like you to provide ideas as to where  
18 is EAC supposed to go from here, and what should  
19 we follow up with additional research, other  
20 additional efforts that we can mount, given our  
21 authority in this area.

22                   we aren't here to debate what other

□

6

1 agencies are supposed to do, or what  
2 organizations should or should not be doing.  
3 We're focusing on what EAC can do. And one of  
4 the things EAC can do is offer help to other  
5 election officials, states, and other agencies  
6 perhaps, but we don't have any enforcement  
7 authority and we don't have any authority to

Transcript 051806

8 tell other agencies what to do.

9           Okay. What I'd like to do is just  
10 start going around the table and have everybody  
11 say a little bit about themselves. Most of you  
12 know each other, but I also want to have the  
13 ladies back here introduce themselves as well.  
14 May I start here?

15           MR. SEREBROV: I don't exist.

16           MS. SIMS: You don't exist?

17           MR. SEREBROV: I'm just here for fun.

18           MS. SIMS: Then we'll have them pick  
19 it up from here.

20           MR. SEREBROV: I am Job Serebrov from  
21 Arkansas. I have practiced election law for  
22 approximately 15 years, both in Arkansas and

7

1 other southern states, and internationally.  
2 I helped review and draft changes to the  
3 election code in Libya. I served as an Election  
4 Commissioner in Arkansas for six years. I have  
5 drafted some election statutes in Arkansas  
6 itself, and I was general counsel for the  
7 election ballot fraud committee for the  
8 Republican Party in Arkansas, appointed by  
9 Hutchinson. I had an Arkansas organization  
10 called Our Kansas For Fair Elections, which  
11 operated for about seven years.

12           How much more do you want?

13           MS. SIMS: If you're comfortable with  
14 that, that's fine.

15           MR. SEREBROV: Any other questions  
Page 5

008632

16 can be referred to my secretary -- no.

17 MS. WANG: I am Tova Wang. I am a  
18 fellow with the Century Foundation, which is a  
19 nonpartisan think tank, based both in New York  
20 and here in D.C.. I have been involved in  
21 politics since adulthood, but I have been  
22 working on these issues since the 2000 election.

8

1 I have been working on the issues since then and  
2 a career was born. With the problems we  
3 continue to have, the career will be maintained.  
4 I am also a lawyer by training.

5 MR. ROKITA: I am Todd Rokita,  
6 Secretary of State of the State of Indiana. I  
7 also do a lot of election administration,  
8 election reform, and I think I can represent all  
9 of the secretaries of states in the nation with  
10 this sentence; it has become more and more our  
11 career as well, although this secretary will  
12 tell you that I don't want it to be.

13 I look for these reforms to be  
14 finite, to a certain extent in length, to be  
15 read as problem solved. I have other divisions  
16 in my office that I would like to put some more  
17 attention to, quite honestly, but we definitely  
18 see the need for these reforms, at least some of  
19 them.

20 MR. BAUER: My name is Bob Bauer, one  
21 the partners of a law firm. I have been  
22 practicing election law since 1977, and I have

9

1 experience, largely through political parties,  
2 with this issue but also in other ways through  
3 other conferences or professional discoveries  
4 related to my area of practice.

5 MS. SIMS: Thank you.

6 MR. GREENBAUM: I am Jon Greenbaum,  
7 Director of the Voting Rights Project. I am  
8 actually here for my executive director. After  
9 the 2000 election and problems that occurred,  
10 the civil rights community saw the need for a  
11 nonpartisan organization or coalition of groups  
12 to deal with the problems that were apparent  
13 from that election, and so Election Protection  
14 was formed. The lawyers committee has  
15 essentially been the legal lead of the Election  
16 Protection Coalition since it's inception. In  
17 2004, we had roughly 8,000 legal volunteers who  
18 staffed a hot line that received 110,000 calls  
19 on Election Day and 200,000 calls during the  
20 election process that had attorneys out in the  
21 field, legal volunteers out at the field, at the  
22 polls, at legal coordinating committees, and as

10

1 mobile field units.

2 we plan on, in sort of going forward  
3 since the 2004 election, we work on both  
4 election protection and electoral reform issues.  
5 We see those as kind of being interconnected.  
6 And as one, we created something within my  
7 project called the National Campaign for Fair

8 Elections, which is specifically designed to  
9 work on those issues. And I want to thank the  
10 EAC for inviting us to take part in this. Oh,  
11 and prior to that, I worked at the Department of  
12 Justice in the civil rights division in the  
13 voting section with Barry, during my time there  
14 for seven years, and I enforced basically all  
15 the voting rights laws, all the federal voting  
16 rights laws there.

17 MR. GINSBERG: I am Ben Ginsberg. I  
18 a partner at Patton, Boggs, here in Washington.  
19 I have been practicing election law since 1982.

20 MS. ROGERS: My name is Kathy Rogers.  
21 I am Director of Elections for the State of  
22 Georgia. I am one of the people who did not

11

1 intend to grow up being an election official. I  
2 started my career almost three decades ago as a  
3 poll worker many, many years ago, and I am very  
4 pleased now to be able to, in the position I am  
5 in right now, appreciate the opportunity to work  
6 on this groups.

7 Those of us who are election  
8 officials often enjoy reading things that  
9 analysts and esteemed attorneys have put  
10 together. And frequently we're the ones who are  
11 trying to implement the election while taking  
12 everything into account. So I think this group  
13 has a great focus.

14 MR. WEINBERG: My name is Barry  
15 Weinberg. I was the acting chief and deputy

16 chief of the civil rights division voting  
17 section of the U. S. Department of Justice,  
18 there for 25 years. I supervised the Justice  
19 Department and the Federal Reserve Program, as  
20 well as all kind of law enforcement, including  
21 national voter registration. I retired in  
22 January, 2000. Since then, I have kept some

12

1 contact going. My wife and I have an article in  
2 the Temple Law Review called, Problems in  
3 America's Polling Places, how They Can Be  
4 Stopped," and doing some work internationally,  
5 election monitoring, lecturing, seminars,  
6 traveling. Before that, we were in Liberia  
7 doing seminars on election dispute resolution,  
8 and that has formed the basis for a book I have  
9 written coming out next month called,  
10 "Resolution of Election Disputes." That will be  
11 the principles that can be used in election  
12 challenges.

13 MR. PEREZ: I am J.R. Perez,  
14 Elections Administration for a county in  
15 Guadelupe, Texas. Let me give you a little  
16 information about an election administrator. I  
17 am neutral because the position is hired by  
18 three out of five commissioners, and fired four  
19 out of five. I have got a lot of autonomy and  
20 it makes it easy for me to be independent and  
21 implement policy that is not necessarily  
22 political and going with the current flow, but

13

Transcript 051806

1 it has allowed me a lot of durability in the  
2 trenches. I have been doing it for about four  
3 years in the front line. If anybody has been  
4 around election like you all have, you know on  
5 the front line there's casualties coming and  
6 going on a regular basis.

7 I am hoping that I can bring any type  
8 of insight to you, in terms of how we handle  
9 those incidences of those telephone calls, and  
10 how we can hopefully explain the difference  
11 between the theoretical concept of election and  
12 the actual practicality of election, because  
13 there is a great distinction in a lot of  
14 people's minds. They don't necessarily  
15 understand what we're trying to accomplish, and  
16 they have a lot of confusion in terms of how  
17 we're doing it, why we're doing it, why it's not  
18 living up to the mythical dream that a lot of  
19 people put it into.

20 MR. CORTES: Edgardo Cortes. I am an  
21 election research specialist here at the EAC. I  
22 have been here since July of last year. Prior

14

1 to that, I did some campaign work and also ran a  
2 national voter registration campaign focused on  
3 the Latino community.

4 MR. DON SANTO: I am Craig Donsanto,  
5 with the election branch of the U. S. Department  
6 of Justice. I have been practicing election law  
7 since 1972. I am responsible for overseeing all  
8 investigations and prosecutions brought in the

Transcript 051806

9 United States at the federal level involving  
10 voting and the financing of political campaign.  
11 I have a member of the EAC's Board of Advisors,  
12 and I have also, as Barry alluded to, done quite  
13 a bit of work internationally, both with him and  
14 occasionally without him, helping emerging  
15 democracies write election laws.

16 MS. SIMS: Thank you.

17 I just want to introduce the woman behind me  
18 because they really helped us pull this meeting  
19 together. Without their support, we wouldn't be  
20 where we are right now.

21 we have got Elle Culver, who is a  
22 special assistant to Commissioner Davidson. we 15

1 have got Devon Rome, missing who is an intern  
2 working on her masters degree in social science,  
3 sociology. Thank you.

4 Laiza, I forget where you are.

5 LAIZA: Soon to begin the masters in  
6 political science, which I work in the research  
7 department, and I'm going to get to know some of  
8 the election officials because I will be  
9 conducting a 2006 election survey. So you will  
10 get to see plenty of e-mails from myself.

11 MR. ROKITA: Surveys, love them.

12 MS. SIMS: I would like you to tell  
13 me, I notice you have served as a legal intern.  
14 Tell us where you are in that process.

15 TAMAR: I just finished my second  
16 year of law school at George Mason, and I have  
Page 11

008638



17 been at the EAC for a year.

18 MS. SIMS: Now, I know on our agenda  
19 it mentions we would talk about other EAC  
20 projects but it dawned on me that might be more  
21 appropriate later on, just before we get to  
22 ideas for future EAC action, because then I can

16

1 review things that we're already doing. So we  
2 won't spend a lot of time and go on to what we  
3 still need to do.

4 MS. WANG: I'm going to try and  
5 briefly over go over the work we have already  
6 done. You got sent tons of material, and I'm  
7 not sure if anybody looked at it, but hopefully,  
8 you looked at at least the paper summaries of  
9 things.

10 The first thing I really want to  
11 emphasize about the work that we did, although  
12 we split up some of the work, everything that we  
13 produced was signed off on by the other person.  
14 Everything that you're seeing here is a product  
15 in that sense. We agreed on the steps that we  
16 would take to produce these materials.

17 And the second point you should bear  
18 in mind is, Job and I pretty much worked on this  
19 entirely alone, without any support staff. So  
20 if you see typos on things, I apologize for  
21 that.

22 Generally, the time period that we

17

1 covered in the research we were doing was  
2 January 1 of 2001 to January 1 of 2006, all  
3 those, Job's cases, went before that a little  
4 bit, the reason being, it would be too unwieldy  
5 to try and sort through all the materials that  
6 came out of the 2000 election because there is  
7 just so much, and there's been so much since  
8 then that it seems sort of a natural place to  
9 begin. And also the Help America Vote Act had  
10 been passed subsequently, so it seems like maybe  
11 improvements had been made and we should take it  
12 from there.

13           The first thing I think on the  
14 agenda, that we should talk about the literature  
15 and the reports that we went over. We tried to  
16 do a review of all the existing research we  
17 could find on this topic. I think you have a  
18 list of all the pieces that we looked at. On  
19 the CD is the summaries we looked at. We looked  
20 at a range of things; Government documents,  
21 academic studies, reports from advocacy groups.

22           As to how we chose the pieces that we  
18

1 reviewed, to some extent, I already had a lot of  
2 them and knew about a lot of them because I had  
3 been working on this for a while. Other people  
4 suggested them and we did searches for anything  
5 that we might have missed after that.

6           So just to maybe go over some of the  
7 highlights, I don't want to go into the details  
8 of the existing literature too much because they

9 are really sort of all over the place. There  
10 are a couple things that I will say about them  
11 generally that I talk about in the summary,  
12 which is, that they are mostly anecdotal. This  
13 is no surprise to any of us sitting here. There  
14 is really little research that is scientific or  
15 systematic, which is part of the reason this  
16 project was undertaken. I saw McDonald work as  
17 the most systematic, but those probably don't go  
18 far enough. And I talked to a number of  
19 researchers about this, and I think one thing --  
20 and I will get more into this when we talk about  
21 the methodologies that I suggested -- this is a  
22 very difficult undertaking, I think we all

19

1 realize this. To do it right in any kind of  
2 scientific way would require tremendous  
3 researches, mother than any academic or advocacy  
4 group, that is. It is my personal believe, and  
5 I have been told, there probably will be a  
6 second phase to this that will maybe commit the  
7 resources that are necessary to do it right.

8           The one other thing that I will say  
9 about the existing research that we looked at is  
10 that I think, by the nature of them, there is  
11 very little follow-up. So you have books and  
12 reports that make a number of allegations of  
13 things that happened in a particular election,  
14 but then you don't have the benefit of then  
15 hindsight, to see what actually ended up  
16 happening in the case. So you have

17 investigations of acts of something happened,  
18 but you don't know if that ended up being an  
19 administrative error or it ended up being  
20 someone just crying wolf. While literature is  
21 helpful, it really only takes you so far.

22 Are there any questions about that or  
20

1 anything you want to comment about the  
2 literature review that we've done?

3 MR. ROKITA: What's our current  
4 budget for this project, and why do we think  
5 there is going to be a Phase 2?

6 MS. SIMS: Well, Phase 2 would be  
7 subsequent to the fiscal year, after we have  
8 gone through the final report, that would  
9 include the recommendations for future action.

10 MR. ROKITA: So that would be a vote  
11 from the standards board?

12 MS. SIMS: I would have to ask the  
13 commissioners that are actually handling the  
14 details of that. I'm not sure it actually takes  
15 a vote, but generally, it requires some comment  
16 by the boards. The boards absolutely have to  
17 have input on that.

18 MR. ROKITA: So if I understand, part  
19 of our charge here is to give some direction for  
20 this phase?

21 MS. SIMS: What we're looking for  
22 from the working group is to brainstorm ideas

21

1 for possible future research. We may combine  
Page 15

2 them into one or we may have different stages,  
3 depending on what ideas come up and what the  
4 Commissioners think that we can do, and our  
5 Boards of Advisors and our Standards Board.

6 MR. ROKITA: So we're supposed to  
7 think of these ideas, unbridled by any fiscal  
8 constraints?

9 MS. SIMS: Yes. We'll have to worry  
10 about the fiscal aspect when we get to that  
11 point.

12 MR. GINSBERG: And our commission is  
13 all about research.

14 MS. SIMS: We can provide  
15 information. A lot of that is done through  
16 research. We do research and provide the  
17 results of that research to state legislatures  
18 and anybody else who is interested. Now, you  
19 have to realize, I came from the FEC where we  
20 were hidden away. The office, six of us, that  
21 was the whole office. Now, we have much more  
22 visibility. So it is easier to get the word

22

1 out, get information out, but a lot of times  
2 that information is based on research. We do  
3 have to have some kind of research before we can  
4 pass the information along, in terms of best  
5 practices. It could be things -- well, we may  
6 want -- I am jumping ahead of myself, but when  
7 we get to the ideas on subsequent research, we  
8 can talk about some of the findings that these  
9 folks came up with, just in this limited

10 preliminary research, and what we might be able  
11 to do with that, or what we might be able to  
12 build on that already exists, but yes, we're  
13 focusing on research, and that research does end  
14 up being distributed via our website or in  
15 response to individual inquiries.

16 MS. WANG: Ultimately, it could  
17 result in something like guidelines or  
18 recommendations or best practices.

19 MS. SIMS: And that all goes up on  
20 our website.

21 MR. SEREBROV: We all introduced  
22 ourselves. You've got the floor.

23

1 MR. HEARNE: I am Thor Hearne. I am  
2 an attorney. I have practiced in the election  
3 law area for a number of years now. I have been  
4 involved in a number of different litigations,  
5 as well as efforts on that front, counsel to the  
6 American Center For Voting Rights.

7 MS. WANG: The only thing of  
8 substance we have gone over, I was just  
9 reviewing the literature that we had reviewed  
10 and summarized what you have in your own  
11 materials. Also in your materials, you have a  
12 list of the people that we interviewed, and on  
13 the CD, you have summaries of the interviews  
14 themselves. Most of these interviews were  
15 extremely informative and very helpful,  
16 insightful. We chose the interviewees by coming  
17 up with the categories of types of people we

18 wanted to talk to, and filled those categories  
19 with equal numbers from each of us.

20 MR. SEREBROV: Unfortunately, not all  
21 the people we wanted to talk to talked to us.

22 MS. WANG: Right. But also due to 24

1 time and resource constraints, we came up with  
2 an original list, ten miles long, people we  
3 would love to talk to.

4 There were certain categories that we  
5 had to eliminate. For example, we don't have  
6 any local DAS, again which is something for  
7 later on that I would definitely advocate that  
8 the next phase do. The ultimate category the  
9 people we were able to talk to included  
10 academics, election officials, lawyers, and  
11 judges.

12 There were a few people who didn't  
13 want to talk to us, mostly judges.

14 MR. SEREBROV: Although one did.

15 MS. WANG: We got one judge. Again,  
16 all the interviews were conducted by both of us.  
17 We split up the drafting of the summaries, but  
18 they were reviewed and approved by the other  
19 person, so they represent our impressions of the  
20 interviews, both of us.

21 Just to go over quickly some of the  
22 highlights from those interviews that I have in 25

1 the summary that you have of the interviews, we

2 did find pretty much, overwhelmingly, that  
3 absentee fraud is the biggest problem, and vote  
4 fraud would come in behind that. There was  
5 widespread polling place fraud. Dead voting,  
6 impersonation voting, there were a couple people  
7 who thought that was a problem. Most people did  
8 not.

9           In terms of intimidation, the whole  
10 issue of challengers pre election and election  
11 day challengers, decidedly most often as the  
12 current concern in terms of intimidation.  
13 However, at some of the more what we think of as  
14 classic examples were brought up with us,  
15 particularly very starkly in Native American  
16 communities.

17           There was also the usual poll worker  
18 harassing people, people taking pictures of  
19 voting, and that kind of thing. With all due  
20 respect to the people from the Department of  
21 Justice here, the people we interviewed told us  
22 that for various reasons, the Department of

26

1 Justice is bringing fewer cases now and is  
2 focusing much more on non-citizen voting, felon  
3 voting, and double voting, while the civil  
4 rights public integrity section is focusing on  
5 individuals and isolated instances of fraud  
6 issues. And I know you don't agree with that,  
7 but that's what across the board, people from  
8 all sides of this said to us. That's the  
9 perception. As usual, the voting lists were a



10 major concern, although, hopefully, that is  
11 being taken care of by the state registration  
12 databases.

13           Among the common recommendations,  
14 getting back to the point we were just talking  
15 about, many of the people we interviewed  
16 supported stronger criminal laws, increased  
17 enforcement of existing laws. Advocates from  
18 across the spectrum expressed frustration with  
19 the failure of the Department of Justice to  
20 pursue more complaints. Mr. Donsanto told us  
21 they were bringing fewer section 2 cases, but  
22 fewer were warranted, a lot had been achieved

27

1 and it wasn't as much as problem. Mr. Donsanto  
2 told us election fraud cases had not gone up  
3 since 2002, but the number of cases the  
4 department is investigating and pursuing has  
5 gone up dramatically, and that since 2002, the  
6 department has brought more cases against alien  
7 voters, double voters, than ever before.

8           In terms of more recommendations, a  
9 couple of people suggested some kind of new law  
10 that would make it easier to criminally  
11 prosecute people for intimidation, even when  
12 there is not racial interments involved. People  
13 were hopeful about the statewide voter  
14 registration databases. People advocated for  
15 expanded monitoring of the polls, hopefully, by  
16 the department or maybe others.

17           There were a number of people who

18 suggested that the challenge laws needed to be  
19 revised in some states. I was surprised to  
20 learn, in some states, you can challenge a  
21 person with little to no basis for doing so, and  
22 really sort of bog up the estimation that way.

28

1 There ought to be some serious look at the  
2 various challenge laws, and the ones that have  
3 that kind of thing going on that shouldn't be  
4 happening. People advocated for the deceptive  
5 practices bill currently sponsored by Burrock  
6 Obama. There was a surprising split whether  
7 partisan administration of elections would be  
8 helpful. Some people felt it was a good idea  
9 and some people thought partisan people, without  
10 the partisan tag. Some academics were  
11 advocating for going back to for cause only  
12 absentee voting, but that didn't seem  
13 politically practical right now. Two people  
14 advocated a national identification card.

15                   Anything I can answer? The great  
16 nexus undertaking adventure. Initially, Job and  
17 I came up with enormous search terms that could  
18 be used to try and do a nexus search that would  
19 come up with every case of fraud and  
20 intimidation that happened in the last five  
21 years. We determined quickly that would be  
22 impossible. We agreed I would do the nexus

29

1 search, trying to be a little more creative,  
2 using different combinations of terms that would

Transcript 051806

3 hopefully yield the same kind of result. Job  
4 approved all of the search terms as I went  
5 along. As I collected them, and you have this  
6 on your CD, I have them on Excel spread sheets  
7 to try and break down the articles so they can  
8 be analyzed for patterns.

9           Each fraud was broken down by where  
10 it took place, the date, what the allegation  
11 was, the news publication it came from, and  
12 where there was a follow-up article, whether  
13 there had been any subsequent resolution to the  
14 allegations. I am currently working on further  
15 refining those, and I don't have it to produce,  
16 to try and break it down more carefully, analyze  
17 it. I want to include sub categories. So, for  
18 example, when you're talking about absentee, you  
19 have it broken down whether it was forgery of  
20 that person's name or something like that. I am  
21 also trying to refine it so you can see from the  
22 chart who made the allegation, whether there was  
□ 30

1 any type of investigation, criminal, civil  
2 action taken, whether there ought to be  
3 follow-up research to determine what happened in  
4 the case. For drawn out, complicated cases, you  
5 have a description of the case. South Dakota,  
6 Wisconsin, and Washington State.

7           Just to go over the highlights again  
8 of the articles, none of this has come as news  
9 to you, there are a bunch of ways that absentee  
10 ballot fraud is committed. This was one area in

11 news articles, there were a substantial number  
12 of official investigations and actual charges  
13 filed. In terms of voter registration files,  
14 again, you won't be surprised by the variety of  
15 ways in which people commit voter registration  
16 fraud using fake names, names of dead people.  
17 You also have voters being tricked by a  
18 particular party under false pretenses and also  
19 the description of voter registration forms,  
20 depending on your party. There was only one  
21 article of a non-citizen registering to vote.  
22 And, in general, many of the instances did

31

1 include official investigations and charges  
2 filed, but from what I found in the initial  
3 search, few actual convictions.

4           On voter intimidation and  
5 suppression, this is a very thick chart because  
6 there were so many allegations during the 2004  
7 election, particularly on the challenge issue.  
8 Almost none of these cases of intimidation that  
9 were claimed in these articles were investigated  
10 criminally or prosecuted criminally. And like I  
11 said, with respect to the existing literature  
12 and the interviews, challenges, that was the  
13 number one topic but there was also, again, the  
14 classic examples of photographing people leaving  
15 the home, police presence, that kind of thing.  
16 And also it wouldn't surprise you to know most  
17 of these articles came out of battleground  
18 states.

19                   In terms of dead voter, there were a  
20 lot of people voting in the name of the dead,  
21 big numbers of people committing these  
22 frauds, and relatively view of these allegations

32

1 turned out to be accurate, in terms of the  
2 verifications by the newspapers themselves,  
3 election officials, and criminal investigators.  
4 Often the problem turned out to be the result of  
5 administrative error, poll workers mismarking  
6 lists with the names of the people who voted.  
7 There were a few cases of actual charges and  
8 convictions of people voting or engaged in these  
9 kind of activities. Interestingly, it seemed  
10 that most of those cases involved the person  
11 voting by absentee and voting again at the  
12 polls. There were a handful of instances where  
13 people voted early, and voted on Election Day,  
14 although some of that seemed to be confusion  
15 about what you are allowed to do.

16                   There were a number of vote fraud  
17 cases, and these are completely focused in the  
18 midwest and the south. And you will see in the  
19 vote buying summary that's in there, three or  
20 four locations where this seems to be a  
21 perennial problem, and it doesn't seem to be  
22 that much of a problem in other parts of the

33

1 country.

2                   Deceptive practices, we saw a lot of

3 that come out in 2004. You probably all heard  
4 about it the fliers, and the phone calls with  
5 miss information about voting procedures. A  
6 disproportionate number of them from  
7 battleground states, in Florida, Ohio, and  
8 Pennsylvania, only one case, and this is just  
9 from news articles, was actually investigated.  
10 That was the case in Oregon where the FBI did  
11 investigate the destruction of voter  
12 registration forms that were filled out by  
13 people and then destroyed allegedly, according  
14 to one party, but there were no other reports of  
15 prosecutions on this case or on any of the other  
16 deceptive practices cases.

17           There were surprisingly few articles  
18 about non-citizen voting, something you heard a  
19 lot about, but not something that seems to  
20 happen very much.

21           On felon voting, there were only 13  
22 actual cases, but they all involved rather large

34

1 numbers of people. You probably know this. A  
2 lot of it is coming out of the Washington State  
3 situation and the Wisconsin situation.

4           And, finally, with respect to fraud  
5 being committed by election officials, I think  
6 that's very hard to judge from news reports  
7 because it is very difficult to make that  
8 distinction between something was in error and  
9 when something was done purposely and with  
10 malfeasance in an actual crime. So that's

11 probably not the best way to look at that, and  
12 that's what I have for that.

13           And, again, I know this is jumping  
14 ahead, but I will say it now because I feel the  
15 need to. These search terms that we used and  
16 what these search terms came up with, and there  
17 may be subsequent articles about these that  
18 would go further in telling you how the actual  
19 allegation was resolved, whether it turned out  
20 to be accurate or not. One of my main  
21 suggestions that I will talk about more later  
22 on, if there is a next phase of this, that using

35

1 the charts that have already been created to  
2 follow up nexus research to see if there were  
3 further articles about the same cases to see  
4 what happened. Because although I have a slot  
5 in there, a column in there for subsequent  
6 resolution, you will see it's not filled in very  
7 often, and that's it.

8           And if there are any questions.

9           MR. ROKITA: Can you just review for  
10 me what the purpose of gathering all this was,  
11 in relation to our statutory guideline here?

12           MS. WANG: Well, we're trying to just  
13 sort of get the lay of the land on this issue.  
14 And, obviously, doing the nexus search alone  
15 would not have provided that but we felt it  
16 would be one useful tool in trying to do an  
17 initial gauge of what's going on, also,  
18 including the interviews, including the existing

19 research and the cases that Job will be talking  
20 about.

21 MR. ROKITA: And the interviews we  
22 had, we asked them for their ideas for

36

1 developing nationwide statistics and methods of  
2 identifying or developing ways of identifying or  
3 deferring, investigating voter intimidation, or  
4 did we just try to get color from them as to  
5 what the main issue was?

6 MS. WANG: No. We asked every single  
7 person we talked to what their thoughts were on  
8 how to improve the system, what ought to be done  
9 to reform it and solve some of these problems.  
10 It was an open-ended question. We didn't say do  
11 you favor the development of national statistics  
12 or something.

13 MR. ROKITA: Or how you would do it.

14 MS. WANG: That I will talk about  
15 later. We limited that aspect of it to talking  
16 to people who were basically political  
17 scientists, who I think are in the best position  
18 to tell us what is a scientifically sound method  
19 for trying to get some kind of accurate take on  
20 this.

21 MS. WANG: Chandler Davidson, and I  
22 have the list with me. It talks about other

37

1 political scientists for the methodology issue.

2 MR. SEREBROV: Aside from DOJ cases,  
3 closed DOG cases, which were put in a separate



4 chart initially, I came up with a laundry list  
5 of search terms, and then Tova looked at that  
6 list and added another list of search terms.  
7 So by the time we got it to the Commission to  
8 run the electronic search, the terms were  
9 probably two pages long. And what, in essence,  
10 we came up with was the first hundred cases for  
11 each term. The result was about 44,000 cases  
12 that I had to go through and ferret out, and  
13 these were both federal and state cases, federal  
14 where both a felon, and the district cases,  
15 state cases were only appellant cases. These  
16 were all cases that impact on some aspect of  
17 voter fraud or voter intimidation. What emerged  
18 from this was almost striking because there were  
19 very few cases of the 44,00 cases or so that  
20 actually were on point. And the ones that are  
21 on point sometimes repeated categories. They  
22 are all in these chart forms.

□

38

1                    what I suggest is done in the next  
2 phase is to concentrate on finding cases on the  
3 state district court level, because it seems  
4 like on a state level, a lot of voter fraud  
5 cases are brought there and end there. And you  
6 get a lot of information out of those cases, but  
7 they are never appealed, so you never get  
8 anywhere beyond that.

9                    without having to just go through  
10 this and verbatim read, the patterns have  
11 definitely shifted from outright stealing of

12 elections in the past to different kinds of  
13 problems, voter registration, identification,  
14 ballot counting, overseas ballot problems, vote  
15 buying, challenges to felon eligibility to vote.  
16 And those were really the main categories that  
17 went into the charts. And what I was surprised  
18 to find is that out of each search term and the  
19 cases under it, we had literally dozens and  
20 dozens that were inapplicable. Oh, and I need  
21 to add a caveat, in general, not all the time,  
22 but in general, when we had an election

39

1 challenge case, in other words, someone lost an  
2 election and they were challenging, we almost  
3 always threw those out, unless they presented a  
4 unique situation that directly was impacted by  
5 the search term itself. In other words, if it  
6 wasn't just -- I won, you lost, but the reason  
7 was because there was X fraud done.

8 MR. SEREBROV: Right. So we threw  
9 out 99 percent of those cases. What we have are  
10 a number of charts with few cases, surprisingly  
11 few cases. And my suggestion at the next phase,  
12 they do a nationwide sampling of state cases on  
13 the district court or circuit court level to  
14 find out really what's going on.

15 Any questions?

16 MS. SIMS: No questions from the  
17 attorneys?

18 MR. ROKITA: How would the sampling  
19 be done.

20 MR. SEREBROV: Good question. What I  
21 think you need to do is actually go, pick both  
22 large counties and small counties, and you need 40

1 to go to the counties and you actually need to  
2 run the records, and you need to go back a  
3 certain amount of years and start looking at  
4 those files. You're looking at a lot of work, a  
5 lot of money going into this, but what we found  
6 at that level is inadequate to draw conclusions,  
7 unfortunately.

8 And as Tova said, I asked four  
9 different Supreme Court Justices to give us  
10 interviews. Three of them were afraid because  
11 this type of case may come up again.

12 MS. WANG: Although not really too  
13 much.

14 MR. SEREBROV: No, but it was very  
15 helpful in some other areas.

16 MS. SIMS: We're five minutes ahead  
17 of schedule. I don't know if you want to go  
18 through this definition or the findings first.  
19 Let's do the findings, I guess, first.

20 MS. WANG: So the next thing on the  
21 agenda is to hear back from all of you about  
22 your perceptions, given the research that we 41

1 did. I know that all of you have tremendous  
2 backgrounds in this, and we all come out with  
3 different experiences, but I think today it

4 would be helpful to focus -- the first question,  
5 I guess, is basically, given the research and  
6 the findings that we have, what at this point do  
7 you think we can say about how much fraud and  
8 intimidation there has been since the 2000  
9 election, and how much are certain frauds being  
10 committed as opposed to others?

11                   what is your sense of what the  
12 landscape is, anybody?

13                   MR. WEINBERG: I have a question to  
14 you. Given all this work that you have done,  
15 and it's a lot of work, what do you think is  
16 missing?

17                   MS. WANG: That's what I need to ask  
18 you.

19                   MR. SEREBROV: That comes later, we  
20 ask you that. We have talked about this.

21                   MS. WANG: We have talked about steps  
22 for further action, but are you thinking of

42

1 something specific?

2                   MR. WEINBERG: Do you feel like  
3 there's areas of information that exist that you  
4 just didn't get to or do you feel like you, in  
5 your breath of what you did, sort of captured  
6 the information that's available out there?

7                   MS. WANG: Well, I think we will talk  
8 about this when we talk about further steps.  
9 They are kind of interrelated, but I feel like  
10 in terms of the nexus articles and the  
11 literature, I want follow-up on all of them

12 because a lot of them came out of the 2002, 2004  
13 elections where there was a lot thrown around.  
14 A lot of statements are made.

15           One of the things that we said about  
16 the literature is that the books that are  
17 written are of the least use because they have  
18 written by people with agendas on both sides.  
19 Allegations are made of things happening. And  
20 even I started to do just like for fun kind of  
21 looking at the allegations made at some of the  
22 books and reports, and doing my nexus search,

43

1 and Google search, and finding out a month later  
2 there was a completely opposite allegation than  
3 what was suggested in the book on the report.  
4 That's what I feel like is missing because  
5 that's how the misinformation that's out there  
6 about what's really going on seems to be, is  
7 that people make a certain assumption right  
8 after Election Day, and I will tell you  
9 something, and this is sort of going off point,  
10 but I think actually journalists are actually  
11 somewhat responsible for this themselves.  
12 I know this will amaze you that journalists can  
13 be -- I'm trying to work on a separate project  
14 and they will write an article. There was X, Y,  
15 and Z, happened on Election Day, and then it  
16 turns out three weeks later that actually  
17 something completely different happened, but  
18 they don't report on that. Or it's like this  
19 side, the first one was on the front page, not

20 that this is particularly relevant. I am trying  
21 to get a grant to do journalist training  
22 seminars on these issues to try and solve some

44

1 of the problems, but almost everybody does it.  
2 I mean, the stuff that lawyers committee comes  
3 out with, great. The ACVR came out with its  
4 report, but that's a snapshot in time, so  
5 whatever happened did not turn out to be true.

6 MR. SEREBROV: One thing we left out  
7 were allegations. We did not handle any  
8 particular allegations.

9 MS. WANG: It was too much.

10 MR. SEREBROV: And that's something  
11 that in the next phase, we may want done.

12 MR. HEARNE: What's the distinction?

13 MR. SEREBROV: We handled things that  
14 have become legal issues that went to trial.

15 MS. WANG: That's not really true.  
16 The articles is just everything that came out.

17 MR. HEARNE: It sounds like your  
18 search would pick up somebody alleged something,  
19 it gets reported in the paper. That would be  
20 picked up.

21 MS. WANG: What's in the charts, as  
22 you have them in and out. There is a category

45

1 for subsequent resolution. As I am suggesting,  
2 what I would love to do actually, if we had the  
3 resources today, is now do a new nexus search  
4 that would specifically search for those cases

5 and see what the follow-up was. I was limited  
6 because we had an agreement on what search terms  
7 were. I couldn't go beyond that to look  
8 specifically to see if there was in this case  
9 some kind of further reporting.

10               So it was an allegation. Obviously,  
11 the cases were more official than that.

12               MR. SEREBROV: When we discussed this  
13 in the beginning, we were not going to deal with  
14 hundreds and hundreds and hundreds of  
15 allegations out there, except the nexus  
16 articles. That's something that one may or may  
17 not want to deal with. It's very tricky. You  
18 have to weigh the voracity of those allegations.

19               MS. WANG: And how do you do that.  
20 It's a problem we talked about with a lot of  
21 people we interviewed, how do you make that line  
22 of distinction between what is simply someone

46

1 saying something, and something that at least  
2 has a kernel of merits.

3               MR. SEREBROV: For instance, we  
4 talked to Sharon Priest. She was Secretary of  
5 State from Arkansas. She indicated that the  
6 State Board of Election Commissioners had  
7 fielded, over a certain amount of years, a  
8 number of complaints, and they gave those to us  
9 but we didn't go through each individual  
10 complaint.

11               Now, that's something that may or may  
12 not be a valid thing, but if states keeps those

13 complaints on file, if they are categorized, if  
14 there is enough information, that may or may not  
15 be something that one wants to do. It's almost  
16 an adjusting linkage. The problem is people  
17 call in all the time, as Peggy well knows.

18                   When I was an election commissioner,  
19 people called in and complained about everything  
20 from my dog was stealing votes to --

21                   MS. WANG: Or my dog voted.

22                   MR. SEREBROV: Obviously, the

47

1 machines have been frauded out, and where do you  
2 draw the line between a valid one and non-valid  
3 one.

4                   MR. PEREZ: I realize I am a resource  
5 person but I'd like to make a comment. I was  
6 very skeptical before I came to this group  
7 because of the issue, but I agree wholeheartedly  
8 with your research. I am glad you did it. The  
9 summaries, I think, were right on, and your  
10 notes here about structural forms of  
11 disenfranchisement and internal abuse of the  
12 system, you're hitting right on the key here.

13                   Most of the issues are not that  
14 somebody is stealing votes. It's just that poll  
15 workers are not trained properly. We see this  
16 time and time again. I am glad to see that  
17 you're coming out with the same conclusions that  
18 we have on the front line. It's not so much  
19 that there is a conspiracy. You're going to  
20 have vote buying. You're going to have some of



21 the things, but generally negligible, not enough  
22 to alter things. And if there is, they need to 48

1 be prosecuted and come up with stronger laws.  
2 But those of us that do this time and time again  
3 can see where people have just missed the boat  
4 in preparing either the people, the equipment,  
5 the programing or something, and the obligation  
6 should be laid squarely on the election  
7 official, not on the equipment.

8 MS. WANG: Or the voter.

9 MR. PEREZ: Or some other type of  
10 issue. we're playing the process on their  
11 shoulder, and not necessarily training them  
12 properly. So I am glad to see you're  
13 researching.

14 MS. WANG: Actually, I think I  
15 skipped over it but I was talking about the  
16 interviews. One of the most common things that  
17 was said was, generally, poll worker training,  
18 that could be the number one key to solving the  
19 problems we're talking about, and also longer  
20 voting times, and maybe having days other than  
21 Election Day that you can vote, not necessarily  
22 in terms of early voting, but like weekend 49

1 voting. Maybe combine this with fewer voting  
2 locations, because the thought was that you  
3 could then have the best and the brightest of  
4 the poll workers. That's something for another

5 study.

6 MR. SEREBROV: They are actually  
7 doing that in Arkansas. I didn't even know we  
8 had Saturday voting. We crossed a poll that was  
9 open, so I went in and voted. They have opened  
10 several, not a lot, but a few polls for Saturday  
11 voting.

12 MR. GREENBAUM: Would it be fair to  
13 say that taking up the issue of intimidation  
14 that you're finding suggests that most fraud  
15 occurs outside of the polling place?

16 MS. WANG: I would say yes, right.  
17 It's absentee ballot fraud which is troubling  
18 because there is this huge movement to expand  
19 that, frankly. And so while I think this is  
20 also probably going beyond what we're supposed  
21 to be talking about right now but, why not,  
22 everyone else is doing it. That is a political

50

1 issue that I think is not going to go away.  
2 People seem to be pushing relentlessly for mail  
3 voting or more absentee voting, on both sides of  
4 the spectrum actually.

5 MR. GREENBAUM: I am including, when  
6 I say fraud, I am including all deceptive  
7 practices, the fliers, the calls, all of those  
8 things that came up during election process in  
9 2004.

10 MS. WANG: No. Well, there were  
11 people talking about poll workers engaging in  
12 fraud. Are you saying taking away the voter

13 intimidation?

14           MR. GREENBAUM: I'm saying take out  
15 the voter intimidation issues, in terms of the  
16 issue of fraud, in terms of the other things on  
17 both sides, whether you're talking about voters  
18 committing voter fraud or whether you're talking  
19 about actions that are designed to keep voters  
20 away, from deceptive practices, tearing up  
21 registration forms, those sorts of things. Most  
22 of that is happening outside of the polling

51

1 place.

2           MS. WANG: I would agree with that.  
3 That's what almost everyone says.

4           MR. ROKITA: Thank you. I'd like to  
5 have a little bit of discussion around before we  
6 go too far down, subsequent matters, because I  
7 may be a little bit confused, figure out what  
8 our enabling legislature is here. I am reading  
9 the cover letter of my invitation, and I'll read  
10 it into the record, if you will bear with me.  
11 "Section 241 of the Help America Vote Act of  
12 2002 requires the EAC to conduct research on  
13 election administration issues."

14           Yes. Among the tasks listed in the  
15 statute is the development of the nationwide  
16 statistics and methods of identifying,  
17 deterring, investigating, voting fraud in  
18 elections for federal office, 241(e)(6), and  
19 secondly, ways of identifying, deterring, and  
20 investigating methods of voter intimidation,

21 241(b)(7).

22 And this kind of goes to the reason I  
52

1 asked the question about the interviews. I'm  
2 hearing conclusions here about whether or not  
3 the EAC is going to determine whether or not  
4 there is voter fraud and where. And the statute  
5 seems to point out, it is assuming, whether  
6 right or wrong in the statute, Congress will  
7 assume voter fraud existed, and it is asking the  
8 EAC to develop nationwide statistics and methods  
9 of identifying, deterring.

10 MS. WANG: That's what we were going  
11 to try to do. We're not making the assumption.  
12 We're not saying there isn't fraud. We're  
13 trying to get a grasp of where that fraud tends  
14 to lie and what types of fraud actually seem to  
15 be occurring. I don't think that you can get to  
16 the point of identifying these other matters  
17 that you referred to in the statute without  
18 first doing the research to find out what is  
19 going on.

20 MR. ROKITA: It's not a comment on  
21 your research, whether it's good or bad, right  
22 or wrong, but I am trying to get us focused on  
53

1 our mission here. From the preliminary comments  
2 I am hearing, it's whether or not there is fraud  
3 and where it is. And I think what you mentioned  
4 in your opening remarks is that we lack  
5 statistics. We lack methods for getting to

6 these statistics. And I would just like some  
7 feedback and input from this group as to if they  
8 agree or not that that should really be the  
9 focus, more developmental ideas how to get the  
10 information, rather than opinions of  
11 interviewees.

12 MS. WANG: This is an initial  
13 methodology. This combination of not just  
14 interviews but nexus of the cases is an initial  
15 step in a methodology. Later on, I will be  
16 going through with I found with the political  
17 scientists, further findings from more  
18 scientists with the methodology that can be  
19 added on to what we have already done. That is  
20 the next layer up.

21 MR. SEREBROV: The other thing you  
22 have to understand is we were limited in both

54

1 time and funds. So what we were able to  
2 delivery is just a peek at what's going on.

3 MS. SIMS: It is only intended a  
4 preliminary research so we can decide how might  
5 we get to the next step, and that's why we need  
6 you in here to help us.

7 MR. SEREBROV: One area that we  
8 didn't touch that we were told don't touch is  
9 complaints or potential fraud having to do with  
10 computer voting with the machines themselves.

11 MS. WANG: Thank God.

12 MR. SEREBROV: That's true. That's a  
13 can of worms.

14 MR. HEARNE: I wasn't here the first  
15 15 minutes. My cab driver was somewhat lost,  
16 but that being said, so I didn't get the  
17 opportunity to hear exactly what the discussion  
18 was about the work product. At the end of the  
19 day, we have an objective of producing  
20 something.

21 I understood todd to be saying what  
22 we're supposed to be producing is given what

55

1 information we have and the consensus within  
2 this group, what is a methodology for tracking,  
3 quantifying, and reporting these kinds of  
4 incidences going forward.

5 MS. SIMS: Well, you may not even  
6 have to come up with a methodology. What we're  
7 looking for, how do we meet this requirement.  
8 Or as I said, we also serve as a national  
9 clearinghouse for the administration of federal  
10 elections. There may be things that relate to  
11 this that we should be looking at, that relate  
12 to the issue of voting fraud. There may be best  
13 practices in certain areas that we maybe should  
14 be looking at that we haven't already started to  
15 look at.

16 MR. HEARNE: So the EAC is coming in,  
17 the working group says, give us some ideas.

18 MS. SIMS: Where we need to go.

19 MR. HEARNE: Tracking as we go  
20 through.

21 MS. SIMS: Please don't use a  
Page 41

22 four-letter word when you say where we need to

56

1 go.

2 MR. BAUER: You made a comment. Did  
3 you have a concern about consulting experts?  
4 You were concerned we were talking to experts,  
5 getting opinions from experts, or you thought it  
6 was a methodological approach.

7 MR. ROKITA: I'm just trying to  
8 determine what our mission here is at the core  
9 level and whether it should be making a  
10 conclusory report as to whether or not something  
11 exists, or is our mission more plain language,  
12 the development of the methodologies that would  
13 lead to something like statistics and  
14 methodologies, not an amalgamation of opinions  
15 as to whether or not voter fraud exists and  
16 where it is. Because we could keep adding to  
17 that, then we're putting the EAC -- or EAC is  
18 going to be in a position of saying -- of adding  
19 to the universe of opinions.

20 MS. WANG: These are actually not  
21 just opinions. If you look at the people we  
22 spoke to, there were election officials.

57

1 MR. ROKITA: All of whom have  
2 opinions. Yes, I understand.

3 MS. WANG: Well, opinions based on  
4 actual experience.

5 MR. BAUER: That's what my question

6 was.

7 MR. SEREBROV: But it is a method of  
8 identifying election fraud.

9 MS. WANG: Any political scientist.  
10 And if you look at the methodologies that were  
11 suggested to me, every single one of them talks  
12 about interviewing a range of people involved in  
13 the process.

14 MR. ROKITA: These might be  
15 experiences.

16 MR. SEREBROV: We originally had a  
17 political scientist on this group, a third  
18 person who had to withdraw, and that is Steve,  
19 who we actually interviewed after.

20 MS. SIMS: He can speak for the EAC  
21 that we're not expecting the group to say there  
22 is or there is not fraud. We're not expecting

58

1 that. I think we know there are instances of  
2 it.

3 At this point in time, what we're  
4 trying to do is get a handle on how we can  
5 develop nationwide statistics, and investigating  
6 voter fraud and voter intimidation.

7 MS. WANG: To know how to investigate  
8 and deter fraud and intimidation, you have to  
9 first get some sort of a grasp as to what the  
10 actual problems were, and where your energy and  
11 resources ought to be focused.

12 MR. ROKITA: Yes, you have to do  
13 that. I am not basing things after our



14 experience, but we don't know that this  
15 experience is a fair sampling of what's out  
16 there. And as I read those interviews and what  
17 I heard you say at the beginning is we don't  
18 have statistics. So, in essence, even these  
19 experiences are based on non-quantifiable  
20 experiences and things that might have happened,  
21 and opinions.

22 MS. WANG: That's a major question of <sup>59</sup>

1 this project, is any of this quantifiable. I  
2 don't think you're ever going to come up with a  
3 number, so how do you get at it?

4 MR. ROKITA: That's a fair agenda  
5 item for this discussion. Maybe at the end of  
6 day, we decide we stop spending taxpayer money  
7 or it's going to be too much to spend to find  
8 that kind of data.

9 MR. SEREBROV: I think we're going to  
10 find that's the answer.

11 MR. ROKITA: Otherwise, we will stop  
12 it here and recognize there is a huge difference  
13 of opinion on that issue of fraud when it occurs  
14 is obtainable, and that would possibly be a  
15 conclusion of the EAC.

16 MS. SIMS: I don't know if the EAC  
17 would come to a conclusion like that. Again,  
18 it's all going to have to go back to the  
19 Commissioners and they are going to have  
20 discussions about, what they can pursue in this  
21 area, but here are a couple things that I am

22 looking at. This is just from being in this

60

1 field a long time. It may be difficult to -- I  
2 don't think it's going to be impossible to get  
3 exact statistics on voting fraud.

4 Can we take another step and get  
5 better statistics on voting fraud, that is one  
6 question. The other question is, is there a way  
7 of identifying at this point certain parts in  
8 the election process that are more vulnerable,  
9 that we should be addressing.

10 MS. WANG: That's what I am trying to  
11 say.

12 MR. GINSBERG: I guess I am curious  
13 about why there is some academic work being done  
14 about this when, in fact, in six months, you  
15 have got the ultimate laboratory. Why would you  
16 not come out with some sort of methodology to go  
17 into all the polling places where there may be  
18 an issue, with what amounts to a bipartisan  
19 team, and take a look at it.

20 MS. WANG: That was actually in a  
21 couple at least of the suggestions of  
22 methodologies from the political scientist, but

61

1 imagine the resources that it would take to get.

2 MR. GINSBERG: Truthfully, minimum.  
3 I admit that my background and prejudices are  
4 probably not where the political scientist's  
5 are, as an academic matter.

6 MR. BAUER: Ben is a former  
Page 45

008672

7 journalist.

8           MR. GINSBERG: In the last election,  
9 for example, in the Republican Party and the  
10 Democratic Party, there were pretty good  
11 samplings of precincts that had a Republican and  
12 Democrat, probably 10,000 precincts around the  
13 country more or less. Why would you not have a  
14 Republican and a Democrat in each one of those?  
15 With all due respect to the voters, a lot of  
16 those groups are going to be perceived as  
17 partisan, but I mean --

18           MR. GINSBERG: Maybe perceived but to  
19 make it valid, you need to have representatives  
20 of the parties conducting this and taking a look  
21 at precincts, any precinct anybody wants in the  
22 country where you're thinking there may be

62

1 intimidation, where there may be fraud. And  
2 instead of turning it into some sort of  
3 political charge pre election, actually have  
4 observers from both parties in the places where  
5 this is most likely to occur, and see if it  
6 occurs and how it occurs.

7           MS. WANG: The problem with having it  
8 limited to those jurisdictions where you suspect  
9 that it's very likely bad things will happen is  
10 then you have a skewed result.

11           MR. GINSBERG: Well, I think you I  
12 said any precinct anybody wanted to put people.

13           MR. GREENBAUM: Which sometimes you  
14 don't know there's going to be problems. Who  
Page 46

15 knew that Dilluth, Minnesota. We certainly had  
16 no awareness that Dilluth, Minnesota was going  
17 to be an area where Indian voters were going to  
18 get intimidated at the polls.

19 My other concern is, a lot of times,  
20 that is things outside of what either party  
21 cares about. Sometimes there are maybe in  
22 places where you have partisan elections that

63

1 are going to be very close. Sometimes the  
2 issues involve nonpartisan elections.

3 MR. GINSBERG: I don't disagree with  
4 that. It can be any place where anybody  
5 perceives a problem.

6 MR. SEREBROV: But one of the  
7 questions was absentee ballots, how do you deal  
8 with absentee ballots at a polling place.

9 MR. HEARNE: I think Ben's discussion  
10 is a good one. The point he is saying, we have  
11 a great laboratory coming up in terms of an  
12 election. We can go back through next Tuesday,  
13 that is all variable. I'm not saying it's not  
14 at all, but the concept of being able to say  
15 here's an election upcoming we're developing.  
16 If you're going to need to develop some  
17 methodology to study it, you can develop the  
18 methodology looking forward to the event.

19 MR. SEREBROV: wouldn't it be better  
20 to wait for 2008?

21 MR. HEARNE: If you look forward to  
22 that, and take the two stakeholders in the

1 election, which are going to be the party -- the  
2 two parties, and figure out a way where you find  
3 your hottest, most concerned polling places, we  
4 will find the ones. You could do some  
5 statistical analysis, find out ones that have  
6 the greatest aberration, and try to identify  
7 them, whatever way you want to do it.

8           MR. BAUER: If I may, this is  
9 probably not the first time I have made an  
10 unwise suggestion. I think from a whole host of  
11 respects, it is very, very difficult to sell.  
12 First of all, I don't think the American public  
13 is going to want an election system where two  
14 parties are involved in the election system.  
15 Secondly, anybody who's served the parties would  
16 know how quickly they will arrive at  
17 understanding workers in polling places.

18           I tend to get along with Republicans,  
19 but I doubt this would be anything other than  
20 attractive and efficient controversial effort.

21           And the last point I would make is,  
22 you're introducing a variable into the very

65

1 thing you want to study. If you announce  
2 political parties are going out into the field,  
3 you're going to affect behavior and you're going  
4 to end up changing the subject you are  
5 undertaking to study. It is not scientific,  
6 will have zero credibility, and it is not what a

7 U.S. Government enterprise should go through.

8 MR. GINSBERG: The point was, you're  
9 not looking to monitor the sanctity of American  
10 elections. What you're looking for is valid  
11 data to collect. And part of the problem that I  
12 think you've got with the data you're collecting  
13 is you're not sure how true it is. You are not  
14 sure how much is political charges. You are not  
15 sure, as you said, it is the charge that is made  
16 one day all over the front page but straightened  
17 out three weeks later. This is for data  
18 collection purposes. This isn't about  
19 monitoring the sanctity of the election.

20 MR. BAUER: The data collectors don't  
21 have any credibility. The two major party  
22 organizations in this country are not neutral

66

1 collectors of data. Everything they are going  
2 to collect is going to be collected in a  
3 partisan way. That is true on your side. We're  
4 not going to be able to persuade anybody that  
5 this is anything different.

6 MS. WANG: We already have -- the  
7 Department of Justice has a major observer  
8 program.

9 MR. WEINBERG: The article lays out  
10 exactly how the justice department finds the  
11 polling places to put observers in. And it also  
12 collects examples of the observer report fields.  
13 So this -- and internationally, those of us who  
14 have done international stuff know we do pretty

15 much the same thing, and they use pretty much  
16 the same kind of forms. The fact of the matter  
17 is that I think you can get a lot of data, you  
18 can get it on a form. And the fact that people  
19 are two different political parties doesn't mean  
20 they are going to try to lie on forms. If it  
21 does, things are pretty sad.

22                   The other thing is that you do affect  
67

1 the election, and that's not bad. One of the  
2 great, great saving graces of the observer  
3 function is it opens everything up. You have  
4 transparency. First time you don't have people  
5 wondering what's going on in the polling places.  
6 You have people knowing what is going on in the  
7 polling places. And there's ways to control  
8 them. They can sit in particular places. If  
9 they have complaints, they can complaint to the  
10 precinct chair.

11                   There are things that you can do and  
12 there are ways to organize it, and you can  
13 figure out which polling places, what goal  
14 you're trying to achieve that you can get  
15 information. If you get it every election,  
16 every year for the 25 years, I have seen and  
17 it's doable. Will it take a lot of people,  
18 sure. Take organizing, yes, but you know,  
19 organizing is what you want, if you're going to  
20 get data. Is it going to be scientifically  
21 reliable, I don't know. I don't know if there  
22 is anything that can be done, having read all

68

1 that, that is going to end up scientifically  
2 reliable.

3           But what impressed me in reading  
4 through all this is that these problems are not  
5 -- you don't have the one solution fits all. If  
6 you've got things happening inside polling  
7 places, that's one thing. If you have things  
8 happening on absentee ballots, you're going to  
9 have a different approach. If you have  
10 intimidation of voters, polling signs put up,  
11 you're going to get deported if you vote, that's  
12 a different problem. And I don't think you're  
13 going to find a solution to either get data on  
14 or resolve any of those problems with the same  
15 solution.

16           MS. WANG: So you need multiple  
17 studies.

18           MR. DON SANTO: I will tend to agree  
19 with my friend Barry, and add to that a couple  
20 caveats. Number one, the program Barry  
21 honorably oversaw for a large part of his life  
22 is based on a federal statute that gives the

69

1 Federal Government statutory authority to put  
2 federal observers in polling places when certain  
3 conditions are certified to exist by the  
4 Attorney General. Only a few states, I haven't  
5 done a count, not all states allow election  
6 monitors to be in the polls.

7           So you start out with the problem of  
Page 51



Transcript 051806

8 access in the polling place. This is a problem  
9 for us in law enforcement. We can know that  
10 something is going to go on. If we were told  
11 something was going to go on in Polling Place 3  
12 in Ward 4 in Chicago, we could send somebody in  
13 there. I guess we could. Bad example.

14 MS. WANG: That's the recommendation  
15 that we come out to change or encourage states  
16 to change that.

17 MR. DONSANTO: But in terms of your  
18 ability to employ something now, it's an  
19 obstacle you have to overcome.

20 Secondly, and I think Barry touched  
21 on this --

22 MR. SEREBROV: Maybe we'd overcome it  
70

1 if you get a candidate to appoint you as a poll  
2 worker.

3 MR. DONSANTO: Then you get into a  
4 position where you're skewing data. That's  
5 where you're politicizing more so than just a  
6 party watcher.

7 MR. SEREBROV: You can get the  
8 parties to authorize you.

9 MR. DONSANTO: In Virginia, they  
10 don't have poll watchers in Virginia. If a  
11 candidate were to try to put a poll cashier in  
12 Virginia, he would be kicked out, and most  
13 states follow that rule, whatever.

14 The other thing is that I think it  
15 was brought up early on in what you all

16 presented here, the types of things that go  
17 wrong inside polling places are really not  
18 representative of the uniform of things that go  
19 wrong. The types of things -- there used to be  
20 a time when election fraud was committed by poll  
21 officers who just stole elections, but during  
22 the past 30 or 40 years that I've been watching 71

1 this stuff, the election administration business  
2 has become more professionalized. And when you  
3 have a professional sort of approach to the job  
4 of administering elections, although there may  
5 be something there that is representing a  
6 political party, your loyalty goes beyond that  
7 to the process. And it's becoming extremely  
8 rare, extremely rare today, to find polling  
9 officials that are complacent in election fraud,  
10 whereas 30, 40 years ago, it was not unusual at  
11 all.

12               So you know the kind of methodologies  
13 that you've been talking about are not, for  
14 example, going to allow you to capture  
15 information on things that take place at the  
16 polling place. It is not going to allow to you  
17 capture information on intimidating voters,  
18 absentee ballots. The situation is very hard to  
19 measure.

20               MR. WEINBERG: It will give you  
21 information on the difference in treatment of  
22 voters that happens frequently, and it will give 72

1 you other information about what happens as far  
2 as the process, and whether the process is being  
3 followed.

4           Professional balloting is a huge  
5 question that's come up. Nobody knows how that  
6 works anywhere, and whatever happens to those  
7 ballots, I mean, come on. There are things that  
8 you can learn about problems that contribute to  
9 the distrust of the election process, even  
10 though you probably wouldn't see a whole lot of  
11 direct fraud.

12           MS. WANG: Again, the provisional  
13 ballot is an interesting issue to raise.  
14 Michael McDonald, who worked on the election day  
15 study, he and I have talk about this a lot.  
16 Section 203 covered jurisdictions, there was  
17 more use of provisional ballots than in any kind  
18 of jurisdiction. Can you start to draw  
19 conclusions from that? So that's another thing  
20 that you can look at.

21           MR. WEINBERG: I'll just interject  
22 one more thing. There is the re-authorization

73

1 of the Voting Rights act, that what we ought to  
2 do is cut loose the observing from the  
3 technically special covered jurisdictions and  
4 have them be able to be assigned nationwide with  
5 specific criteria, and that would help a lot of  
6 the problems.

7           MR. BAUER: Our mandate here is to

8 look at the research. I disagree with the  
9 secretary. I think some of the preliminary work  
10 is absolutely essential to the credibility, to  
11 the thoughtfulness and integrity of the effort,  
12 but I don't think that, as I read this, this  
13 means that our judgement is that we leave the  
14 work that's been done today and create a hybrid  
15 project which has as its aim to function as  
16 improvement on current observing programs.  
17 That's just not our mandate.

18 MR. GINSBERG: So our goal is to have  
19 bad elections so we can get good data?

20 MS. WANG: You may be familiar with  
21 this work by a woman named Susan Hyde,  
22 University of San Diego, doing a comparison

74

1 where there are observers as compared to where  
2 there are not observers.

3 MS. ROGERS: I'd like to suggest, in  
4 addition to party observing, states put their  
5 own observing on the ground. When you come into  
6 a state, unless you immerse yourself in that  
7 state's laws and that state's procedures, often  
8 you don't know what you're observing. You don't  
9 know if what you're seeing is legal or illegal.

10 we did work with lawyers committee  
11 and election protection, and reviewed a lot of  
12 their information, sent back edits. We audited  
13 some of their training classes and gave feedback  
14 to those training classes. We had a lot of  
15 community hotline communication on Election Day

16 where they called to tell us what they received.  
17 Not everyone does that, but we're unable to  
18 quantify what is observed or what is alleged as  
19 fraud because the complaint doesn't come to us.  
20 It may go to either party and they not share  
21 that information with the local jurisdiction or  
22 with the state election official.

75

1                   We've put 80 to 100 observing from  
2 the Secretary of State's Office on the ground  
3 since 2002. We provide them with radios set up  
4 like a little war room. They call us when there  
5 is a problem and we immediately have someone  
6 there to find out what that problem is. They  
7 write up reports, and they are able to take  
8 those reports, and we know where we need to go  
9 and what areas need to be shored up. This  
10 allows us to have the ability to change the  
11 process, if something needs to be changed.

12                   Another thing, as far as parties in  
13 our state, now the parties, rather than having  
14 to be appointed as a poll watcher by a  
15 candidate, each party is allowed to appoint up  
16 to 25 statewide poll watchers. These people can  
17 go anywhere they want to go. It seems to work  
18 very well.

19                   MR. SEREBROV: I wanted to make two  
20 points. One was a reaction to some of the  
21 comments before. I know Arkansas and lot of  
22 southern states, both the parties and the

76

1 candidates are allowed to have watchers in every  
2 poll. The other thing is, in Arkansas, the  
3 Secretary of State doesn't have the statutory  
4 authority to do what you're doing in Georgia. I  
5 wish they did. It would make my life a lot  
6 easier, especially in the past, and it would  
7 make Tim Humphrey's life a lot easier, if you  
8 knew Tim. But really it's a state by state  
9 problem. I don't have a gist -- and this is  
10 something we talked about, there was also a  
11 sampling of state law in the next phase to see  
12 where the bugs are in that system.

13 MS. ROGERS: In Georgia, some of you  
14 may know we have a state election board who has  
15 authority. I actually yesterday pulled a list  
16 of cases that we investigated in 2004. I don't  
17 have the 2005 ones on here, but I can tell you  
18 right now, of all of these cases right here, the  
19 state election board investigated the majority  
20 of these were absentee ballots.

21 MS. WANG: Well, I wish that every  
22 state did what you did, then we could just add

77

1 them all up. One thing we found, of course,  
2 almost no states do that. Also, we spoke to  
3 your successor, John Tanner. And the Federal  
4 Government, the Department of Justice keeps a  
5 database of what comes in but they will not  
6 release that information to us. And they also  
7 would not release to us any more than a few  
8 dozen of the observer reports, which we also  
Page 57

9 think might be useful.

10 MS. ROGERS: We've seen a high  
11 success rate, not in deferring fraud, but in  
12 deferring the actions of election officials and  
13 poll workers. Those actions where you talked  
14 about you can't determine if they are fraud but  
15 yet they appear to be a lack of attention to  
16 detail. We bring these people up regularly.  
17 And when you bring them up in front of their  
18 peers, it is a huge deterrence. And you're  
19 correct, every case we have brought forward, it  
20 has not been an instance of fraud.

21 MS. SIMS: Well, I was wondering,  
22 before we continue on, because we're already

78

1 getting some ideas for possible areas and it  
2 might be worthwhile just to put these ideas  
3 down, even though I am certainly not looking at  
4 this as all one project. Some of these things  
5 are not going to be one project, and some things  
6 will be more problematic and may not be  
7 something we can do right away.

8 For example, for a number of reasons,  
9 we couldn't do observers in this fall's  
10 election, not the least of which is financial.  
11 We probably won't have a budget, '07 budget, by  
12 then. But actually, before we go on to this,  
13 would it be okay if we talked about the  
14 definition of voting fraud. Particularly, I'd  
15 like to get into intimidation and suppression  
16 areas.

17                   If you don't have copies of that, we  
18 can quickly run off some copies. One of the  
19 reasons why I think this is of concern,  
20 obviously, it would be helpful if we all knew  
21 what we meant when we were talking about voter  
22 fraud or voter intimidation. As we progress in

□ 79

1 terms of what we want to research or how we want  
2 to identify it or develop projects to identify  
3 and deter and investigate, we have some common  
4 ground.

5                   MS. WANG: Did people get a chance to  
6 look at the definition, and were there  
7 objections?

8                   MR. DONSANTO: Comments. The  
9 definition in the opening paragraph of this is,  
10 I think, taken from something that's kind of the  
11 operational way that we articulate what voter  
12 fraud is as distinguished from the types of  
13 things that go on in the process. So that's how  
14 we define vote fraud.

15                   MS. WANG: It is the sincerest form  
16 of flattery.

17                   MR. DONSANTO: Well, whatever.  
18 However, since half of this program is not  
19 directed so much at fraud but focuses on  
20 intimidation, I think we need to define the term  
21 intimidation. Intimidation is a term that in  
22 the context of elections, in my experience, has

□ 80



1 no meaning at all. It can mean anything that  
2 happens to you in connection with voting that  
3 you don't like or that happens to somebody that  
4 supports you that you don't like to. And the  
5 other extreme, somebody who gets killed or a  
6 cross burned on his yard to retaliate against  
7 them for having exercised a franchise.

8           The word fraud is a word that  
9 connotes criminal. Criminal connotes that the  
10 remedy for doing it is to put somebody in jail,  
11 to afford that person all the procedural rights  
12 given to someone in a criminal trial, including  
13 the right to counsel, and obligation of the  
14 prosecutor to prove the case beyond a reasonable  
15 doubt.

16           When applied to the word  
17 intimidation, our research on the laws that  
18 exist at the federal level has been that the  
19 word intimidate in the criminal statutes means  
20 to apply physical or economic duress upon a  
21 victim in connection with a voting act. And if  
22 you're going to use the word intimidate as you

81

1 have in the fourth and fifth bullet from the  
2 bottom on your page, I think accuracy would  
3 require that you limit it to that.

4           MS. WANG: well, that is to me  
5 personally -- I don't speak for Job. See if he  
6 agrees with me on this. This is a major matter  
7 of concern to me. One of the things that I have  
8 been exploring in my own head is the idea of

9 changing that so that you can broaden the  
10 criminal intimidation laws on the civil side.

11 MR. DONSANTO: That's a civil side,  
12 that's a different issue. That's not fraud.  
13 Fraud equals crime.

14 MS. WANG: well, the question --

15 MR. DONSANTO: Intimidation, there  
16 are a universe of activities that can be  
17 directed at people in a category of voter  
18 suppression which are not fraud, which are  
19 directed in the political process. Signs are a  
20 good example of that.

21 MS. WANG: I think they are not under  
22 the criminal law fraud, but if you think of

82

1 fraud, and this is how we perceive fraud,  
2 anything that distorts the system, the process,  
3 then certainly, keeping people from voting has  
4 the same distorting impact.

5 MR. DONSANTO: Yes, I agree with you.  
6 The thing that you're leaving out is the word  
7 corrupted, to affect an election campaign or  
8 affects activities at the poll. Everything that  
9 affects activities at the polls is encompassed  
10 within your definition, and that encompasses  
11 everything that occurs from the nominating  
12 process on, criminal activity which is so  
13 anti-social in that it warrants the ultimate  
14 societal punishment, incarceration.

15 Now, I'm not going to tell you -- the  
16 word I am focusing on here is intimidation.

17 There is an entirely another area having to do  
18 with voter suppression which we're just  
19 beginning to explore. And I give you an example  
20 of how we're exploring this is the Tobin case  
21 was sentenced yesterday. It was in The Post  
22 yesterday. We're trying at justice to find ways

83

1 to get at using the statutes, which we have to  
2 get at aggravated forms of voter suppression. A  
3 maliciously designed denial of service directed  
4 at a get-out-to-vote telephone bank sufficiently  
5 possessed criminal malfeasance that the person  
6 who does something like that should go to jail.  
7 Mr. Tobin, who is the executive director of the  
8 New England Region of the Republican Party, is  
9 facing ten months as a guest of the Attorney  
10 General of the United States. Somebody who puts  
11 -- maliciously circulates posters that contain,  
12 "Republicans vote on Tuesday, Democrats vote on  
13 Wednesday."

14               If we could find the people who do  
15 that sort of thing, that isn't voter  
16 intimidation. That is voter suppression. And,  
17 yes, that kind of conduct, if done for the  
18 design of deterring someone from voting, ought  
19 to be a crime. And I assure you we have  
20 investigated every single instance that has been  
21 brought to our attention, and every single  
22 instance, when we did an investigation, we were

84

1 unable to find who did it.

Transcript 051806

2 MR. BAUER: I'd like to ask a  
3 question. I'm not sure about the distinction  
4 between suppression and intimidation.  
5 Intimidation is a vehicle for achieving  
6 suppression.

7 MR. DONSANTO: You're right.

8 MR. BAUER: In one sense, there may  
9 not be any difference in intent or effect.

10 MR. DONSANTO: Right.

11 MR. BAUER: The second question I  
12 wanted to ask you, if you deal with this  
13 definitional change, if you talk about physical  
14 or --

15 MR. DONSANTO: In the context of the  
16 term of intimidation, I would limit it that way.

17 MR. BAUER: But intimidation is  
18 related to suppression, in terms of Mr. Tobin.

19 MR. DONSANTO: No, his is not an  
20 intimidation. That's corrupt suppression.

21 MR. BAUER: Here's my question.  
22 Intimidation conducted on a systematic scale for  
□ 85

1 the purpose of driving people away from the  
2 polls has a suppressive nature.

3 MR. DONSANTO: I don't disagree, but  
4 the question becomes what methodology they are  
5 using to achieve that result.

6 MR. BAUER: The point you made about  
7 capping off the physical and economic portion.

8 MR. DONSANTO: As far as intimidation  
9 is concerned. Suppression is a broader term.

10 MR. BAUER: Let's talk about that  
11 part of intimidation because I think, quite  
12 frankly, intimidation isn't done for the  
13 psychological joy of the intimidator. It is to  
14 drive people away from the polls.

15 Granted, the justice department will  
16 be looking to converting it to criminally liable  
17 behavior. It has the feel, tone, color, of  
18 maliciously interfering with people's lives.

19 MR. DON SANTO: Corrupt. I think I  
20 see where you're going.

21 MR. BAUER: What if you have a party  
22 that dresses up people in para military so they 86

1 look like military soldiers, and sends them into  
2 targeted polling places to yell at voters as  
3 they walk in, that they need to produce their  
4 IDs, showing it to these people. If you had  
5 that on a widespread, organized basis, and it is  
6 clearly an intimidating behavior, it is clearly  
7 malicious, you wouldn't say that that's outside  
8 the range of conduct you would be concerned  
9 about.

10 MR. DON SANTO: Under the laws we have  
11 to work with today, Bob, that's not corrupt.

12 MR. BAUER: But you think the laws  
13 you work with are supple enough?

14 MR. DON SANTO: We're trying to bend  
15 the ones we've got to address aggravated cases  
16 of voter suppression, and the Tobin case is an  
17 example of that. And you know how we do this,

18 if we won Tobin and we get a District Court  
19 opinion, although he was acquitted on the 241  
20 Count, if we got an opinion from the Court  
21 saying the statute applies to this conduct,  
22 that's the goal. You can bet the next time we

87

1 have a denying of service attack, we're going to  
2 attack it the same way. Whether we can then  
3 take that case and make it apply to different  
4 facts, we'll try.

5 MR. BAUER: That's what I wanted to  
6 not.

7 MR. DONSANTO: But this is a work in  
8 progress.

9 MS. WANG: Does this argue for a new  
10 law?

11 MR. DONSANTO: I don't know that is a  
12 policy question.

13 MR. HEARNE: Let me ask a question to  
14 clarify that, to see where we are right now.

15 You mentioned the Tobin situation. The  
16 allegation was often made and sometimes occurs  
17 that an organization makes phone calls  
18 intentionally misdirecting a voter to the wrong  
19 poll, saying you have to bring eight forms of  
20 identification, voting is on Wednesday.

21 MR. DONSANTO: That's false.  
22 We would investigate that.

88

1 MR. GREENBAUM: Craig, can I call you

2 directly?

3 MR. DONSANTO: FBI.

4 MR. GREENBAUM: We did that twice in  
5 2004. We had other instances we could have done  
6 it. And the FBI, they did not want to  
7 follow-up. We had the complainant.

8 MR. DONSANTO: which field division?

9 MR. GREENBAUM: In Arizona, in  
10 Florida. Florida, I think it was Palm Beach.

11 MR. DONSANTO: I'll tell you what  
12 I'll do, I am not here to protest or intake  
13 cases, but I write an awful FD 302.

14 MR. GREENBAUM: In Arizona --

15 MR. DONSANTO: If you can send me a  
16 paragraph on these, I will send it to the  
17 district election officer in that district and  
18 ask what happened. I won't be able to tell you  
19 what they responded to, but I will in fact  
20 query. Because what I said is true, if we can  
21 find out who does that sort of thing, I am eager  
22 to.

89

1 MR. HEARNE: Craig, in your opinion,  
2 someone making those kind of false statements,  
3 is that within what you understand to be  
4 intimidation?

5 MR. DONSANTO: If it occurs within a  
6 federal election. That is the unique way the  
7 laws were written about, if it occurs in a  
8 federal election, that sort of behavior is a  
9 conspiracy to deprive the victim of their right

10 to vote for federal office.

11 MS. WANG: I have to say, in some of  
12 the interviews, we have heard similar complaints  
13 from the people from the advocacy organizations,  
14 that they have sent reams of documentation to  
15 the DOJ and not gotten a response.

16 MR. GREENBAUM: We did something to  
17 Tanner or to Alex Costa. Alex called back and  
18 said, "Talk to the FBI." With two of the  
19 instances, we talked to the FBI, and it was  
20 clear that they just had no intention of doing  
21 anything with it. Frankly, it turned us off  
22 after that.

90

1 MR. DONSANTO: In Arizona, I am not  
2 entirely surprised, but that may be a personnel  
3 problem. And it also may be a problem with  
4 respect to how your facts fell insofar as the  
5 law. It may be the fact that your facts did not  
6 produce sufficient leads. These are all things.

7 MR. GREENBAUM: In one case we  
8 actually had -- the person actually had the  
9 number, because of caller ID and actually called  
10 the number back, and someone answered the phone  
11 and identified who they were affiliated with.

12 MR. DONSANTO: Right. This occurred  
13 in the 2004 general election?

14 MR. GREENBAUM: Yes, it did.

15 MR. HEARNE: I can give you another  
16 example that was presented to Congress, and it  
17 was not followed up. That was a phone call to a \*



18 sitting retired Ohio judge in Marion County,  
19 Ohio.

20 MR. DON SANTO: We did follow-up on  
21 that one.

22 MR. SEREBROV: Yes. There was the

91

1 case I gave you.

2 MS. WANG: You might want to look at  
3 the summaries of the interviews, because a  
4 number of people have said they have given all  
5 this information to the Department of Justice,  
6 and they haven't done anything. I am just the  
7 bearer of the news.

8 MR. DON SANTO: And the other thing  
9 that bears in mind, we cannot prosecute  
10 everything. We try to, based on the degree of  
11 severity of the event and the need for  
12 deterrence.

13 MR. HEARNE: Craig, not to belabor  
14 the point but to make sure, in terms of the  
15 intimidation, that I think it's very important  
16 that we all understand, every election I ever  
17 remember hearing about, we have these  
18 allegations. And we always hear them and  
19 everybody says, well, hey, no one did anything.  
20 We're talking about calls to voters, like the  
21 Tobin situation. We just talked about the other  
22 situation, calls directed to voters trying to

92

1 give them misinformation.

2 what about calls to other people  
Page 68

008695

3 involved in the election, somebody calling and  
4 saying, if you participate as an observer, as a  
5 volunteer in an election, that we're going to  
6 sue you for doing that, not voting, just  
7 participating in the election process.

8 MR. DONSANTO: I'm not going to  
9 comment on whether that's a crime or not.  
10 That's probably more a statement of fact. The  
11 underlying thing is that is communicated, it has  
12 to be false. I understand why come people will  
13 be appalled of the fact that you intend to put  
14 poll observers in their precinct, and say want  
15 to sue you.

16 MS. WANG: My understanding is you  
17 don't think the way we have intimidation here is  
18 comports with what the legal definition is.

19 MR. DONSANTO: I think out of the  
20 exchange that I had, I think I have changed my  
21 thinking a little bit. Can I run it out a  
22 second time, see if it comes out better.

93

1 The word intimidate is a word of art  
2 that connotes physical or economic duress in  
3 terms of criminal behavior, okay.

4 The word suppression is a work in  
5 progress. I can tell you it addresses denial of  
6 services, actions directed at get-out-to-vote  
7 drives. I can tell you it is directed at  
8 situations where maliciously false information  
9 is communicated to voters to prevent them from  
10 voting in election federal elections. Change  
Page 69

11 poll places, hiding the poll place, that's an  
12 old type of thing.

13                   So the point is the extent to which  
14 the word suppression can be translated into  
15 crime is a work in progress, with certain  
16 aspects of it that I have just summarized here  
17 being clearly within the definition but not  
18 necessarily having those being exclusive.

19                   MS. WANG: So is there some  
20 particular language that you might suggest?

21                   MR. DON SANTO: I think the word  
22 corruptly.

94

1                   MS. SIMS: So the fifth bullet from  
2 the bottom.

3                   MR. DON SANTO: Intimidating practices  
4 involving the use of economic, physical duress  
5 to prevent or deter voting activity, and then a  
6 separate bullet having to do with suppression,  
7 corrupt activities or activities aimed at  
8 corruptly suppressing. Corruptly with a word  
9 that connotes specific intent. It's kind of  
10 like you know it when you see it.

11                   MS. WANG: Are we limited to the  
12 Department of Justice definition of  
13 intimidation?

14                   MR. DON SANTO: You can do anything  
15 that you want to do.

16                   MS. WANG: Because I would rather not  
17 have it be limited to economic or physical  
18 deprivation.

Transcript 051806

19 MR. DONSANTO: This is what I am  
20 trying to avoid, is that there are some things  
21 that happen in the political process that aren't  
22 pleasant, and the rent-a-cop scenario is one of

95

1 those, the poll watcher who aggressively pursues  
2 his mandate and poll watches.

3 MS. WANG: That's what I'm talking  
4 about.

5 MR. DONSANTO: That's not a crime  
6 Fraud is a word that connotes crime.

7 MR. GINSBERG: You can't tune your  
8 definitions to create a political resolve,  
9 unless you want to make a political statement,  
10 which is fine, but then let's label it that way.  
11 And I hope that if you're going to manufacture a  
12 definition like that, you would have precise  
13 examples of what you're trying to bring in to  
14 this new term you're coming up with.

15 MR. GREENBAUM: Sure. In terms of  
16 this type of intimidation, actually the example  
17 that Craig gave, the over aggressive poll  
18 watcher, there are cases out there where those  
19 poll watchers have been thrown out, not  
20 necessarily because they committed a crime, but  
21 they may have violated a statute.

22 MR. DONSANTO: And that is the

96

1 appropriate remedy for that kind of offense.

2 MR. GREENBAUM: But that's part of

3 intimidation though.

4 MR. GINSBERG: Poll watchers who are  
5 being more aggressive than the local people in  
6 the polls think that should be intimidating, and  
7 that the poll watcher should leave.

8 Where does that fit into your definition?

9 Let's deal with that example.

10 MR. BAUER: Well, I want to go to  
11 something you earlier said, which is, we  
12 shouldn't be concerned with anything that isn't  
13 criminal, that couldn't be established to be  
14 criminal. Well, you just said -- Craig said  
15 they are -- it is a work in progress to begin  
16 with. That is not a boundary that is easily set  
17 here.

18 And the second thing, I don't believe  
19 that the EAC should announce that it's only  
20 dealing with criminal forms of illegal conduct.

21 MR. GINSBERG: You can't stretch  
22 definitions to achieve a political result here. 97

1 I was referring to the way she was trying to  
2 change it.

3 MS. ROGERS: Does the definition  
4 include conspiring to do any of these?

5 MS. WANG: That can certainly be  
6 added.

7 MR. HEARNE: Let me ask a question.  
8 When you use the word intimidation, a lot of  
9 people have come to me in different contexts and  
10 say, "I find it intimidating when I go in and

11 people with signs are sticking something in  
12 front of me."

13 MS. WANG: Well, how did you make the  
14 distinction in the report that you wrote?

15 MR. HEARNE: Well, the report would  
16 be somebody trying to prevent somebody from  
17 exercising their right. That's a component  
18 point. You work into it.

19 MS. WANG: Intimidating practices.

20 MR. HEARNE: I want to bring out the  
21 point, it is not just a perception that some  
22 hypothetical voter found it intimidating to go

98

1 through the process, but it was intended by the  
2 person engaging in that act to deny that person  
3 their right to participate in the election.

4 MS. WANG: I had specifically wanted  
5 and I guess there had been some objection to  
6 having violations of the Voting Rights Act part  
7 of this definition, but I think Craig said what  
8 was the problem. I think there are some Section  
9 2 violations and there was an objection to that.

10 MR. DONSANTO: The problem that I've  
11 got with their definition is that the word fraud  
12 appears in the labelling definition, and I don't  
13 know what the Congress meant when it put that  
14 word in there.

15 I have been a prosecutor my whole  
16 life. To me, fraud is a crime. There is no  
17 such thing to me. Fraud connotes, yes, there is  
18 civil fraud, but civil fraud, I have always been

19 a believer in the fact that most civil frauds  
20 could be criminal fraud. Fraud is obtaining  
21 property from another through lying.

22 MS. WANG: Defining elect fraud and

99

1 defining voter intimidation.

2 MR. GINSBERG: Let me go back to my  
3 hypothetical. Does the definition of a poll  
4 watcher in an unfriendly precinct, who gets  
5 intimidated, who goes about his duties under the  
6 statute to challenge voters that he or she  
7 thinks may be improper, and is intimidated out of  
8 that polling place from doing the poll watcher's  
9 job, does that fit in your definition?

10 MS. WANG: well, that goes back to  
11 the problem of where do you draw the line  
12 between allegations and something that would  
13 indicate that there was some merit to it, some  
14 sort of investigation or official action, which  
15 is a problem that you have in all of these  
16 examples, so I can't say this is where you draw  
17 the line in this particular instance the same  
18 way. I'm not sure how you draw the line when  
19 someone alleges that a felon has voted and they  
20 should be prosecuted and thrown in jail and it  
21 is the case that they did not know where they  
22 were not allowed to vote. There is line drawing

100

1 that has to be done that isn't easy.

2 MR. DONSANTO: Couldn't you possibly  
3 address this by putting before the preface

Transcript 051806

4 something to the effect that the definition that  
5 we're providing here is a definition that we're  
6 going to be using to define the scope of this  
7 project? Most of the activities described here  
8 are crimes, but that is not necessarily the case  
9 with all of them.

10 MS. WANG: I'm fine with that.

11 MR. DONSANTO: Something like that.

12 MR. HEARNE: Tova, let me make sure  
13 your point is one that I agree with, is to say  
14 let's look at we're not saying somebody finds it  
15 intimidating, but something intimidating enough  
16 to prevent somebody lawfully participating in  
17 the election process. Do we include just the  
18 voter or other people, volunteers, people  
19 participating, people driving them to the poll?  
20 If somebody wants to drive somebody to the polls  
21 and slashes their tires, does that count as a  
22 suppression or intimidation?

101

1 MS. WANG: well, you know, we had  
2 that case already.

3 MR. HEARNE: when we look at that  
4 definition, what are we looking at?

5 MS. WANG: well, they are in jail  
6 now.

7 MR. DONSANTO: That's a Wisconsin  
8 case.

9 MR. GINSBERG: what's the distinction  
10 between that case and the phone case?

11 MR. DONSANTO: None. We wanted both  
Page 75

008702



12 of them. We were prepared to take both of them,  
13 but we only had enough resources to pursue one,  
14 and the District Attorney in Milwaukee agreed to  
15 take operation elephant flat foot. That's what  
16 it was called. The name of it was called  
17 elephant flat foot. Instead of jamming the  
18 phone lines of the get-out-to-vote drive, they  
19 took the vans that were going to be used to  
20 deliver voters to the polls and wrecked them.

21 MR. GINSBERG: Is that intimidation?

22 MS. WANG: It probably doesn't count  
102

1 because it does distort the ability to vote, so  
2 I would guess so.

3 MR. SEREBROV: Well, it's an  
4 intentional action, so it's included.

5 MR. DONSANTO: There is corrupt voter  
6 suppression, and those guys are all in jail.

7 MR. GINSBERG: And you don't have the  
8 federal precedent.

9 MR. DONSANTO: The same thing, the  
10 object of the scheme was to deprive the victim  
11 of their right to vote in a federal election,  
12 the right to vote for federal office. That was  
13 the object of it, same way as at the poll.

14 MS. WANG: Are there other comments  
15 or suggestions to the definition that we have,  
16 other than Craig's?

17 Is this a good time to take a break?

18 MS. SIMS: I wanted to mention that  
19 Secretary Todd ROKita had asked about

20 legislative history in connection with these two  
21 things. I had done some initial research and  
22 hadn't found it to be helpful. As I recall to a  
103

1 certain extent, these were, I believe,  
2 amendments added on the floor of the House, and  
3 I don't know there was a lot of discussion  
4 associated with them.

5 MR. ROKITA: Was there any?

6 MS. SIMS: Other than I knew that the  
7 voter intimidation was a direct reaction to the  
8 voting fraud amendment. What a surprise. That  
9 was pretty clear, but there wasn't a lot in here  
10 that I could see. The meat of this bill, the  
11 discussions took place outside of public venue.

12 MR. ROKITA: If there is some way we  
13 can run a quick search on 241 and print off some  
14 legislative history.

15 MR. DONSANTO: 241 was enacted in  
16 1886.

17 MR. ROKITA: Help America Vote Act.

18 MS. SIMS: We have a volunteer ready  
19 to do that, but it may be a good time to do a  
20 break.

21 MR. HEARNE: Before we conclude that  
22 point, my sense was, is somebody going to  
104

1 re-work it, are we going to break it into two?

2 MS. WANG: We're going to put this  
3 little preface. She got all this down.

4 MR. HEARNE: Is that transcript going  
5 to be available to us?

6 MS. SIMS: We can make it available  
7 to you, probably 15 days.

8 (Short Recess.)

9 MS. SIMS: As you notice, we have  
10 been joined by Paul DeGregorio and our Executive  
11 Director, Tom Wilkey, and Julie Thompson  
12 Hodgkins.

13 CHAIRMAN DEGREGORIO: Let me, first  
14 of all, thank you on behalf of the Commission  
15 for coming today and participating in this  
16 important working group. We know that Job and  
17 Tova have worked for many months now on this  
18 project, and some of you together, to discuss  
19 this important issue of voter fraud and voter  
20 intimidation that is required under HAVA for the  
21 EAC to take a look at. And we have taken our  
22 role very seriously to do, and believe they have

□ 105

1 brought together some of the best people in the  
2 country to take a look at these issues and to  
3 come forth with some ideas for the EAC.

4 Vice-Chairman Martinez wanted to be  
5 with us today, but his father is fairly sick in  
6 Austin, so he had to fly back yesterday evening  
7 to be with his father and so he couldn't be  
8 here, but I've asked our executive director, Tom  
9 Wilkey, raise your hand, and our legal counsel,  
10 Julie Hodgkins, to join us this afternoon.

11 I know that you all have had some

12 discussions already and we're really just going  
13 to listen, not to participate, because we know  
14 you are at the point where you're going to be  
15 talking about some recommendations and talking  
16 about some things that you want to direct to the  
17 EAC.

18                   So we thought it would be important  
19 just for us to sit back and to listen to the  
20 discussion so it can help us, as the consultant,  
21 to then move forward with recommendations to us  
22 in future months. Thank you, again, for

106

1 participating. I don't know if you're going to  
2 have future working groups of this group, but  
3 certainly --

4                   MS. SIMS: Not for this phase, but if  
5 we have subsequent research, I'm sure that we'll  
6 need working groups to help us with that.

7                   CHAIRMAN DEGREGORIO: Peggy Sims and  
8 I go back twenty years when I was the director  
9 of elections in St. Louis County, and Thor was  
10 pretty young and maybe still in law school. I  
11 remember those days. I used to call Peggy when  
12 she worked for the Federal Election Commission  
13 in Franklin. Donsanto also goes back many, many  
14 years to IACREAT seminars when I used to hear  
15 him talk about voter fraud issues throughout the  
16 country. We have got some other people in our  
17 own staff who are participating in helping this  
18 along. Thank you, Peggy, for your work. I will  
19 let you go ahead and continue.

20 MS. SIMS: Okay. I just wanted to  
21 say as we get into ideas, because remember,  
22 we're not just talking about statistics, we're

107

1 talking about identifying, deterring, and  
2 investigating voter fraud and voter  
3 intimidation. Some of that, in my mind, and  
4 this is, again, from my experience at FEC, will  
5 involve the process and how election officials  
6 run the process.

7 we're also working on management  
8 guidelines for voting systems. As you may know,  
9 the EAC recently released its voluntary voting  
10 system guidelines which are used to test voting  
11 equipment. Now, we're also focusing -- we're  
12 also working on updating those guidelines. That  
13 is going to be a constant process, but the  
14 companion piece, one that I know Tom Wilkey has  
15 urged us to do for a long time, is to develop  
16 management guidelines for the management of  
17 these voting systems. We're working on that  
18 right now.

19 Also, we have a project looking at  
20 state vote counting and recounting laws in  
21 contested elections. And the effort will also  
22 pick up best practices that apply to these

108

1 areas.

2 we also have a report that is being  
3 -- I guess it is still in the draft stage for  
4 provisional voting, and one on voter ID that

5 might relate to some of these problems that we  
6 saw, that may actually relate more to how the  
7 process is administered rather than actual  
8 voting fraud. But if these processes are  
9 administered badly, they can leave open the  
10 opportunity for voting fraud.

11                   So I wanted to make sure you had that  
12 information available before we got into this  
13 discussion.

14                   MS. WANG: Okay. Well, as I kept  
15 referring to earlier, I did talk to a bunch of  
16 political scientists and other expert types in  
17 the field. You have in your materials sort of  
18 summaries of the recommendations that they made.  
19 As I said, if ever there was something everyone  
20 agreed to, this would be a complex undertaking.  
21 I am not a political scientist so I am sort of  
22 reluctant to myself recommend any one of these

109

1 methodologies over another, which is why I think  
2 in Phase 2 it will be necessary to have someone  
3 of the nature of the people I interviewed  
4 involved in the process, someone who really  
5 knows how to do statistical work and do these  
6 kind of studies. And there are people out there  
7 like that, and I can make some recommendations  
8 in that regard.

9                   I would note that several of the  
10 recommended methodologies, sort of a  
11 multi-pronged approach we were getting at  
12 earlier, many of them include the elements of

13 conducting more interviews, doing a survey,  
14 which I know brings up issues for the EAC, but  
15 doing a survey of voters or administrators or  
16 both, and finally, analyzing and doing voting  
17 list comparisons.

18               So I'm happy to talk further about  
19 any of the particular methodologies that were  
20 suggested to me but I think I don't feel that I  
21 am necessarily in the position to judge which of  
22 these is best, and I would be open to any

110

1 thoughts you have as to what seemed like they  
2 make the most sense.

3               MS. SIMS: The difficulties we have  
4 with surveys is because this agency, unlike FEC,  
5 is under the Paperwork Reduction Act  
6 requirement, which means we have to go through a  
7 process which Julie could tell you, if you need  
8 to know. But what it does is delays our ability  
9 to be able to do surveys quickly because we have  
10 to go through this process before we're allowed  
11 to conduct surveys.

12               MR. DONSANTO: Paperwork Reduction  
13 Act requires you to --

14               MS. SIMS: Make paperwork, yes. The  
15 only reason why I bring that up then is if we're  
16 going to have surveys as part of a research  
17 process, we have to build in time to be able to  
18 go through this process to get our surveys  
19 approved and ready to go.

20               I know people were already talking

21 about some ideas earlier. I will just go ahead  
22 and put them up. I know we had a discussion

111

1 about observers, using observers or poll  
2 watchers. I'm not making any judgements on the  
3 cost of these or our ability to do this. I just  
4 want to make sure we put up our ideas.

5 MR. CORTES: In terms of that, could  
6 we define when we're talking about observers,  
7 what those people actually do in the polling  
8 place? I think there's different states have  
9 allowed different types of access to people and  
10 what they can do there. I believe you mentioned  
11 earlier that in Virginia there aren't observers  
12 allowed, but they do have people in the parties  
13 in there that keep track of who comes into the  
14 polling place.

15 So in terms of making those  
16 distinctions, if we could get some definitions  
17 for these, I think it would be helpful.

18 MS. SIMS: Would we be able to do the  
19 definitions or would these be defined by the  
20 states?

21 MR. SEREBROV: Part of our suggestion  
22 was a survey state wise.

112

1 MR. HEARNE: In terms of what I think  
2 Ben was suggesting, I think Barry had a concept.  
3 what you were talking about, Barry, was sort of  
4 the rigorous questionnaire kind of thing that is



5 a uniform observation form that observers were  
6 given, with very quantifiable data, that they go  
7 in and observe the conduct of the election and  
8 report anything based on that sort of standard.  
9 That is what you're conceiving. So somebody  
10 would say, how many people are registered to  
11 vote here, how many machines are in this polling  
12 place, how long a wait, how many people came  
13 through the line, check off those objective  
14 factors, is that what you're thinking of?

15 MR. WEINBERG: Right, whatever else,  
16 comments observers want to make on the forms.

17 MR. GREENBAUM: At this point, we're  
18 just putting ideas on the table. We're not  
19 discussing how we feel about them.

20 MS. SIMS: That's correct. We know  
21 we don't have universal support.

22 MS. ROGERS: On the subject of

113

1 observers, there seems to be two prongs; one,  
2 observers used in the collection of data, but  
3 two, observers used as a methodology in  
4 deterring fraud, which seems to me to be two  
5 different uses of observers, and I wanted to  
6 record that.

7 MS. WANG: Let's just talk about the  
8 methodology first because I have a list of  
9 things that we should do going forward.  
10 I am focusing on the methodologies first.

11 what do you all think about doing a  
12 survey?

13 MR. DONSANTO: Survey of what?  
14 MS. WANG: Well, you could do it a  
15 couple different ways. Some of them actually  
16 are described here.  
17 MR. BAUER: Voter surveys?  
18 MS. WANG: Voter surveys, what did  
19 you experience at the poll.  
20 MR. DONSANTO: Who are the people  
21 that would get the survey?  
22 MS. WANG: Well, it would be to have

114

1 some sort of random survey that a political  
2 scientist would know how to devise.  
3 The other thing is having observers  
4 who either survey voters as they come out of the  
5 poll.

6 MR. WEINBERG: But is this a survey  
7 to determine fraud or to determine what happened  
8 in the poll? What's to come out of this, what  
9 is the survey supposed to tell us?

10 MS. WANG: Whether the person  
11 participated in -- or who knows how much they  
12 will self report, or observed some kind of  
13 practice, fraud, or intimidation practice.

14 MR. BAUER: Is this based on the  
15 Overton?

16 MS. WANG: Several of the experts  
17 interviewed that I spoke to suggested a survey.  
18 There was also a suggestion of a more massive  
19 survey of administrators that would be much more  
20 comprehensive than just trying to do interviews

21 of these people.

22 MR. GINSBERG: How many voters were 115

1 they willing to --

2 MS. WANG: No one was willing to come  
3 up with a number. They just said it would have  
4 to be big.

5 MR. DON SANTO: It would have to be  
6 huge.

7 MS. SIMS: When they referenced  
8 election officials, they were talking about  
9 local and state election officials.

10 MS. WANG: Well, at this point, local  
11 because the state election officials have been  
12 easy to have conversations with.

13 MR. BAUER: There is one kind of  
14 survey intended to determine whether or not the  
15 voters we talked to who say they were registered  
16 were, in fact, registered. As Overton  
17 described, this is a statistically  
18 representative sample of people who purported to  
19 report how they voted. And the other one,  
20 somewhere, you are basically converting them  
21 into eyewitnesses.

22 There are very different kinds of surveys for 116

1 very different purposes.

2 MR. GINSBERG: Did you commit fraud  
3 at the polling place?

4 MR. BAUER: Trying to transcend the  
5 anecdotal nature of what we do about frauds, it

Transcript 051806

6 seems to me -- I am not an expert on polling  
7 methodology, but the potential for  
8 interpretation of an awful lot of data collected  
9 for marginal potential value, it doesn't tell  
10 you very much.

11 MR. GREENBAUM: Let me agree with  
12 Bob.

13 MS. WANG: Just for the record.

14 MR. WEINBERG: I think a better  
15 question would be whether anybody thinks the  
16 survey would be useful.

17 MR. DONSANTO: It is for the  
18 practical. It might be useful. It is just not  
19 practical.

20 MR. GREENBAUM: Except to the extent  
21 I am aware of all the things we have on there.  
22 How do we capture where most of the fraud's

117

1 taking place, which is not in the polls.

2 MR. DONSANTO: Right.

3 MR. GREENBAUM: For the initial, I  
4 will state that it's my opinion.

5 MR. GINSBERG: But come up with a  
6 list about where you think the fraud is being  
7 committed, see if you can come up with a  
8 methodology.

9 MS. WANG: There was this bunch of  
10 people who independently came up with the idea  
11 of picking ten places where you know there have  
12 been a lot of problems, and some people where  
13 there haven't, make them match geographically,

14 demographically, and try to see where the  
15 differences are.

16 MR. GREENBAUM: It's tricky. I know  
17 this in terms of some of the stuff I have done,  
18 but sometimes you think that places are doing  
19 better than they really are, and sometimes you  
20 think that places are doing worse.

21 MR. HEARNE: Let me suggest an  
22 objective criteria that you might get in the

118

1 first gathering. In Ohio, a lot of allegations  
2 were made that voters were intimidated or  
3 suppressed, the voter buys, taking older ones  
4 and not putting them in others. There was a  
5 U.S. House administration hearing, and officials  
6 in charge said, no, we had quality distribution  
7 based on number of voters. The lines were long  
8 in certain areas, as they were in others.

9 MS. WANG: We don't want to get into  
10 that particular example.

11 MR. HEARNE: That's the kind of  
12 objective observation to be quantified. If you  
13 had an observer in the polling place that would  
14 be -- ben had suggested a Republican and  
15 Democrat in interest. If you had an appropriate  
16 sampling of why it was taking this long to vote  
17 in this precinct, this long in this precinct.

18 MR. GREENBAUM: That's not even a  
19 fraud issue, I mean, not in my mind. And  
20 believe me, we have studied the Ohio elections  
21 administration very closely, given that we sued

22 the Secretary of State. That goes more to

119

1 election administration as opposed to a fraud  
2 issue.

3 MR. ROKITA: So it doesn't fit under  
4 your definition of fraud.

5 MS. WANG: It depends on whether  
6 there was some reason to believe it was  
7 intention, in my personal opinion.

8 MR. GREENBAUM: Well, the problem in  
9 Franklin, Ohio, was determined how the machines  
10 were going to be allocated.

11 MR. HEARNE: Let me take that as an  
12 example. That is something that undermines a  
13 lot of people's confidence in the election  
14 process, when somebody is going into the process  
15 and saying, we're only going to put one polling  
16 machine for every thousand people in this  
17 polling place, and fifty of them for 500 people  
18 out here. That would be the kind of thing you  
19 can quantify. You can find out directly what is  
20 the data, what you think you can do that now.  
21 We know that now.

22 MR. HEARNE: And that would be

120

1 helpful.

2 MS. SIMS: Maybe the question is how  
3 do we find out about that now. Right now, we  
4 find out through --

5 MR. ROKITA: The states and the

6 counties.

7 MS. SIMS: The states and the  
8 counties, and also calls made to the justice  
9 department.

10 MR. HEARNE: Or about the lines. You  
11 always get this allegation about long lines.  
12 Every voter is going to come out with a  
13 different perception, and you're always going to  
14 have these competing stories about long lines in  
15 different areas. If you had some teams in there  
16 watching this and timing it, you would get some  
17 objective criteria to evaluate those  
18 allegations.

19 MR. GREENBAUM: From my point of  
20 view, why would you want a Republican and  
21 Democrat, why won't you want a college student  
22 or someone else that people can agree doesn't go  
121

1 in there with any sort of biases?

2 MR. SEREBROV: You can't necessarily  
3 get a college student in the polls.

4 MR. GREENBAUM: Right. The state  
5 laws are an impediment in a lot of places.

6 MS. SIMS: Well, some of these  
7 things, like the machine placement, that's just  
8 an example. A lot of things I personally see in  
9 the press before I see anywhere else. That gets  
10 to your following up on some of the press  
11 reports to find out whether or not something  
12 really happened, but that again is not a hundred  
13 percent reliable because we're only getting a

14 bit of the picture. And if you follow-up on  
15 those press reports, we may find out that an  
16 allegation of fraud was not fraud at all, it was  
17 a mistake.

18 MS. WANG: Well, that's the case. I  
19 don't know if we can come up with a methodology  
20 in here. None of us are political scientists at  
21 all either. So I just put these in front of you  
22 as the types of things that people came up with.

122

1 I think, as we have talked about, it  
2 is going to be a combination of approaches which  
3 the work that we have already done will be one  
4 of those ingredients supplemented by something  
5 that political scientists would do.

6 We can get some more ideas flowing.  
7 Job and I talked about what we have thought  
8 about as being additional steps that could be  
9 taken. They are not methodologies but things  
10 that we think still need to be done, even just  
11 based on what we have already done. Should we  
12 move into that or stay on this?

13 MS. SIMS: We can certainly go on  
14 because we can come back to this too. One thing  
15 I would like to ask folks to consider again,  
16 even though we don't have complete data because  
17 this is a preliminary study, we do know of areas  
18 in the process itself that are more subject to  
19 attacks by voting fraud and are the studies EAC  
20 can do in those areas.

21 MR. GREENBAUM: Absentee.



22

MS. ROGERS: We haven't talked much

123

1 about absentee ballot. We have talked about  
2 observers in the polling place, but the  
3 empirical data shows it is absentee balloting  
4 fraud, we're poised to see a tremendous amount  
5 of that grow.

6 Example, in Georgia, that's happening all  
7 over the nation which is now a no-excuse by mail  
8 absentee state. In addition to that, it was  
9 stuck in our law, it was a caveat that said that  
10 political parties could not attach campaign  
11 material to an absentee ballot application.  
12 That was taken out. It was also ruled that a  
13 postage stamp is not a thing of value. So if  
14 you put all of those together, we're going to  
15 see both parties flooding mail ballots with  
16 absentee ballot applications.

17 MS. WANG: Sarah Ball Johnson, who is  
18 in charge of elections in Kentucky, we  
19 interviewed, talked about the churches gathering  
20 people together to collectively fill out their  
21 absentee ballot, and being told if they don't  
22 vote in a certain way, they were going to hell.

124

1 MR. DONSANTO: That's probably true.

2 MR. ROKITA: There is an example of  
3 something you can follow-up on.

4 MS. ROGERS: We have already seen a  
5 huge increase in -- I won't say fraud, but in  
6 complaints. This law was in place last year and

Transcript 051806

7 we only had municipal elections in November.

8 Not everyone has really wised up to this but a  
9 few candidates did, and there was one particular  
10 election in Richmond County where going into the  
11 run off, the winner was clearly ahead by a lot  
12 of votes, and the losing candidate that was  
13 down, before he went to the run off, he found  
14 out about this little caveat, and he went  
15 knocking on every door with an absentee ballot  
16 application, and by George, he won, and won big.  
17 That's the area.

18                   And the problem is that you're trying  
19 not to make it harder on those who are disabled.  
20 At the same time, you don't want to keep adding  
21 levels and layers of security that prevents them  
22 from getting the access that they need, but as

125

1 you take away those levels of security, it  
2 follows on the other side as well. I know we  
3 haven't really addressed that, but observers  
4 don't take care of that process.

5                   MR. HEARNE: You mentioned something  
6 that might be helpful in the sense of,  
7 statistically, you can look at an election and  
8 you can find results that you can look at and  
9 say, this doesn't make any sense, how you would  
10 get this kind of vote performance out of a  
11 particular vocational place or group of absentee  
12 ballots.

13                   MS. ROGERS: Well, some of the cases  
14 we have looked at, they said, look at these

Transcript 051806

15 numbers, they don't look good to us. We go in  
16 and look at them, and what we find is one  
17 candidate pounded the pavement with the absentee  
18 ballots maybe didn't commit fraud literally. In  
19 Georgia, the candidate did fill out the top part  
20 of the form. You can check the box and say I  
21 don't need excuse, and you can sign it.

22 MR. DONSANTO: Voter has to sign it. 126

1 You can pre print them.

2 MR. HEARNE: You can pre print it  
3 with the vote on it.

4 MR. DONSANTO: No, the application.  
5 That was a big thing in Florida. Both parties  
6 pre printed applications for absentee ballots  
7 and mailed them.

8 MS. ROGERS: And one of the biggest  
9 problems we see is the fraud is not occurring at  
10 the federal candidates. DOJ is not as  
11 interested in this.

12 MS. WANG: well, actually, that is  
13 not true.

14 MR. DONSANTO: That's not necessarily  
15 the case.

16 MS. ROGERS: I'm not saying you are  
17 not interesting.

18 MR. DONSANTO: If it happens in a  
19 non-federal election, we don't have the statutes  
20 to do anything about it.

21 MR. GREENBAUM: It doesn't have to be  
22 a federal candidate.

1 MS. WANG: From the news articles,  
2 this is the one type of fraud that is more often  
3 investigated, and there are indictments, and  
4 prosecutions, and convictions, and guilty pleas,  
5 and stuff.

6 So you actually can take a look at  
7 actual cases to see how it's being done, and try  
8 and come up with better measures to prevent it  
9 and catch it. You have Oregon, and they claim  
10 that they have no problem. That is disputed on  
11 a lot of levels but the one thing we can't know  
12 about Oregon is the extent of which the coercion  
13 problem happens.

14 MR. ROKITA: You can't know?

15 MS. WANG: Right.

16 MR. DONSANTO: Public voting, every  
17 ballot, public vote.

18 MS. ROGERS: Unfortunately, it takes  
19 so long to bring these cases to a resolution, we  
20 find, time after time, by the time the case goes  
21 to an actual court, a lot of these folks no  
22 longer tell the same story. A year or two goes

128

1 by, and those people who were coerced, they are  
2 just not saying that anymore. They change their  
3 tune, and then again, many of them are very old  
4 and very elderly, and not a hundred percent have  
5 all their faculties to begin with, so two years  
6 makes a huge difference.

7 I think we see a lot of cases closed  
8 simply because you are unable to have the data  
9 that you need to follow through.

10 MR. ROKITA: Maybe the EAC should  
11 study the methodology of for cause absentee  
12 voting as a way to cure it.

13 MS. WANG: That is where you wind up  
14 against the politics of it, which seems like a  
15 train that's left the station.

16 MR. HEARNE: Your point, if I  
17 understand, was in looking at the data where you  
18 did find broader, documented evidence of fraud  
19 was in the concept of absentee ballots, is that  
20 correct?

21 MS. WANG: Yes.

22 MR. HEARNE: So the sense would be is  
129

1 there a way to study it. And the question for  
2 us now is, how do we study that phenomenon.

3 MS. WANG: Given that it's something  
4 that is spreading rapidly, are there measures we  
5 can come up with to make the ballots more  
6 secure. The coercion issue is difficult to get  
7 at, but in terms of the forgeries and those  
8 types of things, and even actually with the  
9 coercion, are there measures that can be taken  
10 to make absentee ballots and mail-in ballots  
11 more secure?

12 MR. BAUER: One thing I want to go  
13 to, what we were just discussing, some of the  
14 recommendations.

15 MS. WANG: Bob, you raised your  
16 point.

17 MR. BAUER: One of the interesting  
18 proposals or suggestions made by the  
19 interviewees, his name is Weisner.

20 MS. WANG: Weisner. Wendy Weisner.

21 MR. BAUER: We though that  
22 establishing any degree of concreteness on voter  
130

1 fraud would be difficult to establish. We  
2 suggest that an effort be made to simply -- I am  
3 not quite sure exactly what the methodology name  
4 is.

5 MS. WANG: Risk analysis.

6 MR. BAUER: Risk analysis, and  
7 determine based on the assumption that people  
8 act rationally in this area, what we would most  
9 expect to see, what kinds of fraud is most  
10 potentially likely, and then just rank it. You  
11 are not making a judgement there at that point  
12 that's, in fact, what is happening. It is just  
13 a very interesting way of trying to sort of  
14 order your thoughts about what you might be  
15 looking for, and it can be marked up with other  
16 numbers to bolster their significance.

17 MR. GINSBERG: How could you figure  
18 out how you do the risk analysis.

19 MR. BAUER: I don't know, and I don't  
20 have any expertise.

21 MS. WANG: I started to get books on  
22 risk analysis but I didn't want to read about  
131

Transcript 051806

1 the diseases and environmental calamities.

2 MR. BAUER: Just from a standpoint of  
3 debate, what we had in perspective, we find  
4 using it to help ask questions was something  
5 concrete you can do. I don't think it's a bad  
6 thing to do. It is affirmatively a good thing.

7 MR. WEINBERG: I thought that was  
8 interesting, although I didn't understand what  
9 it said.

10 MR. PEREZ: You're a county clerk,  
11 and you are in the ballot. You have got  
12 something to gain right away. If you're not on  
13 the ballot and you don't work for somebody on  
14 the ballot, where is the risk analysis involved,  
15 the direct relationship?

16 MS. WANG: Let me try to explain it  
17 from the little I understand about it. You  
18 take, for example, in the environmental field,  
19 if a corporation is trying to decide what  
20 measures to takes, how much is that worth, how  
21 likely is it that some bad outcome is going to  
22 happen versus the cost of preventing it. So you

132

1 would sort of do a cost benefit analysis of each  
2 type of voter fraud that we have listed. So  
3 what's the risk of filling out a fraudulent  
4 absentee ballot versus the risk of getting  
5 caught, or the penalty involved, the cost  
6 involved of doing so.

7 And by going through that method,

8 determining what are the types of fraud that are  
9 most likely to be committed, because as Bob  
10 says, people are presumed to be rational actors  
11 and to engage in those types of activities that  
12 they think they can get away it.

13 MR. PEREZ: You're talking about the  
14 actual voter. I'm talking about the actual  
15 groups trying to get something passed.

16 MR. GREENBAUM: It could be either.  
17 You could do it at the level of the voter or the  
18 level of an organization.

19 MR. PEREZ: The voter is going to be  
20 intimidated, but the organization has an agenda.

21 MR. GREENBAUM: But I think some  
22 people here would say that a portion of the

133

1 fraud is being committed by individual voters,  
2 without necessarily being part of a greater  
3 agenda. I think you would have to analyze it  
4 both ways.

5 MR. SEREBROV: We found very little  
6 though.

7 MS. WANG: There is only very little  
8 who found there was anything conspiratorial  
9 going on, one which was actually theories that  
10 indicated that there was anything conspiratorial  
11 happening.

12 MR. BAUER: A cross the board?

13 MS. WANG: Right. The ACVR report  
14 allude to some coordination of voter  
15 registration fraud among some of the voter



16 registration groups.

17 MR. SEREBROV: What was stated was  
18 groups versus individual. That's what I was  
19 saying, was we found very little individual  
20 activity as opposed to organizational activity.

21 MR. BAUER: I'm sorry. Just so we  
22 can define these terms, and I apologize, very 134

1 little individual voters committing fraud.

2 MR. BAUER: Just because they wanted  
3 to.

4 MS. WANG: Well, actually, in the  
5 articles, you do find individuals on the  
6 absentee vote just submitting an absentee ballot  
7 in the name of somebody else or in the name of  
8 somebody who died.

9 MR. GREENBAUM: Like some of the  
10 stuff in Texas.

11 MR. DONSANTO: Somebody committing  
12 voter fraud is not going to make as big a splash  
13 in the newspaper as some organization.

14 MR. HEARNE: Some organization that  
15 is paying somebody to do something that they  
16 know is fraudulent, then that's different than  
17 the individual engaging in that activity.

18 So if somebody is paying for fraudulently  
19 submitted voter registration forms and they  
20 understand those are fraudulent, that would be  
21 then that type of activity.

22 MR. DONSANTO: Paying for piece work 135

1 and getting fraudulent documents, but that is  
2 not the intent.

3           MR. GREENBAUM: I would say another  
4 thing you want to measure in terms of doing a  
5 risk analysis is the conditions of the elections  
6 in which it tends to happen.

7           MS. WANG: Right.

8           MR. GREENBAUM: Like I think a lot of  
9 people believe that voter fraud, no matter who  
10 it's committed by, tends to happen most often  
11 when you have very competitive elections.  
12 Because people, the winner -- the fraud may  
13 actually make a difference in terms of who wins  
14 or who loses the election.

15           MR. ROKITA: I'd like to follow-up on  
16 that to say that this risk analysis, I think,  
17 might fit very well in a corporation that was  
18 trying to figure out what jobs they were having  
19 people do, to see if OSHA would be violated or  
20 something like that. When you pour on top of  
21 that the serum like you're saying of any  
22 election that has its emotions in candidates'

136

1 political parties tied to it, I think that risk  
2 analysis is less useful.

3           MS. WANG: We can't presume people  
4 are rational.

5           MR. HEARNE: With elections.

6           MR. ROKITA: And, too, you want to be  
7 careful of the impression you leave. If you're

8 doing a risk analysis, you are weighing, and  
9 that's something that might be acceptable.

10 MS. WANG: No, not acceptable, you  
11 look for ways to address it. It's a more  
12 practical way of getting at solutions rather  
13 than trying to gauge with a number.

14 MR. ROKITA: You said a ranking.

15 MS. WANG: Not more important,  
16 easier.

17 MR. SEREBROV: Todd, can't we presume  
18 that they act rationally as to the means, not  
19 necessarily the motive?

20 MS. WANG: I mean, people don't want  
21 to go to jail.

22 MR. BAUER: I think the public

137

1 presents itself with amalgamation, but when  
2 people try to win elections, targeting, I think  
3 it's all about going to great length. I think,  
4 in close analysis, I don't think at the end of  
5 the day you're quite right, it has the same  
6 application here as it might in other field but  
7 I think it might be illuminated.

8 MS. WANG: We could get someone who  
9 is actually an expert in risk analysis here  
10 rather than someone who is a political scientist  
11 who focuses on elections. That would give an  
12 even better neutrality color to it.

13 MR. PEREZ: If you're trying to find  
14 out a point where you want to review who is  
15 going to be doing something, the only instances

16 I have with this has been in early voting where  
17 they used the mail ballot in a particular  
18 instance, where trying to get a particular  
19 candidate or pass something that is going to  
20 avoid money. When they do the particular issue,  
21 some company's going to come into town and gain  
22 a big contract. That's when I have seen the

138

1 mail ballot application trying to be defrauded  
2 because they are trying to pass a particular  
3 issue that was very obvious to us before we went  
4 into it. What he did was tried to make sure we  
5 did not let them do anything illegal. They  
6 tried to put people in the polls. We ran them  
7 out. They tried to put applications in. We  
8 looked at the applications, the same  
9 handwriting, anything that we could gauge.  
10 Luckily, we have a lot better laws in terms of  
11 what applications we have to take. We have gone  
12 through with two years legislation to improve  
13 the mail application process, and we have almost  
14 got it down.

15 MS. ROGERS: It still can change.

16 MR. BAUER: Do you think you see more  
17 fraud for initiative elections?

18 MS. WANG: You're talking about  
19 money.

20 MR. PEREZ: It's like a business, who  
21 is going to get money and how much money are  
22 they going to get. Nobody can come to me and

139

Transcript 051806

1 say, hey, Jerry, are you going to throw that  
2 election. I'm not going to get any money, why  
3 should I care who gets elected.

4 MS. WANG: The conditions under which  
5 somebody is trying to get elected. It's also  
6 the smaller elections.

7 MR. PEREZ: Where you can throw it  
8 much easier.

9 MR. GINSBERG: But you can have  
10 people paying people to register where the  
11 stakes are higher, and therefore, have an higher  
12 incidence of false registrations.

13 MR. PEREZ: The risk analysis is it  
14 costs too much money, whereas if you have a  
15 small election, you can spend \$10,000 and throw  
16 the election, whereas on a national election, it  
17 would cost.

18 MS. ROGERS: The people who are doing  
19 this to be paid are simply taking a phone book  
20 or making up names and making up -- used to be  
21 able to collect social security numbers, making  
22 up social security numbers. They didn't do it

140

1 for the purpose of trying to defraud the  
2 election. They did it for the purpose of  
3 putting money in their pocket.

4 MR. GINSBERG: Isn't that also the  
5 incubator where you get false voters coming in?

6 MR. DON SANTO: No, no. I haven't  
7 seen it.

8 MR. HEARNE: One situation we had a

9 tandem effort where there was a petition for a  
10 recall. They were trying a recall petition but  
11 to do that you had to be a registered voter.  
12 They were forcing the recall petition as well as  
13 turning in the registration. This was, in  
14 effect, using that same process, certainly  
15 affecting the election process through that  
16 petition effort.

17 MS. ROGERS: The ones that we saw  
18 mailed out something and it came back  
19 undeliverable, these people did not exist.

20 MS. WANG: In the ones that we  
21 interviewed, almost nobody that has phoney  
22 registration forms led to illegal votes. It's 141

1 not to say it's not a problem, but messing up  
2 the voting rolls creates a problem of  
3 confidence.

4 MR. PEREZ: That's hard to do now  
5 because you have to have a drivers license,  
6 social security number, a lot of data. We watch  
7 three criteria. If it's not good, they kick it  
8 out. That person is in limbo until we can  
9 verify something.

10 MS. WANG: Exactly.

11 MR. DONSANTO: We have had several  
12 investigations involving these sort of bogus  
13 registrations generated through the bounty  
14 hunting system of paying people. In most of  
15 these cases, complainants were election  
16 registrars. The reason it came to our attention  
Page 105

Transcript 051806

17 was because the people did not get on the rolls.

18 It's still a crime.

19 MS. WANG: Right.

20 MR. DONSANTO: But the system worked.

21 MS. WANG: The biggest problem is it

22 drives administrators crazy.

142

1 MR. HEARNE: Well, if they go to the  
2 phone books, they are taking sometimes names of  
3 legitimate registered voters.

4 MS. WANG: with the statewide  
5 database, now it's going to get knocked out.

6 MS. ROGERS: They were making up the  
7 social security number, but a lot of them took  
8 phone books and they started saying, Apartment  
9 1, Apartment 2.

10 MR. DONSANTO: Turn them in, get the  
11 two dollars.

12 MR. BAUER: It answers an interesting  
13 question. 150 years ago, it wasn't a question.  
14 High intensity, high party electoral process,  
15 intense, passionate people would march through  
16 the street with passion, widespread cheating,  
17 you name it, there was a belief in the outcome.  
18 Now, we're in a high stake press, low, weak  
19 party process. Voter applicant is such that he  
20 really actually wouldn't expect an enormous  
21 amount of voter fraud because benefits are not  
22 seen.

143

1 MS. WANG: If you read Laura Minete's  
2 report, she comes to that conclusion, that the  
3 structural conditions that led to such fraud in  
4 earlier times in our history are no longer  
5 present, especially weakening of the party  
6 system that so organized these efforts. It is  
7 pretty interesting.

8 Should we try to move on to the next  
9 steps?

10 MS. SIMS: A lot of the public record  
11 doesn't have a lot of information on what they  
12 meant by voting fraud. Secretary Rokita had  
13 asked us to take a look at the legislative  
14 history on that.

15 LAIZA: I have the conference reports  
16 and I highlight where they use the word fraud.  
17 You're welcome to take a look at it. What I can  
18 do is e-mail them to you. I can make copies  
19 right now or e-mail them to you.

20 MR. HEARNE: You don't need to  
21 highlight, just e-mail it.

22 MR. SEREBROV: Actually, can you

144

1 e-mail that to everyone?

2 MS. SIMS: You will see fraud crops  
3 up in a lot of other sections, and it's equally  
4 unlikely just because they use it in terms of  
5 the NIS support to help us prevent fraud, the  
6 report that we have already done on the uniform  
7 overseas voters issues best practices to avoid  
8 fraud there, that sort of thing pops up in a lot



9 of different places.

10 MR. DON SANTO: We have never seen a  
11 problem having to do with anything having to do  
12 with fraud of any kind. It is not structurally  
13 set up that way, put that low on your list. All  
14 we have is a criminal statute that deals with  
15 fraud.

16 MS. WANG: Its been such a  
17 deterrence. These are just my own thoughts  
18 about things that I'd like to see done, that we  
19 build upon the research that we've done. As I  
20 mentioned, and I have mentioned a lot of these  
21 already, I would greatly broaden the scope of  
22 the type of interviews that we've done to the

145

1 local people, and also to include the federal  
2 district election officers and district  
3 attorneys like we have discussed a lot, the  
4 follow-up on the nexus research to see if there  
5 had been some further resolution, follow-up on  
6 the reports and books written to see, again,  
7 whatever happened to those instances that were  
8 cited.

9 I also wanted to talk about both the  
10 election protection materials and also the 1800  
11 my vote analysis. I don't know how many of you  
12 are familiar with this but they took, in 2004,  
13 200,000 phone calls and they have created a  
14 database in which they have separated out the  
15 types of complaints, whether it be a  
16 registration problem, intimidation, improperly

17 asking for ID. They have them all systematized  
18 from all across the country. They also have  
19 over 50,000 audio phone messages that were left  
20 that they have also culled through and assigned  
21 categories for what type of complaint or  
22 allegation was made. And I had thought that

146

1 looking at that data further might be useful.  
2 And I have spoken to the people who ran that  
3 project, who are willing to share that with me.  
4 I also would love to be able to get more and  
5 analyze more data and information from the  
6 Department of Justice, such as information from  
7 the database what's called the interactive case  
8 management system that they have on complaints  
9 received and how they were dealt with, which I  
10 referred to earlier they did not feel  
11 comfortable sharing with us. The election data  
12 which we also were not able to get, and also  
13 reports done by the district election officers  
14 who are in every jurisdiction.

15 I also think it would be great to  
16 attend the next session of the ballot accessing  
17 symposium.

18 MR. DONSANTO: No, that is not  
19 possible. That is classified. I didn't set up  
20 the rules for this. Believe me, there is no  
21 chance.

22 MS. WANG: I think it would be useful  
147

1 to do a complete analysis of the federal  
Page 109

008736

2 observer errors from 2002, 2004 and 2006.

3           MR. GREENBAUM: Let me give you a  
4 little warning about that. Assuming that you  
5 have got them.

6           MS. WANG: That were millions of  
7 them, I know, but there might be some way to do  
8 a sampling or something.

9           MR. GREENBAUM: You would have to  
10 have -- I mean, we did -- for our report on the  
11 Voting Rights Act, we did have people go through  
12 the ones that we had, and it was a lot of people  
13 and a few reports, a few different elections,  
14 let's put it that way.

15           MS. WANG: I know. And also, again,  
16 as I mentioned before, I think it's important  
17 that we have an academic institution or  
18 individual that focuses on statistical methods  
19 for political science research. And I certainly  
20 know a bunch of people like that, and would be  
21 very interested in working with someone like  
22 that in the second phase.

148

1           Those are my suggestions.

2           MR. SEREBROV: Yes. And I had three  
3 suggestions. I think two may have gotten up  
4 there. One was a survey of state laws.

5           MS. SIMS: I've got that.

6           MR. SEREBROV: One was a survey of  
7 district court cases, which I think you may have  
8 gotten, survey of district court cases not in  
9 specific states. And then the other thing is

10 looking at local newspapers in various states  
11 and running searches on election issues. I  
12 think right now what we need to do is bear down  
13 on the local level. Sometimes those are missed  
14 in the nexus search. I think we need to plug  
15 the holes.

16 MR. HEARNE: One thing that was  
17 mentioned here was working with the database to  
18 compare, I think it was referenced in the dead  
19 voters, just doing a statistical match. Being  
20 able to run the voter role versus the dead,  
21 divorces, those that did cast ballots,  
22 essentially, three data fields, and see where

149

1 you get an overlap.

2 MS. WANG: That is part of the second  
3 to the last page.

4 MS. SIMS: So we're looking -- I know  
5 we covered some of that over at the FEC, but  
6 looking at list maintenance procedures.

7 MR. HEARNE: I mean, you hear the  
8 allegation and there's been reports in the  
9 Detroit News where they went through and did  
10 this process where they marked and found a bunch  
11 of votes in the name of those who were dead, and  
12 they found the people.

13 MS. ROGERS: That's not going to work  
14 unless you actually go back to wherever the  
15 voter filled it out because the election  
16 official may have actually tagged that dead  
17 voter by mistake, instead of the other voter,

18 even though the dead voter didn't show up.  
19 You have to go to the documentation at the  
20 polling place to determine whether they gave  
21 credit to the right or wrong voter. There is a  
22 huge opportunity for error.

150

1 MR. HEARNE: But if you did that and  
2 said, let's take the list of everyone who is a  
3 registered voter in whatever area we're looking,  
4 whatever state, let's say Texas, then I take  
5 that and run it against the social security  
6 death list, and get those.

7 MR. PEREZ: Following along, it might  
8 be easier, NVRA requires us to put it in  
9 suspense because we have to keep them for four  
10 years. People can go through and pick out those  
11 people and then commit voter fraud based on the  
12 fact that those people aren't there any more.  
13 That data can be quantitatively checked  
14 throughout the state. You can say how many  
15 suspense voters did you have in the last  
16 election.

17 MR. HEARNE: Then you print that out.

18 MR. PEREZ: But you have such a large  
19 number. How many of them were really updating  
20 their record and how many of them were not.  
21 That would be harder to prove. That's a big  
22 hole that we've got.

151

1 MS. WANG: I would want to talk to a

2 political scientist about that. They can figure  
3 out ways of doing it, margins of error.

4 MS. ROGERS: I would feel comfortable  
5 doing that after this year. We're implementing  
6 poll books instead of a manual credit. So the  
7 person who actually voted will get the credit  
8 for voting. It won't be something going through  
9 slips of paper, trying to do that manually for  
10 four million voters, but until everyone had an  
11 automated process of that sort --

12 MS. WANG: Well, none of that is  
13 going to happen any time soon.

14 MR. GREENBAUM: What percentage come  
15 out to the polls?

16 MS. ROGERS: In the presidential  
17 election, you get a large number of inactive  
18 voters.

19 MR. PEREZ: They become inactive, yet  
20 they show up to vote, so it would be hard to  
21 tell which ones were not legitimate voters.

22 MR. HEARNE: You can run that against  
152

1 the social security death list.

2 MR. PEREZ: Well, the state does that  
3 automatically.

4 MS. SIMS: I know Kentucky was one of  
5 the first big states that did that statewide,  
6 and they did have one instance that the mother  
7 of a state legislator was listed as dead and she  
8 wasn't.

9 MR. HEARNE: I assume you would have

10 some errors.

11 MS. SIMS: It gives you something to  
12 start with, and that's subject to confirmation,  
13 helps you target.

14 MS. ROGERS: I think you might get  
15 better data if you match data state to state,  
16 try to determine who the double voting and dead  
17 voters are.

18 MS. WANG: I'm sorry. We have a side  
19 bar going on. Anyway, I'm sorry about that.  
20 So those are our suggestions for next steps that  
21 the second phase could undertake.

22 Anything else that we can think of?  
153

1 MR. GREENBAUM: I am still worried  
2 about -- one of our big areas of concern is  
3 deceptive practices. And I am struggling with  
4 how to measure that, how to define it. It's not  
5 something that you're going to find in the cases  
6 so far, for various reasons.

7 MS. WANG: You do find it in the  
8 news.

9 MR. GREENBAUM: You do find it in the  
10 news.

11 MR. DONSANTO: There is also a range  
12 of different types. These things range from  
13 relatively innocuous communications to ones that  
14 are a terribly pernicious.

15 MR. GREENBAUM: Kind of how you sort  
16 that. I don't know if you have any ideas.

17 MR. DONSANTO: A series of letters

18 that are circulated saying something stupid like  
19 Republican are not allowed to vote in this  
20 election, which is idiotic. Another on the  
21 other end would be something that suggests to  
22 people that the polling places in one fact when,

154

1 in fact, it is another, or Republicans vote on  
2 one day and Democrats vote on another.

3 MR. GREENBAUM: You saw it all but  
4 how do you measure that?

5 MR. DONSANTO: In terms of their  
6 damage.

7 MS. WANG: Although that is the kind  
8 of things that organizations could provide more  
9 eyes and ears on. Well, actually there you have  
10 real evidence. You have phone calls.

11 MR. GREENBAUM: I brought some of the  
12 fliers with me, if anyone wants to look at it.

13 MR. DONSANTO: We have some on board  
14 of elections stationary. Somebody got a hold of  
15 board of elections stationary.

16 MR. GREENBAUM: Unfortunately.

17 MS. SIMS: We have got the idea of  
18 looking at some of the phone calls because we  
19 have phone logs here that we keep for calls  
20 related to election.

21 MR. GREENBAUM: Can I get a stapler?

22 MS. SIMS: I don't know if we have

155

1 access to groups' outside phone logs. I know we  
2 have had problems with that before, phone logs



3 for other groups.

4 MS. WANG: Well, you guys would share  
5 your stuff with us, right?

6 MR. GREENBAUM: Yes, except for the  
7 identifying information of the individual who  
8 called in.

9 MS. SIMS: So we could at least get  
10 an indication.

11 MR. GREENBAUM: That stuff is  
12 available. I can give you the website.  
13 The one that I think that I will say is that we  
14 will do the -- the quality of the data will be  
15 better in the future than it was in 2004.

16 MS. WANG: Deceptive practices is one  
17 area where you have some piece of evidence. So  
18 you are not necessarily having that problem,  
19 allegation versus reality, whereas we actually  
20 made the decision not to go through election  
21 protections data during this phase because of  
22 the problem of trying to weed out allegation

156

1 from reality. I think deceptive practices is  
2 one area where we can use the data from various  
3 organizations out there monitoring the situation  
4 without any controversy.

5 MR. SEREBROV: You also might be able  
6 to get some from the either the secretary of the  
7 states office or state board of election  
8 commissions.

9 MS. SIMS: That was a question I have  
10 since we have two state officials here.

Transcript 051806

11 should we look at the feasibility of getting  
12 reports? You already put reports together, and  
13 I know that's not the case in all states.

14 MR. SEREBROV: Arkansas does.

15 MS. WANG: It could be part of the  
16 Election Day survey.

17 MS. SIMS: Well, that's something we  
18 could explore.

19 MS. HODGKINS: There are several  
20 states that have voter fraud units to  
21 investigate these matters where there is at  
22 least an opportunity for people to report, at

157

1 least. We did keep reports on what would then  
2 be transmitted to the District Attorneys Office  
3 for prosecution.

4 MR. SEREBROV: Arkansas didn't have  
5 that. I assume Louisiana did. Do you know  
6 which states have it or which states don't?

7 MS. HODGKINS: I don't.

8 MR. SEREBROV: Is there any way you  
9 can get a list?

10 MS. HODGKINS: I'm sure there is.

11 MR. DONSANTO: Do a survey.

12 MS. WANG: I also think there is  
13 unity in getting a case management system for  
14 the voting system.

15 MS. ROGERS: In terms of state law,  
16 what does each secretary of state or state  
17 election board -- how do they handle complaints  
18 at the time it hits the door; who makes the

19 determination of whether that is a valid  
20 complaint or invalid complaint. I think we  
21 found that varied.

22 MS. ROGERS: It varies. We have even  
158

1 changed our own internal policies since I became  
2 director. The former director actually sort of  
3 looked at some of these, and you just don't  
4 always have enough information to do that.

5 MR. SEREBROV: I think you have to  
6 start with the foundational question is, does  
7 the secretary of state or the state board have  
8 the authority to handle complaints at all.

9 MS. ROGERS: Right. And at some  
10 point, I realize that in any event, the question  
11 would be, what do you do when the complaint  
12 comes, period.

13 MS. WANG: We asked that of all the  
14 administrators that we interviewed, and we got a  
15 different answer from everybody.

16 MR. WEINBERG: I actually asked the  
17 state election directors that through NASAD a  
18 few years back, and they distributed the  
19 question to the state election directors. And  
20 it turned out that hardly any state election  
21 directors, at least in 2001, I think, had much  
22 authority at all to do anything about anything.  
159

1 MS. WANG: They don't have authority.  
2 What we heard is they will get complaint but

3 then they will throw them out to whoever does  
4 have authority.

5 MR. WEINBERG: By the way, I don't  
6 know what Department of Justice case management  
7 system you're referring to, but if it's as good  
8 as the one they have had for the last 40 years,  
9 I wouldn't suggest you waste time on it.

10 MR. SEREBROV: John Tanner didn't say  
11 a lot of anything.

12 MS. WANG: No. He didn't want to  
13 share a lot.

14 MR. PEREZ: Peggy, are you sure this  
15 wasn't a typo?

16 CHAIRMAN DEGREGORIO: Each state,  
17 under HAVA, is required to post complaints.  
18 Every polling place in the country in federal  
19 elections is to post its administrative  
20 complaint procedures. I look for that when I go  
21 out to places all over the country. The chief  
22 election authority is the one who sends it out. 160

1 MS. WANG: I would be curious to know  
2 the extent states are implementing  
3 administrative complaint procedures under HAVA,  
4 because I don't think they all are.

5 MS. ROGERS: I can tell you we have  
6 it, and it's just sitting out there.

7 MS. WANG: Even if they informed  
8 HAVA, I don't think people even know about it to  
9 use it, and I think maybe that's something else  
10 that's not my bailiwick, but something ought to

11 be looked at.

12 MR. PEREZ: State of Texas made  
13 posters four feet by three feet. They go to  
14 each poll, red, white, and black, and they do  
15 call, because I have got several calls and they  
16 ask me what happened.

17 MS. SIMS: That is another research  
18 project we have somebody working on. We have a  
19 Design For Democracy group to try to help  
20 election officials make them simple and clear so  
21 people can see this information a lot better  
22 than what we do now.

161

1 MS. WANG: Also, it might be wise for  
2 the EAC to undertake as another project to  
3 investigate or do a survey of whether the states  
4 are actually implementing the administrative  
5 complaint procedure and whether that can be used  
6 as another tool for quantifying or deferring or  
7 investigating these types of activities.

8 MR. PEREZ: You could query the law,  
9 see how many complaints.

10 MS. WANG: If they were actually  
11 using the complaint procedure.

12 MR. PEREZ: But that would give you  
13 something to look at.

14 MS. ROGERS: It's not that we don't  
15 get complaints. It's just that not too many  
16 fall under administrative complaints under HAVA.  
17 There is a narrow window there.

18 MS. WANG: Right, but at least you

19 would know of the complaints, whether you refer  
20 them out to another entity, at least you could  
21 have that much information.

22 MR. GREENBAUM: How many complaints 162

1 do you get from a major election?

2 MS. ROGERS: We get -- gosh, without  
3 having the form in front of me. We could get  
4 anywhere from a hundred or more questions,  
5 complaints. They could range from a hundred to  
6 200. What we do now, we have started this since  
7 2004, we have so many people taking calls on  
8 Election Day, and when you can't get through to  
9 say our office or a county office, then even the  
10 calls are spilling over from elections agencies  
11 into other divisions of the Secretary of State's  
12 Office. It's like whoever they can get a call  
13 to on that day. We have actually provided forms  
14 to everyone that may take a call, and then we go  
15 through after the fact and they have to  
16 identify, does this person need a call back,  
17 were they satisfied, was there anything here  
18 that needs immediate action or that needs to be  
19 forwarded to us immediately. And we follow up  
20 on every single complaint that we can not find  
21 out right then was unjustified. And some of  
22 them maybe couldn't find the polling place. 163

1 They moved it. I just didn't know.

2 But we take all of those complaints and then  
3 follow through. It is time-consuming and it is

4 taking up more time and energy than we have ever  
5 put to it in the past.

6 MR. SEREBROV: Does anyone in your  
7 office have the authority to do something about  
8 complaints?

9 MS. ROGERS: Well, we probably take  
10 more authority than we really have under the  
11 law, if you want to get right down to it. We  
12 have monitors and observers out there. They  
13 contact us immediately, and we do apply some  
14 immediate pressure if we think something's  
15 happened. We act like we have it.

16 MR. SEREBROV: One thing we asked the  
17 interviewees, I think that is the way it is in a  
18 lot of states -- should there be some kind of  
19 administrative judges or anyone specifically  
20 trained in this area who would quickly dispose  
21 of these things, what do you all think about  
22 that?

164

1 MS. WANG: I think they say in  
2 Pennsylvania they have special courts.

3 MR. HEARNE: Election courts, it is  
4 mostly Philadelphia. It may be mostly there  
5 that they get used but they have special  
6 election courts set up, an election court.

7 MR. SEREBROV: Are they the same  
8 judges that sit as normal?

9 MR. HEARNE: Most states, they would  
10 have a separate procedure for designating when  
11 it gets to that level. What Philadelphia has is

12 they have this whole host of election -- they  
13 call them judges. They are not a full court  
14 judge, but they act in that capacity.

15 MR. SEREBROV: See, here's where the  
16 system's bogged down in at least any state that  
17 there are election judges. In Arkansas, you get  
18 a complaint, right, someone files suit. It goes  
19 to the circuit court judge. Circuit court judge  
20 is elected. Now, up to three years ago, the  
21 circuit court judge was elected on a ballot.  
22 So the circuit court judge never rules the way

165

1 just a completely neutral judge should rule. It  
2 just doesn't happen, so all those cases get  
3 appealed to the Supreme Court of Arkansas.  
4 Supreme Court of Arkansas is elected. Then you  
5 get have very strange things go every which way  
6 when it comes to election cases.

7 MS. WANG: Do you have any sense  
8 maybe this is one more thing to investigate  
9 further, whether the Pennsylvania system works.

10 MR. HEARNE: I have the general sense  
11 I guess it sort of works and it sort of doesn't,  
12 and there is not a whole lot of confidence in  
13 it.

14 MS. WANG: Maybe it is something to  
15 look at though. I know they certainly have that  
16 system. Maybe you and Craig would know better.  
17 They have election courts in other countries.

18 MR. HEARNE: The biggest problem is  
19 having real clear rules beforehand so that



20 whoever is making that decision, it is not  
21 perceived of as a biased perception, but that  
22 it's just, hi, here it is. We have a procedure.

166

1 I don't care what party you are.

2 MR. WEINBERG: In most countries  
3 where you have an election procedure, it is  
4 centralized, and so they get immediate  
5 responses. They do have courts, but on Election  
6 Day, it is whoever is running the election tells  
7 the people the polling stations' precinct people  
8 to get it right.

9 MS. WANG: So election courts aren't  
10 used on Election Day.

11 MR. WEINBERG: No, not much.

12 MS. ROGERS: Each county has to sit  
13 until the election has closed out for the day  
14 for the purposes of hearing something like a  
15 polling place should remain open, but any  
16 allegation of fraud would not necessarily be  
17 there that day. It would be more to mitigate,  
18 and we need to hold that polling place open.

19 MR. SEREBROV: See, in Arkansas, 99  
20 percent of the problems used to occur on the day  
21 of election that they were sued over.

22 And the problem is the Supreme Court of

167

1 Arkansas, in its infinite wisdom, has decided  
2 that election law is discretionary after the  
3 election. So if a violation occurs on the day

4 of the election and you file the day after the  
5 election, they don't have to apply the law.

6 MR. WEINBERG: Everybody does that,  
7 that's throughout the whole country, mandatory  
8 before, discretionary after. But, you know, I  
9 always thought that it would be good for the  
10 state supervisor of elections office to have the  
11 authority to get the word down to the polling  
12 place to stop doing it wrong and start doing it  
13 right, I have always thought.

14 MS. WANG: They informally do that.

15 MR. WEINBERG: Hardly anybody has any  
16 authority.

17 MS. ROGERS: Don't tell them that.

18 MR. WEINBERG: But I have always  
19 thought that if everybody did in the polling  
20 place what state law said they should do, you  
21 wouldn't have any problem.

22 MR. PEREZ: Secretaries of states are  
168

1 going in reviewing the situation. It is up to  
2 the local mission.

3 MS. ROGERS: To take them before the  
4 state election board. If we find an infraction  
5 at the poll worker level, then we bring it to  
6 the state investigation board. It goes forward  
7 for administrative hearing.

8 MR. SEREBROV: The legislature won't  
9 permit them to have an attorney.

10 MS. ROGERS: We call them  
11 policymakers.

12 MR. GREENBAUM: We're seeing in some  
13 states consolidation for giving the head  
14 secretary of state or whatever statewide  
15 election official more authority, so it is  
16 moving towards that direction.

17 MS. WANG: In other directions.

18 MS. SIMS: We should be able to get  
19 into that, if we do a survey of state laws  
20 and/or regulations.

21 MS. ROGERS: Like Georgia, there are  
22 little counties that won't comply with absentee  
169

1 battling deadlines. We were the ones that  
2 entered into the consent order with the DOJ. So  
3 states should need more authority.

4 MR. PEREZ: Looking at voting fraud,  
5 a type command structure from the top down would  
6 wrinkle it out real fast. I'm not sure that's  
7 the problem. At the lower level, it is more of  
8 a dysfunctional structure thing more than voter  
9 fraud. Voter fraud is going to be committed by  
10 parties outside. We need a tighter command but  
11 that's not going to be in you all's recommend  
12 because that is not really voter fraud.

13 MR. HEARNE: Where it goes to voter  
14 fraud would be for the statewide half, for the  
15 agent of the state to keep that clean, current  
16 and accurate, that is the biggest reason  
17 somebody shows up at the poll. So if you have a  
18 clean, current, accurate, statewide list.

19 MR. PEREZ: In that respect, you're

20 right, but the rest of it is still not there for  
21 the state of Texas, so they cannot fix a bad  
22 problem. San Antonio had problems for decades. 170

1 The secretary of state knew about them, could  
2 not do anything about them.

3 MR. ROKITA: One methodology that you  
4 might want to investigate is to determine across  
5 the states what kind of data facilitation there  
6 is from a county level to the state level.

7 MS. WANG: None.

8 MR. ROKITA: Actually, that is not  
9 accurate because Indiana --

10 MS. WANG: Well, not many states.  
11 We had to ask a lot of people. No. Go ahead.

12 MR. ROKITA: We just passed a law  
13 that is going to require county clerks, any  
14 voter challenge that is made, any precincts in  
15 their county, a record has to be transmitted to  
16 the state level. Anything can be passed on to a  
17 prosecutor. We have the statewide voter files  
18 as vehicles to quickly pass that information.  
19 So you may want to investigate.

20 MR. SEREBROV: Well, I think what are  
21 you suggesting that there should be -- I almost  
22 don't want to use this word. Are you suggesting 171

1 that there should be some uniform laws?

2 MR. ROKITA: No, no, no -- whoever  
3 the reporter is.

4 MR. HEARNE: I think he said it three  
Page 127

5 times, for the record.

6 MR. ROKITA: Paul knows from whence I  
7 come in other meetings, but I guess, again, to  
8 identify methodologies, this may be where you  
9 can get that kind of data, then have  
10 quantitative analysis to use, something that we  
11 as a state all by our lonesome figured out we  
12 can do.

13 MR. CORTES: Perhaps not a uniform  
14 law, but perhaps for us to look at some model  
15 statutes in different states, because I don't  
16 think all states are at the point where they are  
17 taking the initiative to do that. And so if  
18 they have some model statutes to look at, they  
19 can say, oh, this might fit our situation or  
20 this might not fit, and we can adjust  
21 accordingly.

22 MS. WANG: We're talking about for 172

1 the purposes of data collection and doing  
2 research, I am curious if anyone knows which  
3 states are the ones that already are collecting  
4 data, county level data, at the state level,  
5 because my impression has been that they are not  
6 doing that, but you're telling me something  
7 else.

8 MR. GREENBAUM: Of voter fraud?

9 MS. WANG: Complaints.

10 MR. HEARNE: There's been particular  
11 investigations after different elections that I  
12 am aware of, but not as a practice

13 institutionally in that category.

14 MS. ROGERS: I don't go through and  
15 put it all in a spread sheet, but we do maintain  
16 the complaints.

17 CHAIRMAN DEGREGORIO: In the state  
18 plans that were filed with us, did any detail  
19 complaint procedures?

20 MS. SIMS: Reporting back to the  
21 state, that I don't know.

22 MR. CORTES: I think in terms of

173

1 going back a second to the administrative  
2 complaint procedure, that being a tool for this,  
3 I think part of the problem that we run into is  
4 that HAVA only requires that those complaints  
5 procedure be for complaints and implementation  
6 of Title 3 requirements. Some states have  
7 though taken it a step further, and in creating  
8 the administrative complaints procedure that  
9 they need to under HAVA, have expanded it and  
10 made that their standard complaint procedure for  
11 anything that goes on dealing with any  
12 complaints dealing with elections.

13 MS. SIMS: California has a combo  
14 form, a form for Title 3 complaints and other  
15 things that might go voting rights.

16 MS. WANG: I would love to see the  
17 forms.

18 MR. CORTES: So there are some states  
19 that combine that, and have one procedure, and  
20 use one form that's available for all sorts of

21 complaints.

22 MS. WANG: Do they keep records? 174

1 MR. CORTES: I'm just telling you the  
2 administrative complaint procedure, some states  
3 have done that. Some states will only take the  
4 very specific thing that HAVA asked them do and  
5 have other procedures that they use for state  
6 specifically complaints.

7 MS. SIMS: No more ideas, we're all  
8 worn out?

9 MR. ROKITA: I have some thematic  
10 thoughts, if I can share them, what we haven't  
11 talked about today yet, but I did see some up in  
12 some of the interviews, is the idea of some of  
13 these deterrents or perceived deterrents to  
14 fraud being confidence builders for the entire  
15 prospect of going to the polls and having your  
16 vote count but only once. I think that should  
17 be a significant part or central to the work  
18 certainly of the EAC and of this report.

19 Just like to give a statement against  
20 interest, having a paper audit trail to machines  
21 is less based on empirical data that electronic  
22 machines are wrong and more based on a 175

1 confidence builder.

2 MS. WANG: Although I would say that  
3 we're trying to stick with empirical data and  
4 not feel-good measures. So I would feel it a

5 little risky of making a recommendation purely  
6 so people would feel better.

7 MR. ROKITA: Again, I am having a  
8 very difficult time articulating today.

9 MS. WANG: Maybe I am not  
10 understanding.

11 MR. ROKITA: Well, let me finish, and  
12 that is to say that, let's take, for example,  
13 the risk analysis, if you rank something like  
14 that as to what's easier, what is harder to do,  
15 we have it look at it from a wholistic approach  
16 as well. And that is, every methodology, if it  
17 is valid, that could help deter fraud needs to  
18 be looked at from the goal of building  
19 confidence in our elections, where that  
20 confidence is deserved. And I would hope that  
21 that gets into some of the thoughts and the  
22 language and the semantics of this report.

176

1 MR. GREENBAUM: I think what I would  
2 say in response to that is if you're going to  
3 look at that, I would also want to look at to  
4 what degree certain measures might also impact  
5 access to the ballot. Because if you take a  
6 certain measure where there is no empirical data  
7 saying this is something that needs to be done  
8 but it may add to voter confidence, but on the  
9 flip side, that particular measure may impair or  
10 prevent access to the ballot for certain people,  
11 that need to be looked at as well.

12 MS. WANG: That's what I was trying



13 to get at. Once you start doing something  
14 purely on what the general public perceives to  
15 be the biggest problems, rather than trying to  
16 take an empirical approach and find out what the  
17 problems really are, and addressing what the  
18 problems really are, you start not expending  
19 your resources in the most efficiency way.

20 MR. ROKITA: Well, we have already  
21 decided at the beginning and throughout this  
22 discussion that it is very difficult to get

177

1 empirical data, especially on this particular  
2 issue, which has the syrup on top of it that  
3 doesn't include dispassionate actors.

4 Having said that, the point here is,  
5 whether you have an actual conviction of voter  
6 fraud or whether you have someone who was in  
7 line at the polling place who thinks they saw  
8 voter fraud, it is the same effect. It is  
9 equal, and that is, they don't come back to  
10 participate in the process. So you can't ignore  
11 that fact and just focus on the data that you  
12 might have, and that's part of the human  
13 involvement interaction in the electoral  
14 process.

15 And as long as humans are involved in  
16 the process, you're going to have a dichotomy  
17 there. Again, the effect is exactly the same.  
18 No convictions for in person fraud at the poll,  
19 no relation to whether or not its happened.  
20 Your interviews even say that it's very hard to

21 detect, so you have got to incorporate that  
22 reality into this report, if it's going to have

178

1 validity to the public and to election  
2 officials.

3 MR. PEREZ: Brings up the semantics  
4 because you're saying no system should go out  
5 having a voter verifiable paper trail.  
6 Every system in Texas has a paper trail.

7 The large part of perception and real  
8 fraud is the perception of a paper trail or not.  
9 The same thing semantics can be possibly  
10 incorporated in there to educate them.

11 MS. WANG: That is the approach I  
12 would prefer to take, is to educate people as to  
13 what the problems really are, rather than you  
14 trying to address problems that they think only  
15 exist but may not in reality.

16 MR. ROKITA: I'm not asking you to  
17 make up a fix. I'm asking you to realize that  
18 there is a very real issue out there. Whether  
19 fraud is perceived or you have a real  
20 conviction, the effect is the same.

21 MR. GINSBERG: The problem that I  
22 think you have with this is fraud and

179

1 intimidation become two sides of the same coin  
2 and they are used for political purposes. They  
3 are used for get-out-to-vote purposes.

4 So the notion of agreeing on what the  
5 problem is, is going to be really, really tough,

6 which to me goes back to the issue of having  
7 people, where the fraud or intimidation takes  
8 place from both parties, since they are the ones  
9 that are starting all the problems that  
10 challenge the legitimacy of the election.

11                   MR. GREENBAUM: Our counterpart's not  
12 here anymore.

13                   MR. GINSBERG: I waited for just that  
14 moment.

15                   MR. HEARNE: The point's coming up  
16 and I think it's one when I was an advisor to  
17 Carter Baker, the underlying point of this  
18 effort is to increase voter confidential. It is  
19 also to convince the winner of an election that  
20 he won. The trick is to make the loser knows  
21 that it was a fair election, so long as you come  
22 out after every election process saying it was  
180

1 stolen or they intimated my base, whatever it  
2 is, is an erosive charge.

3                   I understand the EAC's charge is to  
4 come up with a way to look at that process,  
5 quantify it, develop a process to say it does or  
6 don't exist to this degree, here's what  
7 happened, and here's ideas on places to go to  
8 address it so the next election and the one  
9 after and the one after, we're going to say it  
10 may or may not have been the one I wanted, but I  
11 at least felt the voters decided, not some  
12 special group, or lawyers, or judges  
13 manipulating. I think that's the objective we  
Page 134

14 want overall.

15                   Perception is important, and the  
16 empirical information we're starting with is to  
17 say, how did we find out, where do we hear about  
18 to go to find it. I like Ben's suggestion of  
19 why don't we look at the next election as a  
20 model, whatever way we can come up with a  
21 statistically -- have people going to the  
22 polling places, to look at that as a way to try

181

1 to quantify and identify those issues.

2                   MS. WANG: I guess I would reiterate  
3 John's point about making sure that when you try  
4 and engage in confidence building measures that  
5 you aren't at the same time disenfranchising  
6 more people than you're giving confidence too.

7                   MR. GINSBERG: There are a whole  
8 bunch of assumptions built into that statement  
9 that demonstrate why you may have difficulty  
10 getting any sort of agreement on what you're  
11 saying.

12                   MR. GREENBAUM: If you want to go  
13 back to what the language earlier before we had  
14 a recitation of what the language is that the  
15 EAC is supposed to be doing. If it's methods of  
16 identifying, deterring, and investigating, voter  
17 fraud, I just don't see where people's  
18 perceptions come into that.

19                   MR. ROKITA: I am looking at 20  
20 interviews worth of perceptions.

21                   MR. GINSBERG: If people's  
  Page 135

22 perceptions of this don't matter, then why are 182

1 we doing this. You want to have confidence in  
2 the system.

3 MR. WANG: You want a system that's  
4 actually fair and accurate.

5 MR. GINSBERG: Listen, what you just  
6 said means that your definition of what is fair  
7 and accurate is not going to be universally  
8 accepted. It's still two sides of the coin of  
9 the issue, and your perception of that is not  
10 going to be shared.

11 MR. PEREZ: What if we put a third  
12 person in that, Republican, Democrat,  
13 independent?

14 MR. GREENBAUM: Not even independent,  
15 nonpartisan.

16 MR. ROKITA: That animal doesn't  
17 exist in this business.

18 MR. GREENBAUM: Doesn't exist in your  
19 business.

20 MR. ROKITA: No, this business.

21 MS. ROGERS: I tend to look at the  
22 logistics of the things instead of the lofty 183

1 ideas. You talk about the observers, that's not  
2 a bad thing. We work, at the lawyers committee,  
3 we work with them on that but elections within  
4 the next decade are not going to occur on  
5 election day. Elections are already now

6 occurring in the week or two weeks leading up to  
7 Election Day. They are occurring by mail. So  
8 putting all your resources in Election Day is  
9 not going to be an answer for very much longer.  
10 Then how many resources do you have to extend  
11 that out to two-week period to insure that you  
12 have all these monitors. In addition to that,  
13 you have got to be so careful that -- how do you  
14 determine who gets to observe and who doesn't.  
15 Obviously, Democrats and Republicans want a  
16 place at the table. Well, in our state, the  
17 green carding and libertarians want a place at  
18 the table as well.

19 Parties are allowed to appoint two  
20 poll watchers and then the independent  
21 candidates, one. We have got a lot of other  
22 voter verifiable and paper audit trail folks who

184

1 want to send in observers as well. We get  
2 questions from overseas. Very quickly, you can  
3 overwhelm a polling place where they are going  
4 to feel intimidated or suppressed when they walk  
5 in the door.

6 It can work, but in order for there  
7 to be any support from my peers, there would  
8 have to be a lot of caveats that went with it,  
9 as far as the training, who got to observe, who  
10 they notified of what they see on Election Day,  
11 do they notify their party, the national party,  
12 and then you get a fax that says we just found  
13 out blah, blah, blah and we're putting you on

6 occurring in the week or two weeks leading up to  
7 Election Day. They are occurring by mail. So  
8 putting all your resources in Election Day is  
9 not going to be an answer for very much longer.  
10 Then how many resources do you have to extend  
11 that out to two-week period to insure that you  
12 have all these monitors. In addition to that,  
13 you have got to be so careful that -- how do you  
14 determine who gets to observe and who doesn't.  
15 Obviously, Democrats and Republicans want a  
16 place at the table. Well, in our state, the  
17 green carding and libertarians want a place at  
18 the table as well.

19 Parties are allowed to appoint two  
20 poll watchers and then the independent  
21 candidates, one. We have got a lot of other  
22 voter verifiable and paper audit trail folks who

184

1 want to send in observers as well. We get  
2 questions from overseas. Very quickly, you can  
3 overwhelm a polling place where they are going  
4 to feel intimidated or suppressed when they walk  
5 in the door.

6 It can work, but in order for there  
7 to be any support from my peers, there would  
8 have to be a lot of caveats that went with it,  
9 as far as the training, who got to observe, who  
10 they notified of what they see on Election Day,  
11 do they notify their party, the national party,  
12 and then you get a fax that says we just found  
13 out blah, blah, blah and we're putting you on

14 notice. Just random thoughts.

15 MR. GINSBERG: All of that's correct.  
16 We all agree that there is a problem with fraud  
17 and intimidation taking place in elections. The  
18 question is how many prosecutions are there on a  
19 regular basis that show that there is either  
20 fraud or intimidation.

21 MR. DONSANTO: I don't think that is  
22 a measure of anything. There is a hell of a lot  
185

1 more out there than we ever find, and there is a  
2 hell of a lot more, we don't have the resources.

3 MR. GINSBERG: And rumors about it  
4 are greater than the actuality.

5 MR. DONSANTO: There is a lot more  
6 out there than we ever catch, and the rumors are  
7 even more.

8 MR. GINSBERG: Exactly. So if you  
9 want to deal with the problem of the electors  
10 having confidence in their elections, you have  
11 got to deal with all the rumors that are out  
12 there. And I love academic studies and surveys,  
13 but you've got to have people on the ground in  
14 the polling places or watching the two-week  
15 process that takes place, and verifying that.  
16 And all the academic studies in the world are  
17 not going to get at that public perception  
18 issue.

19 MS. WANG: Definitely, a lot of the  
20 people we talked to recommended more monitoring,  
21 including Joe Rich, who was a big proponent of



22 that.

186

1 MR. HEARNE: I think the point was  
2 made increasingly and the trend is there, we're  
3 going into more and more absentee balloting, and  
4 the one point is a pretty broad consensus here,  
5 where vote fraud does go on, that there is a lot  
6 of it in absentee balloting, an area that merits  
7 scrutiny, and understanding, involvement, and  
8 that's going to be an area that increases in  
9 terms of availability of those kinds of avenues.

10 MR. ROKITA: My other point to that  
11 would be just because we identify or focus on  
12 absentee fraud as an area where there are  
13 problems, and I certainly agree, we, I think,  
14 have to be careful of leaving the impression of  
15 that means it is not occurring in other areas  
16 because we just don't know.

17 MR. DONSANTO: Right, it does occur  
18 in other areas. Absentee ballots happens to be  
19 the methodology of the moment.

20 CHAIRMAN DEGREGORIO: You know,  
21 Craig, you have served as an observer, and I  
22 know you have. It just so happens this morning

187

1 from 8 to 9:30, I met with the head of OSC, who  
2 was here because they had a little team here.  
3 They are going to send a team to observe in  
4 November. They have a method they have used  
5 when you go observe an election. You have a  
6 form you fill out. They have people, long-term

7 observers, who go six weeks before the election,  
8 and short-term, who go for a week, and all this  
9 material is brought in election night. All  
10 night long they calculate it, then they issue a  
11 statement at 1:00 the next day saying whether  
12 the elections were free and fair, whether you  
13 have can confidence/no confidence in the winner.  
14 And in Ukraine, they didn't have confidence in  
15 the winner, brought down the Government.  
16 They had another election six weeks later but  
17 they use that method of observation because of  
18 perception that people have whether the  
19 elections are free and fair.

20 Jimmy Carter has done similar things  
21 in Central America. The Carter Center does that  
22 too, but they have a method to do that. You

188

1 have been part of it and I have been part of it,  
2 to try to make that judgement call, and they are  
3 all independent people from different countries  
4 that go to do it.

5 MS. WANG: Maybe that's what we need  
6 is international observers.

7 MR. GREENBAUM: It's a problem  
8 because they can't get in the polling place in a  
9 lot of the states. They even said that as part  
10 of their report.

11 MR. ROKITA: Don't we add value to  
12 this entire process, if you go and look at what  
13 Paul just described and analyze it and present  
14 it as an idea, isn't that what this is?

Transcript 051806

15 MS. SIMS: That would be in the next  
16 phase.

17 MS. WANG: All of this is in the next  
18 phase.

19 MS. SIMS: Looking at the project  
20 that the Commission decides to pursue and the  
21 boards are happy with that idea.

22 MR. HEARNE: What is the next step 189

1 from here?

2 MS. SIMS: If we're all done with  
3 ideas.

4 MR. ROKITA: I just wanted to get a  
5 couple more things done to finish up my last  
6 point. We're not sure that fraud at the polling  
7 place doesn't exist. We can't conclude that.  
8 That is my last point.

9 There has been a discussion about a  
10 political science professor being utilized. I  
11 think the EAC needs to be very careful in who  
12 they select, because all the time and effort and  
13 money that's been spent up to date and would be  
14 spent in the future could be invalidated by a  
15 wrong selection in the eyes of some group. So  
16 whether you have two folks, political science  
17 professors, however you decide to work it,  
18 please research, you, as a taxpayer, to be  
19 careful who you pick.

20 I thank you.

21 MR. PEREZ: I'd like to make a  
22 statement. I am not a lawyer so I don't know

0  
1 how far this would fly. If you're trying to  
2 query on developing statistical data, why don't  
3 you put a question on the ballot? Everybody  
4 walk in, I believe this election was fair. No,  
5 I believe there was fraud here. Just ask them.

6 MR. DON SANTO: How are they supposed  
7 to know that until the election has been run?

8 MR. PEREZ: They have already been  
9 intimidated while they are casting their ballot.

10 CHAIRMAN DEGREGORIO: How about if  
11 there is a none of the above on the ballots?

12 MR. GINSBERG: It would be really  
13 good for business.

14 MR. PEREZ: If they come in, I would  
15 want to vote for that one. Really, you're  
16 trying to get statistics from the voters, trying  
17 to get them outside, trying to catch them  
18 inside, catch them on the ballot.

19 MS. SIMS: well, the next step is  
20 that our two consultants would be consolidating  
21 the preliminary research that they have and also  
22 the working group's deliberation in his order to  
191

0  
1 present a report to our Commissioners. And our  
2 Commissioners will, obviously, take a look at  
3 that.

4 And then when you deem it's ready,  
5 we'll have it sent out to our Board of Advisors  
6 and our Standards Board for their review and

7 comment. HAVA does mandate that our research  
8 efforts are supposed to be reviewed by our  
9 boards. Depending on what we get back, and what  
10 the Commissioners decide to do, and what kind of  
11 budget we get, then we may be able to prioritize  
12 some of the ideas or determine which ones we can  
13 do. Inevitably, they are going to have to be  
14 below a certain dollar limit. And so we would  
15 put the project out, put an RFP up.

16 In terms of people who would lean one  
17 way or another, we would take a look at that  
18 when we're writing the RFP to determine that the  
19 team has different points of views.

20 CHAIRMAN DEGREGORIO: We have also  
21 set some peer review groups for many of our  
22 studies that have a balance of folks, academics

192

1 particularly, to take a look at the work that's  
2 being done by folks to make sure we're being  
3 looked at by people who have different  
4 philosophies, different viewpoints.

5 MS. SIMS: And depending on what  
6 we're able to do, we may or may not get a  
7 working group to work with us on that.  
8 Generally, speaking it is wiser to get the  
9 working group further in on the beginning.  
10 We're bringing you in as the tail group, is a  
11 little bit different than I am used to doing at  
12 FEC. So we may take a look at that on whatever  
13 we decide to do next on bringing the working  
14 group together in the earlier phase to offer

15 their advice in an earlier stage.

16                   Any questions about that? well, I  
17 want to thank you all very much for coming. I  
18 know our consultants have really -- I'm sure  
19 they have gotten a lot out of it. I have.

20                   CHAIRMAN DEGREGORIO: I also want to  
21 thank you too on behalf of the Commissioners who  
22 couldn't be here today, to Tova and Job for your  
193

1 work thus far. This is an important item for  
2 the Commissioners, and the we'll move on it  
3 quickly. I suspect -- I don't know that we have  
4 anything budgeted for 2006 for this but October  
5 1 starts, we will have some funds, and we can do  
6 some of the things that you all suggested we  
7 should do to come up with further detailed study  
8 of this. But this has been helpful just sitting  
9 through here the last hour-and-a-half.

10                   I was director of elections in St.  
11 Louis County. Craig, we had some federal  
12 prosecutions. We had plenty of nursing home  
13 absentee fraud. I was in St. Louis County, but  
14 a lot of it came at the local level. When  
15 you're running for police chief in the city,  
16 that's where we saw a lot of the election fraud  
17 too, but it occurred in the federal elections.  
18 We had people voting in 1988. So those things  
19 happened, so I have seen it myself.

20                   I am also aware of things that you  
21 pointed out here, these kinds of things. This  
22 is awful for people to try to trick people in  
194

1 ways like this, to keep them from participating  
2 in our democracy. That's just not right. It's  
3 wrong.

4 MR. DONSANTO: I am aware of this  
5 one.

6 CHAIRMAN DEGREGORIO: We don't want  
7 that to happen.

8 MR. DONSANTO: We're unable to find  
9 out who did it.

10 CHAIRMAN DEGREGORIO: We appreciate  
11 your work, hope this will continue in some  
12 fashion, that you all can be participants in  
13 what we do next. Thank you for your time today.

14 MS. SIMS: I also want to know for  
15 those who are traveling out of town, Devon put  
16 an information package for you on how you turn  
17 over the receipts that we need, so we can make  
18 sure you get money. And if you have any  
19 questions, please contact her about that.

20 MS. WANG: Thank you so much.

21 (Whereupon, at approximately 5:00 o'clock,  
22 p.m., the meeting adjourned.)

195

1

2

CERTIFICATE OF COURT REPORTER

3

4

I, Jackie Smith, court reporter in and for  
5 the District of Columbia, before whom the foregoing  
6 meeting was taken, do hereby certify that the  
7 meeting was taken by me at the time and place

Transcript 051806

8 mentioned in the caption hereof and thereafter  
9 transcribed by me; that said transcript is a true  
10 record of the meeting.

11

12

13

14

15

---

Jackie Smith

16

17

18

19

20

21

22

□



To: Karen Lynn-Dyson and Tom Wilkey  
From: Tova Wang, Job Serebrov, Stephen Ansolabehere  
Re: Preliminary Work Plan  
Date: September 7, 2005

The following is a preliminary work plan and division of labor for the project on voter fraud and voter intimidation:

MONTH ONE (beginning the date contracts are finalized):

- I. Defining Fraud/Intimidation
  - a. In person meeting and discussion among consultants to:
    - i. Determine what we believe the parameters of the terms fraud and intimidation should be for our research purposes. (All)
    - ii. Create a list of state and local officials, third party representatives, attorneys, scholars, etc. to interview and/or survey to assist in this process of definition (All)
  - b. Interviews of individuals identified as having expertise (Job and Tova)
  - c. Analysis of existing research (Job and Tova)
- II. Obtaining research assistance (e.g. interns, law clerks) (All)

MONTH TWO:

- III. Examining the Feasibility of Quantifying the Level of Incidence of Different Types of Fraud
  - a. Looking at how we can develop a statistically sound research instrument
    - i. Discussion with political and social scientists, legal scholars in the field (Tova and Steve)
  - b. Determination as to information that would be required for a potential survey; identification of potential survey states to ensure a fair representation of different systems (All)
  - c. Preliminary survey of case law of recent prosecutions for fraud/intimidation (Job)
  - d. Interviews with state and local officials, third party groups, election lawyers to assess what they believe are the most prevalent problems (All)

MONTH THREE:

- IV. Preliminary assessment of the federal, state and local legal capacity to handle fraud and intimidation cases
  - a. Case law research (Job)
  - b. Survey of current state election codes (Tova and Job)
  - c. Analysis of Department of Justice Civil Rights and Criminal Divisions work in this area (Tova)

**Deliberative Process  
Privilege**

008775

- d. Survey and assessment of who has enforcement responsibility and accountability in each state and the extent to which that entity exercises that authority (All)

MONTH FOUR:

- V. Report of Preliminary Findings (Tova and Job)
- VI. Assembling the Working Group
  - a. Developing a list of potential members (All)
  - b. Development of a work plan and set of issues for examination for the working group (All)

Potential Working Group Members – Initial Suggestions:

Lori Minnite, Barnard College  
Allan Lichtman, American University  
David Orr, Cook County Clerk (Chicago)  
Judith Browne, The Advancement Project  
Cathy Cox, Secretary of State, Georgia  
Jonah Goldman, Lawyers Committee for Civil Rights  
Christopher Edley, Dean, Berkeley School of Law  
Daniel Tokaji, Moritz College of Law, The Ohio State University  
Spencer Overton, George Washington School of Law  
Wade Henderson, Lawyers Committee for Civil Rights

To: Peggy Sims, Gavin Gilmour, Karen Lynn-Dyson and Tom Wilkey  
From: Tova Wang, Job Serebrov  
Re: Work Plan  
Date: October 5, 2005

The following is a work plan and division of labor for the project on voter fraud and voter intimidation:

MONTH ONE (beginning the date contracts are finalized):

- I. Draft project work plan
- II. Develop list of potential members of the working group; have EAC vet and approve names (Tova, Job, EAC)
- III. Define Fraud/Intimidation (Tova and Job)
  - a. Discussion among consultants to:
    - i. Determine what we believe the parameters of the terms fraud and intimidation should be for our research purposes.
    - ii. Create a list of state and local officials, third party representatives, attorneys, scholars, etc. to interview and/or survey to assist in this process of definition
  - b. Analysis of existing research (Tova and Job)
- IV. Obtain research assistance (e.g. interns, law clerks) (EAC)

MONTH TWO:

- V. Interview individuals identified in month one about the scope of fraud and intimidation (Job and Tova);
- VI. Create working written description of what fraud and intimidation means, includes/does not include (Job and Tova)
- VII. Examine the Feasibility of Quantifying the Level of Incidence of Different Types of Fraud
  - a. Look at how we can develop a statistically sound research instrument
    - i. Discussion with political and social scientists, legal scholars in the field (Tova)
  - b. Preliminary survey of case law of recent prosecutions for fraud/intimidation (Job/law clerk)
  - c. Interviews with state and local officials, third party groups, election lawyers to assess what they believe are the most prevalent problems (Job and Tova)

MONTH THREE:

- VIII. Preliminary assessment of the federal, state and local legal capacity to handle fraud and intimidation cases
  - a. Case law research (Job)
  - b. Survey of current state election codes (Tova and Job)
  - c. Analysis of Department of Justice Civil Rights and Criminal Divisions work in this area (Tova)

MONTH FOUR:

- IX. Written summary of background research on voting fraud and intimidation (Tova and Job)
- X. Development of a work plan and set of issues for examination for the working group (Tova and Job)
- XI. Finalize working group membership and set meeting dates

MONTH FIVE:

- XII. Initial working group meetings

MONTH SIX:

- XIII. Develop project scope of work and project work plan
- XIV. Draft summary report describing key findings of this preliminary study of voting fraud and voter intimidation

Contact James Joseph, Arnold & Porter – (202) 942-5355,  
james\_joseph@aporter.com

**Tova Andrea Wang, Co-Author of the Voter Fraud and Voter Intimidation Report  
for the Election Assistance Commission, Calls for an End to the Censorship**

Over the last few weeks, there has been a developing controversy in the press and in the Congress over a report on voter fraud and voter intimidation I co-authored for the Election Assistance Commission (“EAC”). It has been my desire to participate in this discussion and share my experience as a researcher, expert and co-author of the report. Unfortunately, the EAC has barred me from speaking. Early last week, through my attorney, I sent a letter to the Commission requesting that they release me from this gag order. Despite repeated follow-up, the EAC has failed to respond to this simple request. In the meantime, not only can I not speak to the press or public -- it is unclear under the terms of my contract with the EAC whether I can even answer questions from members of Congress.

My co-author and I submitted our report in July 2006; the EAC finally released its version of the report in December 2006. As numerous press reports indicate, the conclusions that we found in our research and included in our report were revised by the EAC, without explanation or discussion with me, my co-author or the general public. From the beginning of the project to this moment, my co-author and I have been bound in our contracts with the EAC to silence regarding our work, subject to law suits and civil liability if we violate the EAC-imposed gag order. Moreover, from July to December, no member of the EAC Commission or staff contacted me or my co-author to raise any concerns about the substance of our research. Indeed, after I learned that the EAC was revising our report before its public release, I contacted the EAC, and they refused to discuss with me the revisions, or the reasons such revisions were necessary.

Stifling discussion and debate over this report and the critical issues it addresses is contrary to the mission and goals of the EAC and to the goal of ensuring honest and fair elections in this country. Commissioner Hillman stated in her defense of the EAC’s actions that the EAC seeks to “ensure improvements in the administration of federal elections so that all eligible voters will be able to vote and have that vote recorded and counted accurately.” I share this aspiration. But I believe that the best way to achieve that end is not by suppressing or stifling debate and discussion, but by engaging in a thoughtful process of research and dialogue that ultimately arrives at the truth about the problems our voting system currently confronts.



**U.S. ELECTION ASSISTANCE COMMISSION**

**Status Report on the  
Voting Fraud-Voter Intimidation Research  
Project**

**May 17, 2006**

**Deliberative Process  
Privilege**

**008780**

## INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

## FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

## DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

## LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.



- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

### **Recommendations**

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

### **INTERVIEWS**

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

### **Common Themes**

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,

although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

#### **Common Recommendations:**

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots "for cause" only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the proposal in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

### NEWS ARTICLES

Consultants conducted a Nexis search of related news articles published between January 1, 2001 and January 1, 2006. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview of these articles provided by the consultants.

#### **Absentee Ballots**

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

## **Voter Registration Fraud**

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota, and Wisconsin.

## **Voter Intimidation and Suppression**

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;

- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from "battleground" states. There were several such reports out of Florida, Ohio, and Pennsylvania.

### **"Dead Voters and Multiple Voting"**

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found five such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### **Vote Buying**

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia). There were more official investigations, indictments and convictions/pleas in this area.

### **Deceptive Practices**

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of completed voter registration applications. There were no reports of prosecutions or any other legal proceeding.

### **Non-citizen Voting**

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case, charges were filed against ten individuals. In another case, a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

### **Felon Voting**

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem was the large number of ineligible felons that remained on the voting list.

### **Election Official Fraud**

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one

instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### **Recommendation**

The consultants recommend that subsequent EAC research should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

## **CASE LAW RESEARCH**

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, the consultants found comparatively few applicable to this study. Of those that were applicable, the consultants found that no apparent thematic pattern emerges. However, it appears to them that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

### **Recommendation**

Because so few cases provided a picture of these current problems, consultants suggest that subsequent EAC research include a review of state trial-level decisions.

## **PROJECT WORKING GROUP**

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.) The working group is scheduled to convene at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

## **FINAL REPORT**

After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations. This report will include recommendations for future EAC research related to this subject matter. The draft report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment. Following this, a final report will be prepared.



**Attachment A**

**Voting Fraud-Voter Intimidation Project Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, TX

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

*(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)*

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S. Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice



# **Voting Fraud-Voter Intimidation Preliminary Research**

## **Status Report**



# **Voting Fraud-Voter Intimidation Research STATUTORY AUTHORITY**

The Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].



# **EAC Voting Fraud-Voter Intimidation Research**

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.



# **EAC Voting Fraud-Voter Intimidation Research**

## **CURRENT RESEARCH FOCUS**

2 consultants (bipartisan) focused on:

- Drafting a definition of election fraud;
- Conducting background research (literature, news stories, case law, interviews of knowledgeable persons from the public and private sector); and
- Convening a working group of bipartisan and nonpartisan representatives of election officials, advocates, and the legal community to review preliminary research and brainstorm ideas for future EAC activities.



# **EAC Voting Fraud-Voter Intimidation Research LITERATURE FINDINGS**

- Little of the research is truly systematic or scientific.
- Many documents make allegations but have little follow up.
- Books written about this subject seem to have a political bias and a pre-existing agenda that make them somewhat less valuable.



## **EAC Voting Fraud-Voter Intimidation Research LITERATURE FINDINGS**

- There is substantial concern about **absentee balloting** and the opportunity it presents for fraud.
- There is tremendous disagreement about the extent to which **polling place fraud** (e.g. double voting, intentional felon voting, noncitizen voting) is a serious problem.



## **EAC Voting Fraud-Voter Intimidation Research LITERATURE FINDINGS**

- **Voter intimidation** continues to be focused on minority communities, although one report mentions schemes against a major political party.
- **Deceptive practices** (e.g.: targeted flyers and phone calls providing misinformation) were reported to be a major problem in 2004.





# **EAC Voting Fraud-Voter Intimidation Research LITERATURE FINDINGS**

- **Federal law** governing election fraud and intimidation is varied and complex; yet may be insufficient or subject to too many limitations to be as effective as it might be.



# **EAC Voting Fraud-Voter Intimidation Research INTERVIEWS**

Consultants interviewed numerous individuals from the **public** and **private** sector who have some experience in researching, investigating and prosecuting, or observing incidents.

They included experts from the **legal, election official, advocacy, and academic** communities.



## **EAC Voting Fraud-Voter Intimidation Research INTERVIEW FINDINGS**

- Virtually universal agreement that **absentee ballot fraud** is the biggest problem.
- **Vote buying** and **voter registration fraud** are considered the next most common problems
- Some disagreement over prevalence of **polling place voting fraud**.



# **EAC Voting Fraud-Voter Intimidation Research INTERVIEW FINDINGS**

## **Intimidation/Suppression –**

- Biggest intimidation/suppression concerns: abuse of challenger laws and abusive challengers.
- Some continued outright intimidation and suppression, especially in some Native American communities, and of poll workers engaging in harassment of minority voters.
- Other concerns: polling places being moved at the last moment; videotaping of voters at the polls; and targeted misinformation campaigns.



## **EAC Voting Fraud-Voter Intimidation Research INTERVIEW FINDINGS**

- Common problems: badly kept **voter registration lists**, with both ineligible voters remaining on the rolls and eligible voters being taken off.
- A few people also troubled by voters being on registration lists in two states.



## **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLES**

- Nexis search of related news articles published between January 1, 2001 and January 1, 2006.
- Downside: often could not verify the truthfulness of the reports or how often actual convictions result from activities reported.



## **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

The most common allegations of **voter registration fraud** were:

- Registering in the name of dead people;
- Fake names and other information on voter registration applications;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms, depending on the party with which the voter registered.



## **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

**Absentee ballots** reportedly were abused in a variety of ways:

- Campaign workers, candidates and others coerced the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers, and individuals attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.





## **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

Activities most commonly reported as **voter suppression** included:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;
- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.



# **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

## **Dead Voters and Multiple Voting**

- High number of articles.
- Often the problem resulted from administrative error: poll workers mismarking or failing to mark voter lists; flawed voter registration lists; and/or errors made in the attempt to match names of voters on the list with the names of the people who voted.



# **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

## **Multiple Voting**

- Most cases involved a person voting both by absentee ballot and in person.
- A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists.
- In many instances, person charged claimed not to have voted twice on purpose.
- Small handful of cases involved a voter voting in more than one county, and there was one substantiated case involving a person voting in more than one state.



# **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

## **Dead Voters –**

Problem lay in the voter registration list not being properly maintained (i.e.; the person was still on the registration list as eligible to vote, and a person took criminal advantage of that).



# **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

## **Vote Buying**

- More official investigations, indictments and convictions/pleas reported in this area.
- Numerous of articles, a few of which involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia).



# **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

## **Deceptive Practices**

- Numerous reports in 2004 of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote.
  
- Misinformation came in the form of
  - flyers,
  - phone calls,
  - letters, and
  - people going door to door.
  
- Many of the efforts reportedly targeted at minority communities.
  
- Disproportionate number of them came from key battleground states



# **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

## **Non-citizen Voter Registration & Voting**

Few articles regarding noncitizen registration and voting  
– just 7 cases in 7 different states across the country:

- 1 case - charges were filed against 10 individuals.
- 1 case - judge in a civil suit found there was illegal noncitizen voting.
- 3 instances - prompted official investigations.
- 2 cases - remained just allegations.



# **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

## **Felon Voting**

- 13 cases of felon voting, some involving large numbers of voters.
- In several states, the main problem was the large number of ineligible felons that remained on the voting list.





# **EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS**

## **Election Official Fraud**

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is an administrative mistake or a crime.



# **EAC Voting Fraud-Voter Intimidation Research CASE LAW**

Consultants reviewed cases from Federal courts and state courts of appeals from 2000 to the present.

Greatest areas of fraud and intimidation shifted from past patterns of stealing votes to present problems with:

- voter registration;
- voter identification;
- the proper delivery and counting of absentee and overseas ballots;
- provisional voting;
- vote buying; and
- challenges to felon eligibility.



## **EAC Voting Fraud-Voter Intimidation Research WORKING GROUP**

8 member working group included bipartisan and nonpartisan members, and representatives of the election official, advocacy, and legal communities

Met May 18 to review preliminary research and brainstorm ideas for future EAC action.



# **EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS**

- Conduct surveys of:
  - All state laws
  - All state election offices
  - Specific states
  - Local election officials
  - State implementation of administrative complaint procedures (applies only to HAVA Title III violations) to identify examples of procedures for other than HAVA Title III complaints
  - Voters



## **EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS**

- Follow up on initial reports of fraud/intimidation from the Nexis search of news articles and literature review
- Research absentee balloting process issues, including methodology of “for cause” absentee voting



## **EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS**

- Conduct risk-analysis for voting fraud & voter intimidation
  - Who?
  - What part of process?
  - Which elections?
  - Ease of committing the fraud



# **EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS**

- Analyze
  - Phone logs from toll-free lines for election concerns
  - Federal observer reports
  - Local newspapers
  
- Conduct academic statistical research
  
- Research search and match procedures for voter registration list maintenance (subject to confirmation) to identify potential avenues for vote fraud



## **EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS**

- Research state district court actions
- Broaden scope of interviews to include district attorneys and more local election officials
- Explore the concept of election courts
- Develop model statutes





## **EAC Voting Fraud-Voter Intimidation Research**

- **Do we have a complete picture?**

*No! Preliminary research provides some pieces of the puzzle.*

- **Will we ever have a complete picture?**

*Probably not, but additional research could provide enough additional pieces so that we have a better sense of the whole picture.*



## **EAC Voting Fraud-Voter Intimidation Research NEXT STEPS**

- Consultants will draft a final report summarizing the results of their research and the working group deliberations.
- Report will include recommendations for future EAC research related to this subject matter.
- Report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment.
- Following this, a final report will be prepared.



**U.S. ELECTION ASSISTANCE COMMISSION**

**Status Report on the  
Voting Fraud-Voter Intimidation Research  
Project**

**May 17, 2006**

**Deliberative Process  
Privilege**

008825

## INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

## FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

## DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

## LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.

- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

### **Recommendations**

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

### **INTERVIEWS**

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

### **Common Themes**

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,

although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

#### **Common Recommendations:**

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.



- A few recommend returning to allowing use of absentee ballots “for cause” only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the proposal in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

## NEWS ARTICLES

Consultants conducted a Nexis search of related news articles published between January 1, 2001 and January 1, 2006. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview of these articles provided by the consultants.

### Absentee Ballots

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

## **Voter Registration Fraud**

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota, and Wisconsin.

## **Voter Intimidation and Suppression**

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;

- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from “battleground” states. There were several such reports out of Florida, Ohio, and Pennsylvania.

### **“Dead Voters and Multiple Voting”**

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found five such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### **Vote Buying**

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia). There were more official investigations, indictments and convictions/pleas in this area.

### **Deceptive Practices**

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of completed voter registration applications. There were no reports of prosecutions or any other legal proceeding.

### **Non-citizen Voting**

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case, charges were filed against ten individuals. In another case, a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

### **Felon Voting**

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem was the large number of ineligible felons that remained on the voting list.

### **Election Official Fraud**

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one

instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### **Recommendation**

The consultants recommend that subsequent EAC research should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

## **CASE LAW RESEARCH**

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, the consultants found comparatively few applicable to this study. Of those that were applicable, the consultants found that no apparent thematic pattern emerges. However, it appears to them that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

### **Recommendation**

Because so few cases provided a picture of these current problems, consultants suggest that subsequent EAC research include a review of state trial-level decisions.

## **PROJECT WORKING GROUP**

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.) The working group is scheduled to convene at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

## **FINAL REPORT**

After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations. This report will include recommendations for future EAC research related to this subject matter. The draft report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment. Following this, a final report will be prepared.

**Attachment A**

**Voting Fraud-Voter Intimidation Project Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, TX

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

*(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)*

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S. Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice

Tova Wang/EAC

p 5. 2d bullet ..DOJ is bringing fewer intimidation and suppression cases now...

This clearly is a myth. The Department has brought two 11(b) cases, one of the two in this Administration. The focus of DOJ activity has shifted, in fact, to voter suppression as there are fewer cases over voter dilution (challenges to at-large election systems, etc.) being brought by anyone as the number of jurisdictions with at-large election systems has shrunk dramatically. This Administration has, in fact, brought far more voter-suppression cases in this Administration than ever in the past, including a majority of all cases under Sections 203 and 208 of the Act, and such key recent Section 2 cases as US v. City of Boston and US v. Long County, Georgia.

The Voting Section brings cases involving “systemic” discrimination because federal voting statutes focus on discriminatory action by local governments. It is criminal statutes that involve malfeasance by individuals. The difference is fundamental and key to understanding law enforcement

3d bullet.

The Voting Section of DOJ has taken action to address badly kept voter lists with recent lawsuits in Missouri and Indiana.

4<sup>th</sup> bullet

The Voting Section of DOJ has, by a large margin, included mandatory training of poll workers in avoiding discriminatory practices in more cases in this Administration than in its entire previous history.

Page 6 - first bullet

This is not true. Ms. Wang repeatedly declined to define intimidation, so that her questions were vague and unhelpful in defining or identifying problems. The facts:

The Voting Section is bringing more cases involving discrimination and violation of minority voters rights at the polls on election day than ever in its history - than in its entire history combined. That is indisputable.

The credibility of allegations depends on their specificity and corroboration. Questions as to intimidation and vote suppression are meaningless in the absence of a definition of discrimination.

Prior enforcement has indeed changed the landscape, especially in the Southeast; however, the fact that we are bringing record numbers of cases clearly shows that discrimination is not rare.

Challenges based on race and unequal implementation of ID rules are indeed actionable and we have brought lawsuits, such as in Boston and Long County; we have not identified instances of such discrimination in which we have not taken action..

**Deliberative Process  
Privilege**

008837



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

## **Voting Fraud – Voter Intimidation Working Group Meeting Summary**

### *Overview of Current Research Project*

- Current research performed Tova Wang and Job Serebrov
  - the current research has been a challenge because of the need for the information to be collected and analyzed in a scientific manner
    - especially when working the “perception” of intimidation
- Both consultants cross-checked each others work in order to maintain a bipartisan balance
- Literature was anecdotal, not much follow-up on the articles
- No interviews with DA’s and only one interview with a judge
- Absentee ballots seemed to be the biggest problem
- The articles found that most of reported vote buying is concentrated in the Midwest and the South
- Very little non-citizen voting, dead voting and impersonation was reported

### *Purpose of Current Working Group*

- To provide background information for current research
- To brainstorm for potential research ideas

### *Talking Points of Working Group*

- Discussion of value of research because of the language of section 241 of HAVA; where is the methodology?
- History of the definition of “fraud”
- Most voter fraud happens outside of the polling centers
- Research must address existing problems, not perceived problems
- Intimidation is a subset of suppression, and considered to be physical or economic threat and/or coercion
- Suppression that is not a form of intimidation is intended to interfere with voting rights and the election process without physical or economic threat and/or coercion
- Department of Justice primarily investigated individual cases of voter fraud
- Risk analysis can be used as an indicator of legitimacy for the need to allocate funding to research in the area of voter fraud
- Current statewide database list will be useful in the deterrence of voter fraud



### *Ideas for Future EAC Activities*

- Bipartisan observers/poll watchers
  - Used in the collection of data
  - Used to deter fraud
- Surveys
  - Survey of state laws
    - Specific states
  - Survey of local election officials
  - Voter surveys (this suggestion was rejected by the panel)
  - Survey state election offices
  - Survey use of administrative complaint procedures
- Follow up on initial reports of fraud/intimidation from the survey of news articles
- Better poll worker training
- Longer hours for polling centers
  - Including hours on weekends
- Fewer polling center locations
  - More qualified poll workers
- Absentee balloting process
  - Methodology of “for cause” absentee voting
- Risk-analysis for voting fraud
  - Who?
  - What part of process?
    - ease of use
  - Which elections?
- Broaden scope of interviews to local officials and district attorneys
- Analysis
  - Phone logs from toll-free lines for election concerns
  - Federal observer reports
  - Local newspapers
  - State District Court Cases
  - Determination of challenging a voter at the polls (in some states there is little or no cause required to challenge a voters eligibility)
- Academic statistical research
- Search and match procedures for voter registration list maintenance and voter fraud identification (subject to confirmation)
- Election courts
- Model statutes

## Voter Fraud and Voter Intimidation

| <u>EAC</u>    | <u>Primary</u>    | <u>Project</u> | <u>Est. End</u>   | <u>Total FY05</u> | <u>HAVA</u>  |                |
|---------------|-------------------|----------------|-------------------|-------------------|--------------|----------------|
| <u>C.O.R.</u> | <u>Contractor</u> | <u>Contact</u> | <u>Start Date</u> | <u>Date</u>       | <u>Funds</u> | <u>Mandate</u> |
|               | T. Wang           | T. Wang        |                   |                   | \$100,000    | Section        |
| P. Sims       | J. Serebrov       | J. Serebrov    | 09/01/05          | 5/5/2006          | (FY05)       | 241(b)(6)(7)   |

| <u>Month</u>        | <u>Key Deliverables</u>   |
|---------------------|---|
| <b>September 05</b> | Draft project work plan, develop list of potential members for Working Group  |
| <b>October-05</b>   | Define Fraud/Intimidation, parameters of terms, creation of working written description of what each term includes and does not include   |
| <b>November-05</b>  | EAC vets and approves working group names, formal requests made, agree on number and list of appropriate parties to interview or survey to assist in process of definition, research and review of existing research completed by T.Wang, J. Serebrov and EAC law clerk (case law/journal articles) |
| <b>December-05</b>  | Face to face meeting at EAC re: review of November tasks, examine the feasibility of quantifying the level of incidence of different types of fraud   |
| <b>January-06</b>   | Interviews with state and local officials, 3rd party groups, election lawyers to assess perceived prevalent problems  |
| <b>February-06</b>  | Draft working group topics, written summary of background research. Initial working group meeting.  |
| <b>March-06</b>     | Develop project scope of work, project work plan and draft summary report on key findings of preliminary study of voting fraud and intimidation with input from working group.  |

Working Group meeting – proposed materials and agenda:

- I. Materials to be sent third week in April
  - a. Cover letter from Peg
  - b. Agenda
  - c. List of interviewees
  - d. Summaries of interviews
  - e. Nexis charts + news summaries
  - f. Case charts
  - g. Summaries of existing literature
  - h. Methodology summary
  - i. Proposed fraud definitions
  
- II. Agenda
  - a. Overview and purpose of the project, including the phase 2
  - b. Purpose of the working group
  - c. Considering only the research performed by Job Serebrov and Tova Wang to date, what at this point say can we say about the incidence of fraud and intimidation since the 2000 election?
    - i. How much are certain forms of fraud being committed, including but not limited to:
      1. voter registration fraud
      2. polling place fraud
      3. vote buying
      4. absentee ballot fraud
      5. fraud in ballot counting
    - ii. How much are certain forms of voter intimidation and suppression being committed, including but not limited to:
      1. deceptive practices
      2. poll worker misconduct
      3. challengers
    - iii. Are there notable regional variations?
    - iv. Who seems to be committing these acts?
      1. voters
      2. political parties
      3. third party organizations
      4. elections officials
      5. candidates
    - v. Do local, state and federal authorities appear to be handling these matters effectively?

- d. What does the research to date fail to tell us that we still need to know?
- e. What are the group's thoughts on the proposed definitions of fraud?
- f. What is the most useful step(s) the EAC could take with respect to this issue?
- g. Specific advice on moving forward
  - i. Other than nexis and case research, are there other research tools available to investigate this topic? How could the nexis and case research be improved or expanded upon?
  - ii. Who else should be interviewed? Categories of people as well as specific recommendations
  - iii. What are your thoughts on the proposed social science methodologies? Do you have other suggestions?
  - iv. Should there be a review of state and federal statutes on this and an analysis of the strengths and weaknesses of existing laws?
  - v. Generally, what else could be done to more effectively get at the necessary data and information?

Working Group meeting – proposed materials and agenda:

- I. Materials to be sent third week in April
  - a. Cover letter from Peg
  - b. Agenda
  - c. List of interviewees
  - d. Summaries of interviews
  - e. Nexis charts + news summaries
  - f. Case charts
  - g. Summaries of existing literature
  - h. Methodology summary
  - i. Proposed fraud definitions
  
- II. Agenda
  - a. Overview and purpose of the project, including the phase 2
  - b. Purpose of the working group
  - c. Considering only the research performed by Job Serebrov and Tova Wang to date, what at this point say can we say about the incidence of fraud and intimidation since the 2000 election?
    - i. How much are certain forms of fraud being committed, including but not limited to:
      1. voter registration fraud
      2. polling place fraud
      3. vote buying
      4. absentee ballot fraud
      5. fraud in ballot counting
    - ii. How much are certain forms of voter intimidation and suppression being committed, including but not limited to:
      1. deceptive practices
      2. poll worker misconduct
      3. challengers
    - iii. Are there notable regional variations?
    - iv. Who seems to be committing these acts?
      1. voters
      2. political parties
      3. third party organizations
      4. elections officials
      5. candidates
    - v. Do local, state and federal authorities appear to be handling these matters effectively?

- d. What does the research to date fail to tell us that we still need to know?
- e. What are the group's thoughts on the proposed definitions of fraud?
- f. What is the most useful step(s) the EAC could take with respect to this issue?
- g. Specific advice on moving forward
  - i. Other than nexis and case research, are there other research tools available to investigate this topic? How could the nexis and case research be improved or expanded upon?
  - ii. Who else should be interviewed? Categories of people as well as specific recommendations
  - iii. What are your thoughts on the proposed social science methodologies? Do you have other suggestions?
  - iv. Should there be a review of state and federal statutes on this and an analysis of the strengths and weaknesses of existing laws?
  - v. Generally, what else could be done to more effectively get at the necessary data and information?

## Voting Fraud-Voter Intimidation Working Group

### **The Honorable Todd Rokita**

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

### **Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

### **J.R. Perez**

Guadalupe County Elections Administrator, TX

### **Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

*(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)*

### **Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

### **Benjamin L. Ginsberg**

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

### **Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

### **Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.

Department of Justice

*EAC Invited Technical Advisor:*

### **Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice

May 12, 2006

J.R. Perez  
Guadalupe County Elections Administrator  
307 Court Street West  
Seguin, TX 78156-1346

Dear Mr. Perez:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11<sup>th</sup> Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

008846



May 12, 2006

Kathy Rogers  
Director of Elections  
Office of the Secretary of State  
West Tower, Suite 1104  
2 Martin Luther King Jr. Drive, SE  
Atlanta, GA 30334-1505

Dear Ms. Rogers:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11<sup>th</sup> Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

008847

May 12, 2006

The Honorable Todd Rokita  
Secretary of State  
State House, Room 201  
200 West Washington Street  
Indianapolis, IN 46204

Dear Secretary Rokita:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11<sup>th</sup> Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

008848

May 12, 2006

Craig Donsanto  
Director  
Election Crimes Branch  
U.S. Department of Justice  
1400 New York Avenue, NW, 12<sup>th</sup> Floor  
Washington, DC 20005

Dear Mr. Donsanto:

Thank you for agreeing to serve as a technical advisor for the Voting Fraud-Voter Intimidation Working Group. The first meeting of the Working Group will take place from 1:00 PM to 5:30 PM on Thursday, May 18<sup>th</sup>, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11<sup>th</sup> Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

008849

May 12, 2006

Benjamin L. Ginsberg  
Partner  
Patton Boggs LLP  
2550 M Street, NW  
Washington, DC 20037

Dear Mr. Ginsberg:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11<sup>th</sup> Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

[DATE]

Craig C. Donsanto  
Director  
Election Crimes Branch  
U.S. Department of Justice  
Bond Building  
1400 New York Avenue, NW, 12<sup>th</sup> Floor  
Washington, DC 20005

Dear Mr. Donsanto:

The U.S. Election Assistance Commission (EAC) requests that you advise and inform our efforts to research voting fraud and voter intimidation. As an expert in the prosecution of election crimes, your expertise and unique experience would be a valuable resource as we move forward.

Deleted: 's  
Deleted: your assistance  
Deleted: in our preliminary  
Deleted: on

EAC is a federal agency established in accordance with section 201 of the Help America Vote Act of 2002 (HAVA), Public Law 107-252. HAVA requires EAC to conduct research regarding election administration issues. The election administration issues itemized in the statute include:

Deleted: You are recognized for your expertise in the prosecution of election crimes. The project requires the information and insights that you can offer.

- Collecting nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for federal office [section 241(b)(6)].
- Identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

Deleted: Among the duties that  
Deleted: perform is the conduct of studies  
Deleted: nationwide  
Deleted: Federal  
Deleted: ;  
Deleted: and

The EAC Board of Advisors, established in accordance with HAVA section 211, recommended that EAC place a high priority on these topics when initiating our research projects. Subsequently, EAC obtained the services of two consultants (Tova Wang and Job Serebrov) to:

Deleted: identifying  
Deleted: .

- **Define Voting Fraud and Voter Intimidation** - develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of federal elections;
- **Research Available Resources** - perform background research (including federal and state administrative and case law review), identify current activities of key government agencies, civic and advocacy

Deleted: Federal  
Deleted: Federal  
Deleted: State

organizations regarding these topics, and summarize this research and all source documentation;

Deleted: deliver a summary

Deleted: of

- **Establish a Project Working Group** - in consultation with EAC, establish a working group composed of key individuals and representatives of organizations knowledgeable about voting fraud and voter intimidation, provide a description of what constitutes voting fraud and voter intimidation and the results of the background research to the group, and convene the group to discuss potential avenues for future EAC research on this topic;

Deleted: Working

Deleted: Group

Deleted: the topics of

- **Produce a Report** - Provide a report to EAC summarizing the preliminary research and working group deliberations, including recommendations for future EAC research, if any;

Deleted: findings of the

Deleted: effort

Deleted: Working

Deleted: Group

Deleted: that includes

Deleted: Statement

Deleted: Work

Deleted: Request

Deleted: Proposals

- **Assist EAC in Initiating Future Research** - if EAC decides to pursue one or more recommendations for future research, draft the project scope and statement of work for the request for proposals.

Deleted: to be released on this research

Deleted: If you are available

Deleted: out

Deleted: ,

Deleted: . This interview

Deleted: s

Deleted: could

It would be most helpful if you could offer your expertise to our team of consultants and the EAC project manager, Peggy Sims. We will contact you to set up an initial interview, which will focus on the identification and prosecution of offenses involving voting fraud and voter intimidation, as well as possible resources on these subjects for our consultants' review. Our consultants and project manager may have follow up questions as the research proceeds. It also would be helpful if you would attend the working group meeting to contribute to their discussion.

Deleted: participate in the meeting of the project

Deleted: Working

Deleted: Group

Deleted: and

If you have any questions about the research or this request, please contact Peggy Sims by email at [psims@eac.gov](mailto:psims@eac.gov) or by phone at 202-566-3120.

Sincerely yours,

Gracia Hillman  
Chair



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

May 12, 2006

**MEMORANDUM**

**TO:** EAC Commissioners

**FROM:** Peggy Sims, Election Research Specialist

**SUBJECT:** Voting Fraud-Voter Intimidation Working Group Meeting

The first meeting of the Voting Fraud-Voter Intimidation Working Group will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11<sup>th</sup> Floor, Washington, DC.

As you know, Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Consequently, in September 2005, EAC contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

008853

- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

For your information, the folder accompanying this letter includes a number of items related to our consultants' preliminary research and the upcoming meeting:

- a meeting agenda;
- a list of Working Group members;
- a draft definition of election fraud;
- a list of reports and literature reviewed;
- a summary of interviews conducted and a list of experts interviewed;
- a list of experts interviewed;
- an analysis of news articles researched through Nexis;
- a summary of Department of Justice, Public Integrity Section cases, October 2002-January 2006;
- an analysis of case law review;
- a summary of research methodology recommendations from political scientists and experts in the field; and
- a CD with summaries of individual reports and literature reviewed, summaries of individual interviews, charts and summaries of news articles, and case law summary charts.

Please let me know if you have any questions.

Enclosures

cc: Tom Wilkey, Executive Director  
Julie Thompson-Hodgkins, General Counsel  
Gavin Gilmour, Associate General Counsel





## **VOTING FRAUD-VOTER INTIMIDATION WORKING GROUP MEETING**

**Thursday, May 18, 2006**

**1:00 PM - 5:30 PM**

**U.S. Election Assistance Commission  
1225 New York Avenue, N.W., 11<sup>th</sup> Floor  
Washington, D.C. 20005**

### **AGENDA**

- |                          |   |
|--------------------------|---|
| <b>1:00 PM - 1:30 PM</b> | <b>Introduction</b><br><br>EAC Authority<br>Overview and Purpose of Current Project<br>Purpose and Members of the Working Group<br>Related EAC Research |
| <b>1:30 PM - 2:00 PM</b> | <b>Review of Preliminary Research</b><br><br>Literature & Reports<br>Interviews<br>News Articles<br>Court Cases   |
| <b>2:00 PM - 3:15 PM</b> | <b>Definition &amp; Findings from Current Project Research</b>  |
| <b>3:15 PM - 3:30 PM</b> | <b>Break</b>  |
| <b>3:30 PM - 5:00 PM</b> | <b>Ideas for Future EAC Activities</b><br><br>Recommended Research Methodologies<br>Consultant Recommendations<br>Working Group Ideas                   |
| <b>5:00 PM - 5:30 PM</b> | <b>EAC Next Steps</b>   |

May 12, 2006

Barbara Arnwine  
Executive Director  
Lawyers Committee for Civil Rights Under Law  
1401 New York Avenue, NW, Suite 400  
Washington, DC 20005

Dear Ms. Arnwine:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11<sup>th</sup> Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

008856

May 12, 2006

Robert F. Bauer  
Partner  
Perkins Coie, LLP  
607 Fourteenth Street, NW  
Washington, DC 20005-2011

Dear Mr. Bauer:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11<sup>th</sup> Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

008857

[DATE]

Craig C. Donsanto  
Director  
Election Crimes Branch  
U.S. Department of Justice  
Bond Building  
1400 New York Avenue, NW, 12<sup>th</sup> Floor  
Washington, DC 20005

Dear Mr. Donsanto:

The U.S. Election Assistance Commission's (EAC) requests your assistance in our preliminary research on voting fraud and voter intimidation. You are recognized for your expertise in the prosecution of election crimes. The project requires the information and insights that you can offer.

EAC is a federal agency established in accordance with section 201 of the Help America Vote Act of 2002 (HAVA), Public Law 107-252. Among the duties that HAVA requires EAC to perform is the conduct of studies regarding election administration issues. The election administration issues itemized in the statute include:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

The EAC Board of Advisors, established in accordance with HAVA section 211, recommended that EAC place a high priority on these topics when initiating our research projects. Subsequently, EAC obtained the services of two consultants (Tova Wang and Job Serebrov) to:

- **Define Voting Fraud and Voter Intimidation** - develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;

008858

- **Research Available Resources** - perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- **Establish a Project Working Group** - in consultation with EAC, establish a Working Group composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation, provide a description of what constitutes voting fraud and voter intimidation and the results of the background research to the group, and convene the group to discuss potential avenues for future EAC research on this topic;
- **Produce a Report** - Provide a report to EAC summarizing the findings of the preliminary research effort and Working Group deliberations that includes recommendations for future EAC research, if any;
- **Assist EAC in Initiating Future Research** - if EAC decides to pursue one or more recommendations for future research, draft the project scope and Statement of Work for the Request for Proposals to be released on this research.

If you are available, our team of consultants and the EAC project manager, Peggy Sims, will contact you to set up an initial interview. This interview will focus on the identification and prosecution of offenses involving voting fraud and voter intimidations, as well as possible resources on these subjects for our consultants' review. Our consultants and project manager may have follow up questions as the research proceeds. It also would be helpful if you could participate in the meeting of the project Working Group and contribute to their discussion.

If you have any questions about the research or this request, please contact Peggy Sims by email at [psims@eac.gov](mailto:psims@eac.gov) or by phone at 202-566-3120.

Sincerely yours,

Gracia Hillman  
Chair

**VOTING FRAUD-VOTER INTIMIDATION MEETING SEATING CHART**

|  |   |   |   |
|--|---|---|---|
|  | <b>Tova Wang</b><br>EAC Consultant  | <b>Job Serebrov</b><br>EAC Consultant                             |   |
| <b>The Honorable Todd Rokita</b><br>Indiana Secretary of State   |   |   | <b>Peggy Sims</b><br>EAC Staff & COTR   |
| <b>Robert Bauer</b><br>Partner, Perkins Coie   |   |   | <b>Craig Donsanto</b><br>Director, Election Crimes Branch,<br>DOJ ( <i>Technical Consultant</i> ) |
| <b>Mark (Thor) Hearne II</b><br>Partner-Member,<br>Lathrop & Gage  |   |   | <b>Ray Martinez</b><br>EAC Vice Chairman  |
| <b>Jon Greenbaum</b><br>Director, Voting Rights Project,<br>Lawyers Committee for Civil Rights Under Law |   |   | <b>Paul DeGregorio</b><br>EAC Chairman  |
| <b>Benjamin Ginsberg</b><br>Partner, Patton Boggs LLP  |   |   | <b>Gavin Gilmour</b><br>EAC Associate General Counsel   |
| <b>Kathy Rogers</b><br>Director of Elections,<br>Georgia Office of the Secretary of State                |   |   | <b>Edgardo Cortés</b><br>EAC Staff  |
|  | <b>Barry Weinberg</b><br>Former Deputy Chief and Acting Chief,<br>Voting Section, Civil Rights Division, U.S. Department of Justice | <b>J.R. Perez</b><br>Guadalupe County Elections Administrator, TX |   |

**VOTING FRAUD-VOTER INTIMIDATION PROJECT WORKING GROUP CONTACT INFORMATION AS OF 5-5-06**

| FIRST NAME  | LAST NAME | TITLE                   | ADDRESS 1                                    | ADDRESS 2                           | ADDRESS 3                           | CITY         | STATE | ZIP        | SALU-TATION | PHONE   | FAX          |
|-------------|-----------|-------------------------|--|-------------------------------------|-------------------------------------|--------------|-------|------------|-------------|---|--------------|
| Barbara     | Arnwine   | Executive Director      | Lawyers Committee for Civil Rights Under Law | 1401 New York Avenue, NW, Suite 400 |                                     | Washington   | DC    | 20005      | Ms.         | 202-662-8300; Assistant (202) 662-8382          | 202-783-0857 |
| Robert F.   | Bauer     | Partner                 | Perkins Coie, LLP                            | 607 Fourteenth Street N.W.          |                                     | Washington   | DC    | 20005-2011 | Mr.         | 202-434-1602                                    | 202-434-1690 |
| Benjamin L. | Ginsberg  | Partner                 | Patton Boggs LLP                             | 2550 M Street, NW                   |                                     | Washington   | DC    | 20037      | Mr.         | 202-457-6405                                    | 202-457-6315 |
| Mark (Thor) | Hearne II | Partner-Member          | Lathrop & Gage, LC                           | The Equitable Building              | 10 South Broadway, Suite 1300       | St. Louis    | MO    | 63102-1708 | Mr.         | 314-613-2522 Assistant Bethany (314) 613 - 2510 | 314-613-2550 |
| J.R.        | Perez     | Elections Administrator | Guadalupe County                             | 307 Court St. West                  |                                     | Seguin       | TX    | 78156-1346 | Mr.         | 830-303-6363                                    | 830-303-6373 |
| Kathy       | Rogers    | Director of Elections   | Office of the Secretary of State             | West Tower Suite 1104               | 2 Martin Luther King, Jr. Drive, SE | Atlanta      | GA    | 30334-1505 | Ms.         | 404-657-5380                                    | 404-651-9531 |
| Todd        | Rokita    | Secretary of State      | State House, Room 201                        | 200 West Washington Street          |                                     | Indianapolis | IN    | 46204      | Secretary   | 317-232-6531, Asst 317-232-6536                 | 317-233-3283 |
| Barry       | Weinberg  |                         | 5201 Roosevelt St.                           |                                     |                                     | Bethesda     | MD    | 20814      | Mr.         | 301-493-5343                                    |              |

| Technical Advisor |          |          |                        |                            |                                      |            |    |       |     |              |              |
|-------------------|----------|----------|------------------------|----------------------------|--------------------------------------|------------|----|-------|-----|--------------|--------------|
| Craig C.          | Donsanto | Director | Election Crimes Branch | U.S. Department of Justice | 1400 New York Avenue, NW, 12th Floor | Washington | DC | 20005 | Mr. | 202-514-1421 | 202-514-3003 |

008861

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District      | Case Number   | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---------------|---|-------------------|--|------------------------------|-------------|---------------------------------------|
|   |               |   |                   | in the 2004 general election and Brandon E. Jones, who voted both in Raytown and Kansas City, Missouri in the 2004 general election. Both pled guilty.   |                              |             |                                       |
| United States v. Raymond;<br>United States v. McGee; United States v. Tobin;<br>United States v. Hansen | New Hampshire | 04-CR-00141; 04-CR-00146;<br>04-CR-00216; 04-CR-00054 | December 15, 2005 | Two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and Charles McGee, former executive director of the New | No                           | N/A         | No                                    |

Deliberative Process  
Privilege

008862



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Both</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>pled guilty. James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. An information was filed charging Shaun Hansen, the principal of an</p> |                              |             |                                       |

008864

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Idaho telemarketing firm called MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment, in violation of 18 U.S.C. section 371 and 2 and 47 U.S.C. section 223. The information against Hansen was dismissed upon motion of the government. A superseding indictment was returned</p> |                              |             |                                       |

008865

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | against Tobin charging conspiracy to impede the constitutional right to vote for federal candidates, in violation of 18 U.S.C. section 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. section 223. Tobin was convicted of one count of conspiracy to commit telephone harassment and one count of aiding and abetting of telephone |                              |             |                                       |

998800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case             | District               | Case Number   | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|------------------------|---------------|---------------|--|------------------------------|-------------|---------------------------------------|
|                          |                        |               |               | harassment.  |                              |             |                                       |
| United States v. Workman | Western North Carolina | 1:03-CR-00038 | June 30, 2003 | A ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and related offenses in the 200 and 2002 primary and general elections in Avery County, North Carolina, in violation of 18 U.S.C. sections 611, 911, 1001, and 1015(f). Workman pled guilty to providing false information to election officials and to | No                           | N/A         | No                                    |

008867

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                     | District               | Case Number   | Date         | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|------------------------|---------------|--------------|--|------------------------------|-------------|---------------------------------------|
|                                  |                        |               |              | a federal agency.  |                              |             |                                       |
| United States v. Shatley, et al. | Western North Carolina | 5:03-CR-00035 | May 14, 2004 | A nine-count indictment was returned charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner with conspiracy and vote buying in the Caldwell County 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Anita and Valerie Moore pled guilty. Shatley, Hood, | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District               | Case Number  | Date   | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------|--|--|--|------------------------------|-------------|---------------------------------------|
|   |                        |  |  | and Banner were all convicted.   |                              |             |                                       |
| United States v. Vargas   | South Dakota           | 05-CR-50085  | December 22, 2005  | An indictment was filed against Rudolph Vargas, for voting more than once at Pine Ridge in the 2002 general election in violation of 42 U.S.C. section 1973i(e). Vargas pled guilty. | No                           | N/A         | No                                    |
| United States v. Wells; United States v. Mendez; United States v. Porter; United States v. Hrutkay; United States v. Porter; United States v. | Southern West Virginia | 02-CR-00234;<br>2:04-CR-00101;<br>2:04-CR-00145;<br>2:04-CR-00149;<br>2:04-CR- | July 22, 2003; July 19, 2004; December 7, 2004; January 7, 2005; March 21, 2005; | Danny Ray Wells, Logan County, West Virginia, magistrate, was indicted and charged with violating 18 U.S.C. section  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District | Case Number   | Date                                   | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|---|--|--|------------------------------|-------------|---------------------------------------|
| Stapleton;<br>United States v. Thomas E. Esposito;<br>United States v. Nagy; United States v. Adkins; United States v. Harvey |          | 00173;<br>2:05-CR-00002; 05-CR-00019;<br>05-CR-00148; 05-CR-00161 | October 11, 2005;<br>December 13, 2005 | 1962. Wells was found guilty. A felony indictment was filed against Logan County sheriff Johnny Mendez for conspiracy to defraud the United States in violation 18 U.S.C section 371. Mendez pled guilty. An information was filed charging former Logan County police chief Alvin Ray Porter, Jr., with making expenditures to influence voting in violation of 18 U.S.C. section |                              |             |                                       |

018876



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>597. Porter pled guilty. Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. section 1341. Hrutkay pled guilty. Earnest Stapleton, commander of the local VFW, was charged by information with mail fraud. He pled guilty. An information was filed charging Thomas E. Esposito, a former mayor of the City of</p> |                              |             |                                       |

008871

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Logan, with concealing the commission of a felony, in violation of 18 U.S.C. section 4. Esposito pled guilty. John Wesley Nagy, Logan County Court marshall, pled guilty to making false statements to a federal agent, a violation of 18 U.S.C. section 1001. An information charging Glen Dale Adkins, county clerk of Logan County, with accepting payment for voting, in violation of 18</p> |                              |             |                                       |

008872

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                    | District               | Case Number   | Date                   | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------------|---------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                                 |                        |               |                        | U.S.C. section 1973i(c). Adkins pled guilty. Perry French Harvey, Jr., a retired UMW official, pled guilty to involvement in a conspiracy to buy votes.   |                              |             |                                       |
| United States v. Adkins, et al. | Southern West Virginia | 2:04-CR-00162 | December 28 & 30, 2005 | Jackie Adkins was indicted for vote buying in Lincoln County, West Virginia, in violation of 42 U.S.C. section 1973i(c). A superceding indictment added Wandell "Rocky" Adkins to the indictment and charged both defendants with | No                           | N/A         | No                                    |

008873

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>conspiracy to buy votes in violation of 18 U.S.C. section 371 and vote buying. A second superseding indictment was returned which added three additional defendants, Gegory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment. Charges were later dismissed against Jackie Adkins. A third superseding</p> |                              |             |                                       |

008874

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>indictment was returned adding two additional defendants, Jerry Allen Weaver and Ralph Dale Adkins. A superseding information was filed charging Vance with expenditures to influence voting, in violation of 18 U.S.C. section 597. Vance pled guilty. Superseding informations were filed against Stowers and Dingess for expenditures to influence voting, in</p> |                              |             |                                       |

008875

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case   | District          | Case Number  | Date  | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further   |
|--|-------------------|--|---|--|------------------------------|-------------|---|
|  |                   |  |   | violation of 18 U.S.C. section 597. Both defendants pled guilty. Weaver also pled guilty. Superseding informations were filed against Ralph and Wandell Adkins for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty. |                              |             |   |
| United States v. Davis; United States v. Byas; United States v. Ocasio; United States v. Prude; United States v. | Eastern Wisconsin | 2:05-MJ-00454;<br>2:05-MJ-00455;<br>2:05-CR-00161;<br>2:05-CR- | September 16, 2005;<br>September 21, 2005;<br>October 5, 2005;<br>October 26, | Criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them   | No                           | N/A         | Need updated status on Gooden and the Anderson, Cox, Edwards, and Little cases. |

008876

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District | Case Number   | Date  | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|---|---|--|------------------------------|-------------|---------------------------------------|
| Sanders; United States v. Alicea; United States v. Brooks; United States v. Hamilton; United States v. Little; United States v. Swift; United States v. Anderson; United States v. Cox; United States v. Edwards; United States v. Gooden |          | 00162;<br>2:05-CR-00163;<br>2:05-CR-00168;<br>2:05-CR-00170;<br>2:05-CR-00171;<br>2:05-CR-00172;<br>2:05-CR-00177;<br>2:05-CR-00207;<br>2:05-CR-00209;<br>2:05-CR-00211;<br>2:05-CR-00212 | 2005;<br>October 31, 2005,<br>November 10, 2005 | with double voting, in violation of 42 U.S.C. section 1973i(e). Indictments were filed against convicted felons Milo R. Ocasio and Kimberly Prude, charging them with falsely certifying that they were eligible to vote, in violation of 42 U.S.C. section 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting, in |                              |             |                                       |

008877

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | violation of 42 U.S.C. section 1973i(e). Five more indictments were later returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. section 1973i(e) and convicted felons Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote |                              |             |                                       |

008878



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>in violation of 42 U.S.C. section 1973gg-10(2)(B). Indictments were filed against Davis and Byas charging them with double voting. Four more indictments were returned charging convicted felons Ethel M. Anderson, Jiyto L. Cox, Correan F. Edwards, and Joseph J. Gooden with falsely certifying that they were eligible to vote.</p> |                              |             |                                       |

008879

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Ocasio and Hamilton pled guilty. Prude was found guilty. A mistrial was declared in the Sanders case. Brooks was acquitted. Byas signed a plea agreement agreeing to plead to a misdemeanor 18 U.S.C. section 242 charge. Swift moved to change his plea. Davis was found incompetent to stand trial so the government dismissed the case. Gooden is a fugitive.</p> |                              |             |                                       |

08880

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

---

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | Alicea was acquitted. Four cases are pending --- Anderson, Cox, Edwards, and Little. |                              |             |                                       |

008881

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                     | Court   | Citation  | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|--------------|--|---|------------------------------|-------------|---------------------------------------|
| Am. Ass'n of People with Disabilities v. Shelley | United States District Court for the Central District of California | 324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587 | July 6, 2004 | Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in | The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be | No                           | N/A         | No                                    |

008882

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | the alternative, a preliminary injunction. | deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. |                              |             |                                       |

008833

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p> |                              |             |                                       |

008884

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                  | Court   | Citation   | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|----------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |  |                |   | showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Hood | United States District Court for the Middle District of Florida | 310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615 | March 24, 2004 | Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida | The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired   | No                           | N/A         | No                                    |

008885

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p> | <p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--disabled voters.</p> |                              |             |                                       |

008887

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting system would</p> |                              |             |                                       |

008880

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the voters.</p> |                              |             |                                       |

008889

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case      | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Troiano v. Lepore | United States District Court for the Southern District of Florida | 2003 U.S. Dist. LEXIS 25850 | November 3, 2003 | Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary judgment. | The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow things down | No                           | N/A         | No                                    |

008800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also failed to state</p> |                              |             |                                       |

008891

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have audio</p> |                              |             |                                       |

008892

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                       | Court   | Citation                                  | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------------|---|---|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                    |   |   |                   |  | components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.   |                              |             |                                       |
| Troiano v. Supervisor of Elections | United States Court of Appeals for the Eleventh Circuit | 382 F.3d 1276; 2004 U.S. App. LEXIS 18497 | September 1, 2004 | Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in voting booths | The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The appellate court | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p> | <p>agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio components</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the accessible</p> |                              |             |                                       |

008895

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                   | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |  | voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Smith | United States District Court for the Middle District of Florida | 227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373 | October 16, 2002 | Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state and local | Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In order to vote,                  | No                           | N/A         | No                                    |

968800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p> | <p>the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined with the federal</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the court could not</p> |                              |             |                                       |

868800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs asserted that</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p> |                              |             |                                       |

008900

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                 | Court  | Citation                                 | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|--|-----------------|---|--|------------------------------|-------------|---------------------------------------|
| Jenkins v. Williamson-Butler | Court of Appeal of Louisiana, Fourth Circuit | 883 So. 2d 537; 2004 La. App. LEXIS 2433 | October 8, 2004 | Petitioner, a candidate for a parish juvenile court judgeship, failed to qualify for a runoff election. She filed suit against defendant, the clerk of criminal court for the parish seeking a new election, based on grounds of substantial irregularities. The district court ruled in favor of the candidate | The trial court found that the voting machines were not put into service until two, four, and, in many instances, eight hours after the statutorily mandated starting hour which constituted serious irregularities so as to deprive voters from freely expressing their will. It was impossible to determine the number of voters that were affected by the | No                           | N/A         | No                                    |

008901

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case        | Court  | Citation                                  | Date            | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|--|---|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 | and ordered the holding of a restricted citywide election. The clerk appealed. | late start up or late arrival of voting machines, making it impossible to determine the result. The appellate court agreed that the irregularities were so serious that the trial court's voiding the election and calling a new election was the proper remedy. Judgment affirmed. |                              |             |                                       |
| Hester v. McKeithen | Court of Appeal of Louisiana, Fourth Circuit | 882 So. 2d 1291; 2004 La. App. LEXIS 2429 | October 8, 2004 | Petitioner, school board candidate, filed suit against defendants, Louisiana   | The candidate argued that the trial court erred in not setting aside the election, even after   | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case  | Court                 | Citation   | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------|--|----------------|--|--|------------------------------|-------------|---------------------------------------|
|   |                       |  |                | Secretary of State and district court clerk, contesting the school board election results. The trial court rendered judgment against the candidate, finding no basis for the election to be declared void. The candidate appealed. | acknowledging in its reasons for judgment numerous irregularities with the election process. The appellate court ruled that had the irregularities not occurred the outcome would have been exactly the same. Judgment affirmed. |                              |             |                                       |
| In re Election Contest of Democratic Primary Election | Supreme Court of Ohio | 88 Ohio St. 3d 258; 2000 Ohio 325; 725 N.E.2d 271; 2000 Ohio | March 29, 2000 | Appellant sought review of the judgment of the court of common   | Appellant contended that an election irregularity occurred when the board failed   | No                           | N/A         | No                                    |

008903

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case     | Court | Citation  | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-------|-----------|------|--|---|------------------------------|-------------|---------------------------------------|
| Held May 4, 1999 |       | LEXIS 607 |      | pleas denying his election contest challenging an opponent's nomination for election irregularity. | to meet and act by majority vote on another candidate's withdrawal, instead permitting its employees to make decisions. Appellant had to prove by clear and convincing evidence that one or more election irregularities occurred and it affected enough votes to change or make uncertain the result of the election. Judgment affirmed. The appellant did |                              |             |                                       |

008904

EAC Voting-Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case   | Court                         | Citation                                       | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------------------|--|--------------|---|---|------------------------------|-------------|---------------------------------------|
|  |                               |  |              |   | not establish election irregularity by the board's actions on the candidate's withdrawal, the board acted diligently and exercised its discretion in keeping the candidate's name on the ballot and notifying electors of his withdrawal. |                              |             |                                       |
| In re Election Contest As to Watertown Special Referendum Election | Supreme Court of South Dakota | 2001 SD 62; 628 N.W.2d 336; 2001 S.D. LEXIS 66 | May 23, 2001 | Appellant sought review of the judgment of the circuit court declaring a local election valid and | The burden was on appellants to show not only that voting irregularities occurred, but also show that those irregularities  | No                           | N/A         | No                                    |

008905

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case    | Court                    | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                          |   |               | declining to order a new election.  | were so egregious that the will of the voters was suppressed. Appellants did not meet their burden, as mere inconvenience or delay in voting was not enough to overturn the election. Judgment affirmed. |                              |             |                                       |
| Jones v. Jessup | Supreme Court of Georgia | 279 Ga. 531; 615 S.E.2d 529; 2005 Ga. LEXIS 447 | June 30, 2005 | Defendant incumbent appealed a judgment by the trial court that invalidated an election for the position of sheriff and | After the candidate lost the sheriff's election to the incumbent, he contested the election, asserting that there were sufficient irregularities to  | No                           | N/A         | No                                    |

008906

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>ordered that a new election be held based on plaintiff candidate's election contest.</p> | <p>place in doubt the election results. The state supreme court held that the candidate failed to prove substantial error in the votes cast by the witnesses adduced at the hearing who voted at the election. Although the candidate's evidence reflected the presence of some irregularities, not every irregularity invalidated the vote. The absentee ballots</p> |                              |             |                                       |

008907

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were only to be rejected where the electors failed to furnish required information. Because the ballots cast by the witnesses substantially complied with all of the essential requirements of the form, the trial court erred by finding that they should not have been considered. The candidate failed to establish substantial error in the votes. Judgment reversed.</p> |                              |             |                                       |

806800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case        | Court                     | Citation                                      | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---------------------------|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
| Toliver v. Thompson | Supreme Court of Oklahoma | 2000 OK 98; 17 P.3d 464; 2000 Okla. LEXIS 101 | December 21, 2000 | Petitioner challenged an order of the district court denying his motion to compel a recount of votes from an election. | The court held a recount of votes cast in an election could occur when the ballots had been preserved in the manner prescribed by statute. The trial court noted when the ballots had not been preserved in such a manner, no recount would be conducted. The court further noted a petition alleging irregularities in an election could be based upon an allegation that | No                           | N/A         | No                                    |

606800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>it was impossible to determine with mathematical certainty which candidate was entitled to be issued a certificate of election. The Oklahoma supreme court held petitioner failed to show that the actual votes counted in the election were tainted with irregularity, and similarly failed to show a statutory right to a new election based upon a failure to preserve the</p> |                              |             |                                       |

008910



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case       | Court                      | Citation                           | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|----------------------------|------------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |                            |                                    |                   |   | ballots.<br>Judgment affirmed.   |                              |             |                                       |
| Adkins v. Huckabay | Supreme Court of Louisiana | 755 So. 2d 206; 2000 La. LEXIS 504 | February 25, 2000 | Plaintiff candidate challenged judgment of court of appeal, second circuit, which reversed the lower court's judgment and declared defendant candidate winner of a runoff election for sheriff. | The issue presented for the appellate court's determination was whether the absentee voting irregularities plaintiff candidate complained of rendered it impossible to determine the outcome of the election for sheriff. The Louisiana supreme court concluded that the lower court had applied the correct | No                           | N/A         | No                                    |

008911

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | standard, substantial compliance, to the election irregularities, but had erred in its application by concluding that the contested absentee ballots substantially complied with the statutory requirements. The supreme court found that in applying substantial compliance to five of the ballot irregularities, the trial court correctly vacated the general election |                              |             |                                       |

008912

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | and set it aside because those absentee ballots should have been disqualified. Because of the constitutional guarantee to secrecy of the ballot and the fact that the margin of victory in the runoff election was three votes, it was impossible to determine the result of the runoff election. Thus, the supreme court ordered a new general election. Judgment of the |                              |             |                                       |

008913

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case       | Court                       | Citation   | Date          | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|-----------------------------|--|---------------|--|---|------------------------------|-------------|---------------------------------------|
|                    |                             |  |               |  | court of appeals reversed.  |                              |             |                                       |
| In re Gray--Sadler | Supreme Court of New Jersey | 164 N.J. 468; 753 A.2d 1101; 2000 N.J. LEXIS 668 | June 30, 2000 | Appellants, write--in candidates for the offices of mayor and borough council, appealed the judgment of the superior court, appellate division reversing the trial court's decision to set aside the election results for those offices due to irregularities related to the write--in | The New Jersey supreme court held that the votes that were rejected by election officials did not result from the voters' own errors, but from the election officials' noncompliance with statutory requirements. In other words, the voters were provided with patently inadequate instructions and defective voting machines. Moreover, | No                           | N/A         | No                                    |

003914

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                                    | Court                                   | Citation                       | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |                                |                   | instructions and defective voting machines.                         | appellants met the statutory requirement for successfully contesting the election results by showing that enough qualified voters were denied the right to cast write--in votes as to affect the outcome of the election. Judgment reversed and the state trial court's decision reinstated. |                              |             |                                       |
| Goodwin v. St. Thomas-St. John Bd. of Elections | Territorial Court of the Virgin Islands | 43 V.I. 89; 2000 V.I. LEXIS 15 | December 13, 2000 | Plaintiff political candidate alleged that certain general election | Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks,   | No                           | N/A         | No                                    |

008915

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the</p> | <p>were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The territorial court held that plaintiff was not entitled to relief since he failed to</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | election results tabulated without such ballots. | establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were</p> |                              |             |                                       |

008918



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case              | Court  | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|--|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                           |  |   |                  |  | proper.   |                              |             |                                       |
| Johnson v. Lopez-- Torres | Supreme Court of New York, Appellate Division, Second Department | 2005 NY Slip Op 7825; 2005 N.Y. App. Div. LEXIS 11276 | October 21, 2005 | In a proceeding for a re-- canvass of certain affidavit ballots cast in the Democratic Party primary election for the public office of surrogate, the supreme court denied appellant candidate's petition requesting the same and declared appellee opponent the winner of | Finding that the candidate had waived her right to challenge the affidavit ballots and had not sufficiently established her claim of irregularities to warrant a hearing, the trial court denied her petition and declared the opponent the winner of the primary. However, on appeal, the appellate division held that no waiver occurred. |                              |             |                                       |

008919

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts          | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | that election. | Moreover, because hundreds of apparently otherwise eligible voters failed to fill in their party enrollment and/or prior address, it could be reasonably inferred that these voters were misled thereby into omitting the required information. Finally, the candidate failed to make a sufficient showing of voting irregularities in |                              |             |                                       |

008920

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case   | Court                    | Citation                            | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|-------------------------------------|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                          |                                     |                 |   | the machine vote to require a hearing on that issue. Judgment reversed.  |                              |             |                                       |
| Ex parte Avery | Supreme Court of Alabama | 843 So. 2d 137; 2002 Ala. LEXIS 239 | August 23, 2002 | Petitioner probate judge moved for a writ of mandamus directing a circuit judge to vacate his order requiring the probate judge to transfer all election materials to the circuit clerk and holding him in contempt for failing to do so. The | The issuance of a writ of mandamus was appropriate. The district attorney had a right to the election materials because he was conducting a criminal investigation of the last election. Furthermore, the circuit judge had no jurisdiction or authority to issue an order | No                           | N/A         | No                                    |

008921

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                                    | Court                        | Citation                             | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--------------------------------------|----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |                              |                                      |                | probate judge also requested that said material be turned over to the district attorney, pursuant to an outstanding subpoena.     | directing that the election materials be given to the clerk. The district attorney received several claims of irregularities in the election, some of which could constitute voter fraud. Petition granted and writ issued. |                              |             |                                       |
| Harpole v. Kemper County Democratic Exec. Comm. | Supreme Court of Mississippi | 908 So. 2d 129; 2005 Miss. LEXIS 463 | August 4, 2005 | After his loss in a primary election for the office of sheriff, appellant candidate sued appellees, a political party's executive | The candidate alleged the sheriff had his deputies transport prisoners to the polls, felons voted, and the absentee voter law was breached. The committee   | No                           | N/A         | No                                    |

008922

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>committee and the incumbent sheriff, alleging irregularities in the election. The circuit court dismissed the candidate's petition for judicial review with prejudice. He appealed.</p> | <p>agreed with the last contention and threw out the absentee ballots (seven percent of votes cast); after a recount, the sheriff still prevailed. The trial court dismissed the case due to alleged defects in the petition; in the alternative, it held that the candidate failed to sufficiently allege violations and irregularities in the election. The supreme court held that the petition was</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not defective. Disqualification of seven percent of the total votes was not substantial enough so as to cause the will of the voters to be impossible to discern and to warrant a special election, and there were not enough illegal votes cast for the sheriff to change the outcome. A blanket allegation implying that the sheriff had deputies transport prisoners to the</p> |                              |             |                                       |

008924

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | polls was not supported by credible evidence. Judgment affirmed. |                              |             |                                       |

008925

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case            | Court  | Citation                                | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
| United States v. Madden | United States Court of Appeals for the Sixth Circuit | 403 F.3d 347; 2005 U.S. App. LEXIS 5326 | April 4, 2005 | Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role | Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>enhancement and increased defendant's base offense level by two levels.</p> | <p>violated by his conduct. In the alternative, he stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to</p> |                              |             |                                       |

008927

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>establish a vote-buying offense. That argument also failed. Defendant next argued that the district court erred by applying the vulnerable-victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for</p> |                              |             |                                       |

008928

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case           | Court  | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |  |  |              |  | <p>their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.</p> |                              |             |                                       |
| United States v. Slone | United States Court of Appeals for the Sixth Circuit | 411 F.3d 643; 2005 U.S. App. LEXIS 10137 | June 3, 2005 | Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of | Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him  | No                           | N/A         | No                                    |

008929

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p> | <p>because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The</p> |                              |             |                                       |

008930

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an</p> |                              |             |                                       |

008931

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and |                              |             |                                       |

008932

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case           | Court  | Citation                                       | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |               |   | sentence were affirmed.   |                              |             |                                       |
| United States v. Smith | United States Court of Appeals for the Sixth Circuit | 139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855 | July 18, 2005 | Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed. | One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced that two witnesses had been threatened. The appellate court found that defendants | No                           | N/A         | No                                    |

008933

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness testified that he or she was approached by a</p> |                              |             |                                       |

008934



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated</p> |                              |             |                                       |

008935

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case     | Court              | Citation             | Date           | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--------------------|----------------------|----------------|---------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                    |                      |                |                     | defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker. |                              |             |                                       |
| Nugent v. Phelps | Court of Appeal of | 816 So. 2d 349; 2002 | April 23, 2002 | Plaintiff incumbent | The incumbent argued that: (1)  | No                           | N/A         | No                                    |

008936

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court                     | Citation            | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------------|---------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | Louisiana, Second Circuit | La. App. LEXIS 1138 |      | police chief sued defendant challenger, the winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's | the number of persons who were bribed for their votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters |                              |             |                                       |

008937

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>case, the district court for the dismissed his suit. The incumbent appealed.</p> | <p>should have been counted because they were incarcerated for the sole purpose of keeping them from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be</p> |                              |             |                                       |

008938

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the</p> |                              |             |                                       |

008939

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed.  |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud. | Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office | No                           | N/A         | No                                    |

056800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the argument arose because, while the prosecutor's closing</p> |                              |             |                                       |

008941

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Furthermore, the trial judge did not abuse his discretion when he did not allow defendant</p> |                              |             |                                       |

008942



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case            | Court   | Citation                    | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---|-----------------------------|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |   |                             |                   |  | to ask the individual whether she wanted to see defendant go to prison because the individual's potential bias was shown by the individual's testimony that she expected the prosecution to recommend her sentence. The court affirmed defendant's conviction. |                              |             |                                       |
| United States v. Turner | United States District Court for the Eastern District of Kentucky | 2005 U.S. Dist. LEXIS 31709 | November 30, 2005 | Defendants were charged with committing mail fraud and conspiracy to commit mail fraud and | Defendants argued that recusal was mandated by 28 U.S.C.S. § 455(a) and (b)(1). The court found no merit in defendants'  | No                           | N/A         | No                                    |

008943

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>vote--buying. First defendant filed a motion to recuse. Second defendant's motion to join the motion to recuse was granted. First defendant moved to compel the Government to grant testimonial use immunity to second defendant and moved to sever defendants.</p> | <p>arguments. The fact that the judge's husband was the commissioner of the Kentucky Department of Environmental Protection, a position to which he was appointed by the Republican Governor, was not relevant. The judge's husband was neither a party nor a witness. The court further concluded that no reasonable person could find that the judge's spouse had any direct</p> |                              |             |                                       |

008942

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>interest in the instant action. As for issue of money donated by the judge's husband to Republican opponents of first defendant, the court could not discern any reason why such facts warranted recusal. First defendant asserted that second defendant should have been granted use immunity based on a belief that second defendant would testify that first defendant did</p> |                              |             |                                       |

008945

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | not agree to, possess knowledge of, engage in, or otherwise participate in any of the illegal activity alleged in the indictment. The court found the summary of expected testimony to be too general to grant immunity. In addition, it was far from clear whether the court had the power to grant testimonial use immunity to second defendant. Defendants' motion to recuse |                              |             |                                       |

976800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | was denied. First defendant's motions to compel and to sever were denied. |                              |             |                                       |

008947

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court                     | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---------------------------|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Ways v. Shively | Supreme Court of Nebraska | 264 Neb. 250; 646 N.W.2d 621; 2002 Neb. LEXIS 158 | July 5, 2002 | Appellant felon filed a writ of mandamus, which sought to compel appellee Election Commissioner of Lancaster County, Nebraska, to permit him to register to vote. The District Court for Lancaster County denied the felon's petition for writ of mandamus and dismissed the petition. The felon appealed. | The felon was discharged from the Nebraska State Penitentiary in June 1998 after completing his sentences for the crimes of pandering, carrying a concealed weapon and attempting to possess a controlled substance. The commissioner asserted that as a result of the felon's conviction, the sentence for which had neither been reversed nor annulled, he had lost his right to vote. The commissioner contended that the | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>only method by which the felon's right to vote could be restored was through a warrant of discharge issued by the Nebraska Board of Pardons--<br/>-a warrant of discharge had not been issued. The supreme court ruled that the certificate of discharge issued to the felon upon his release did not restore his right to vote. The supreme court ruled that as a matter of law, the specific right to vote was not restored to the felon upon his discharge from incarceration at the</p> |                              |             |                                       |

676800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | completion of his sentences. The judgment was affirmed.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court declared the disenfranchisement | No                           | N/A         | No                                    |

008950



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the authority under</p> |                              |             |                                       |

008951

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative</p> |                              |             |                                       |

008952

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case          | Court                              | Citation                                | Date               | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|---|--------------------|---|---|------------------------------|-------------|---------------------------------------|
|                       |                                    |   |                    |   | authority.  |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. LEXIS 534 | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | Petitioner convicted felons were presently or had formerly been confined in state prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released | No                           | N/A         | No                                    |

008953

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing</p> |                              |             |                                       |

008954

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case       | Court                        | Citation  | Date            | Facts                              | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|-----------|-----------------|------------------------------------|--|------------------------------|-------------|---------------------------------------|
|                    |                              |           |                 |                                    | <p>and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.</p> |                              |             |                                       |
| NAACP Philadelphia | United States District Court | 2000 U.S. | August 14, 2000 | Plaintiffs moved for a preliminary | Plaintiffs, ex--felon,   | No                           | N/A         | No                                    |

008955

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court                                    | Citation          | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|-------------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Branch v. Ridge | for the Eastern District of Pennsylvania | Dist. LEXIS 11520 |      | injunction, which the parties agreed to consolidate with the merits determination for a permanent injunction, in plaintiffs' civil rights suit contending that the Pennsylvania Voter Registration Act, offended the Equal Protection Clause of U.S. Const. amend. XIV. | unincorporated association, and others, filed a civil rights suit against defendant state and local officials, contending that the Pennsylvania Voter Registration Act, violated the Equal Protection Clause by prohibiting some ex--felons from voting during the five year period following their release from prison, while permitting other ex--felons to vote. Plaintiffs conceded that one plaintiff lacked standing, and the court assumed the remaining |                              |             |                                       |

008956

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>plaintiffs had standing. The court found that all that all three of the special circumstances necessary to invoke the Pullman doctrine were present in the case, but found that abstention was not appropriate under the circumstances since it did not agree with plaintiffs' contention that the time constraints caused by the upcoming election meant that the option of pursuing their claims in state court did not offer plaintiffs an adequate remedy.</p> |                              |             |                                       |

008957

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case       | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |  | Plaintiff's motion for permanent injunction denied; the court abstained from deciding merits of plaintiffs' claims under the Pullman doctrine because all three of the special circumstances necessary to invoke the doctrine were present in the case; all further proceedings stayed until further order. |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations of the Voting Rights Act. The parties filed cross-motions for | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the  | No                           | N/A         | No                                    |

008958



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | summary judgment. | right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of minorities; as a result, minorities were under--represented in |                              |             |                                       |

008959

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new constitutional problem, allowing disenfranchisement only of white</p> |                              |             |                                       |

008960

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court   | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |   |   |               |   | felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement                     | No                           | N/A         | No                                    |

008961

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence</p> |                              |             |                                       |

008962

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re--enactment of that provision. Although it appeared that there was a disparate impact on minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the</p> |                              |             |                                       |

008963

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case           | Court  | Citation                   | Date         | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|---|--|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |   | officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.   |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned. | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to | No                           | N/A         | No                                    |

008966

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 |                              |             |                                       |

008965

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's</p> |                              |             |                                       |

008966



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case     | Court  | Citation                    | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |  |                             |               |   | motion for summary judgment.  |                              |             |                                       |
| Hayden v. Pataki | United States District Court for the Southern District of New York | 2004 U.S. Dist. LEXIS 10863 | June 14, 2004 | In a 42 U.S.C.S. § 1983 action filed by plaintiffs, black and latino convicted felons, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) were unconstitutional, defendants, New York's governor and the chairperson of the board of elections, moved for judgment on the pleadings under Fed. R. Civ. P. 12(c). | The felons sued defendants, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) unlawfully denied suffrage to incarcerated and paroled felons on account of their race. The court granted defendants' motion for judgment on the pleadings on the felons' claims under U.S. Const. amend. XIV, XV because their factual allegations were insufficient from which to draw an inference | No                           | N/A         | No                                    |

008967

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the challenged provisions or their predecessors were enacted with discriminatory intent, and because denying suffrage to those who received more severe punishments, such as a term of incarceration, and not to those who received a lesser punishment, such as probation, was not arbitrary. The felons' claims under 42 U.S.C.S. § 1973 were dismissed because § 1973 could not be used to challenge the legality of N.Y. Elec. Law § 5--106. Defendants'</p> |                              |             |                                       |

008968

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>motion was granted as to the felons' claims under 42 U.S.C.S. § 1971 because § 1971 did not provide for a private right of action, and because the felons were not "otherwise qualified to vote." The court also granted defendants' motion on the felons' U.S. Const. amend. I claim because it did not guarantee a felon the right to vote. Defendants' motion for judgment on the pleadings was granted in the felons' § 1983</p> |                              |             |                                       |

696800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case            | Court   | Citation                                  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                         |   |   |               |   | action.  |                              |             |                                       |
| Farrakhan v. Washington | United States Court for Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed. | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised. The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that | No                           | N/A         | No                                    |

008970

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial</p> |                              |             |                                       |

008971

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case   | Court                     | Citation                                      | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                |                           |   |                  |  | claim.  |                              |             |                                       |
| In re Phillips | Supreme Court of Virginia | 265 Va. 81; 574 S.E.2d 270; 2003 Va. LEXIS 10 | January 10, 2003 | The circuit court, entered a judgment in which it declined to consider petitioner former felon's petition for approval of her request to seek restoration of her eligibility to register to vote. The former felon appealed. | More than five years earlier, the former felon was convicted of the felony of making a false written statement incident to a firearm purchase. She then petitioned the trial court asking it to approve her request to seek restoration of her eligibility to register to vote. Her request was based on Va. Code Ann. § 53.1--231.2, allowing persons convicted of non--violent felonies to petition a trial court for approval of a request to seek | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | restoration of voting rights. The trial court declined. It found that Va. Code Ann. § 53.1--231.2 violated constitutional separation of powers principles since it gave the trial court powers belonging to the governor. It also found that even if the statute was constitutional, it was fundamentally flawed for not providing notice to respondent Commonwealth regarding a petition. After the petition was denied, the state supreme court |                              |             |                                       |

008974



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court         | Citation | Date     | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |               |          |          |           | found the separation of powers principles were not violated since the statute only allowed the trial court to determine if an applicant met the requirements to have voting eligibility restored. It also found the statute was not fundamentally flawed since the Commonwealth was not an interested party entitled to notice. OUTCOME: The judgment was reversed and the case was remanded for further proceedings. |                              |             |                                       |
| Howard v.    | United States | 2000     | February | Appellant | Appellant was   | No                           | N/A         | No                                    |

008975

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court                                   | Citation             | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|----------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Gilmore      | Court of Appeals for the Fourth Circuit | U.S. App. LEXIS 2680 | 23, 2000 | challenged the United States District Court for the Eastern District of Virginia's order summarily dismissing his complaint, related to his inability to vote as a convicted felon, for failure to state a claim upon which relief can be granted. | disenfranchised by the Commonwealth of Virginia following his felony conviction. He challenged that decision by suing the Commonwealth under the U.S. Const. amends. I, XIV, XV, XIX, and XXIV, and under the Voting Rights Act of 1965. The lower court summarily dismissed his complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Appellant challenged. The court found U.S. Const. amend. I |                              |             |                                       |

008976

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>created no private right of action for seeking reinstatement of previously canceled voting rights, U.S. Const. amends. XIV, XV, XIX, and the VRA required either gender or race discrimination, neither of which appellant asserted, and the U.S. Const. amend. XXIV, while prohibiting the imposition of poll taxes, did not prohibit the imposition of a \$10 fee for reinstatement of appellant's civil rights, including the right to vote. Consequently,</p> |                              |             |                                       |

008977

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case                | Court   | Citation                            | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|-------------------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                             |   |                                     |                   |   | <p>appellant failed to state a claim. The court affirmed, finding that none of the constitutional provisions appellant relied on were properly pled because appellant failed to assert that either his race or gender were involved in the decisions to deny him the vote. Conditioning reestablishment of his civil rights on a \$10 fee was not unconstitutional.</p> |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 353 F.3d 1287; 2003 U.S. App. LEXIS | December 19, 2003 | Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a | The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their  | No                           | N/A         | No                                    |

008978

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | 25859    |      | <p>decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.</p> | <p>constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show</p> |                              |             |                                       |

008979

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court found that the claim under the Voting Rights Act, also needed to be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was</p> |                              |             |                                       |

008980

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case   | Court    | Citation | Date      | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|----------|----------|-----------|---------------------|---|------------------------------|-------------|---------------------------------------|
|                |          |          |           |                     | <p>behind the Florida disenfranchisement provisions, in violation of the Voting Rights Act. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for violation of federal voting laws and remanded the matter to the district court for further proceedings.</p> |                              |             |                                       |
| State v. Black | Court of | 2002     | September | In 1997, petitioner | The appellate   | No                           | N/A         | No                                    |

008981

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court                | Citation             | Date     | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------|----------------------|----------|---|--|------------------------------|-------------|---------------------------------------|
|              | Appeals of Tennessee | Tenn. App. LEXIS 696 | 26, 2002 | was convicted of forgery and sentenced to the penitentiary for two years, but was immediately placed on probation. He subsequently petitioned the circuit court for restoration of citizenship. The trial court restored his citizenship rights. The State appealed. The appellate court issued its opinion, but granted the State's motions to supplement the record and to rehear its decision. | court's original opinion found that petitioner had not lost his right to hold public office because Tennessee law removed that right only from convicted felons who were "sentenced to the penitentiary." The trial court's amended judgment made it clear that petitioner was in fact sentenced to the penitentiary. Based upon this correction to the record, the appellate court found that petitioner's sentence to the penitentiary resulted in the |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>forfeiture of his right to seek and hold public office by operation of Tenn. Code Ann. § 40-20--114. However, the appellate court concluded that this new information did not requires a different outcome on the merits of the issue of restoration of his citizenship rights, including the right to seek and hold public office. The appellate court adhered to its conclusion that the statutory presumption in favor of the restoration was not overcome by a</p> |                              |             |                                       |

008983

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case                | Court   | Citation                                 | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|--|----------------|--|--|------------------------------|-------------|---------------------------------------|
|                             |   |  |                |  | showing, by a preponderance of the evidence, of good cause to deny the petition for restoration of citizenship rights. The appellate court affirmed the restoration of petitioner's right to vote and reversed the denial of his right to seek and hold public office. His full rights of citizenship were restored. |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 405 F.3d 1214; 2005 U.S. App. LEXIS 5945 | April 12, 2005 | Plaintiff individuals sued defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. | The individuals argued that the racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally  | No                           | N/A         | No                                    |

00998

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>art. VI, § 4 (1968), violated the Equal Protection Clause and 42 U.S.C.S. § 1973. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.</p> | <p>operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not</p> |                              |             |                                       |

008985

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that 42 U.S.C.S. § 1973 applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment permitted the state to maintain. In addition, the legislative history indicated that Congress never</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case         | Court                                       | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Hileman v. McGinness | Appellate Court of Illinois, Fifth District | 316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845 | October 25, 2000 | Appellant challenged the circuit court's declaration that that the result of a primary election for county circuit clerk was void. | In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been | No                           | N/A         | No                                    |

886800

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | segregated, apportionment was the appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a |                              |             |                                       |

008989

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | determination as to whether fraud was evident in the electoral process. Judgment reversed and remanded.   |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of the circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud. | Defendant was helping with his cousin's campaign in a run-off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant | No                           | N/A         | No                                    |

008990



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the</p> |                              |             |                                       |

008991

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court    | Citation | Date   | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|----------|--------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |          |          |        |           | argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Judgment affirmed. |                              |             |                                       |
| Wilson v.    | Court of | 2000 Va. | May 2, | Defendant | At trial, the  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court               | Citation       | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------|----------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Commonwealth | Appeals of Virginia | App. LEXIS 322 | 2000 | appealed the judgment of the circuit court which convicted her of election fraud. | Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from |                              |             |                                       |

008993

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the Department of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. Judgment affirmed.</p> |                              |             |                                       |
|              |       |          |      |       |   |                              |             |                                       |
|              |       |          |      |       |   |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |

008995

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case         | Court                    | Citation            | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------|---------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. LEXIS 214 | December 9, 2005 | The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of | The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that | No                           | N/A         | No                                    |

008996

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | its judgment pending resolution of the appeal. | at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those |                              |             |                                       |

008997

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply</p> |                              |             |                                       |

008998



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case     | Court         | Citation        | Date             | Facts                  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                        | with the absentee--voting requirements. The judgment declaring the incumbent's opponent the winner was affirmed. The judgment counting the challenged votes in the final tally of votes was reversed, and said votes were subtracted from the incumbents total, and the stay was vacated. All other arguments were rendered moot as a result. |                              |             |                                       |
| ACLU of Minn. v. | United States | 2004 U.S. Dist. | October 29, 2004 | Plaintiffs, voters and | Plaintiffs argued that Minn. Stat.  | No                           | N/A         | No                                    |

008999

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court  | Citation    | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Kiffmeyer    | District Court for the District of Minnesota | LEXIS 22996 |      | associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the |                              |             |                                       |

000600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100,</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case                        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |   | violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional | No                           | N/A         | No                                    |

009003

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | dismiss. | ballot, a first--time voter could identify himself by providing his driver's license number or the last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, even if the cost, in terms of uncounted ballots, was regrettable. The court granted the Secretary's motion to dismiss. |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case               | Court  | Citation                                      | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| New York v. County of Del. | United States District Court for the Northern District of New York | 82 F. Supp. 2d 12; 2000 U.S. Dist. LEXIS 1398 | February 8, 2000 | Plaintiffs brought a claim in the district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued. | In their complaint plaintiffs alleged that defendants violated the ADA by making the voting locations inaccessible to disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct parties, because | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>pursuant to New York election law defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, due to the alleged</p> |                              |             |                                       |

800600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                    | Court                  | Citation                | Date             | Facts                             | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------------|-------------------------|------------------|-----------------------------------|--|------------------------------|-------------|---------------------------------------|
|                                 |                        |                         |                  |                                   | <p>facts, the court found plaintiffs would likely succeed on the merits. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction and granted plaintiffs' motion for leave to amend their complaint.</p> |                              |             |                                       |
| New York v. County of Schoharie | United States District | 82 F. Supp. 2d 19; 2000 | February 8, 2000 | Plaintiffs brought a claim in the | In their complaint, plaintiffs   | No                           | N/A         | No                                    |

600600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court                                       | Citation              | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|-----------------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | Court for the Northern District of New York | U.S. Dist. LEXIS 1399 |      | district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and a motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued. | alleged defendants violated the ADA by allowing voting locations to be inaccessible for disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct party, because pursuant to New York election law, |                              |             |                                       |

009010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, the court found that plaintiffs would likely succeed on the</p> |                              |             |                                       |

009011

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>merits of their case. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction because plaintiffs showed irreparable harm and proved likely success on the merits and granted plaintiff's motion for leave to amend the complaint.</p> |                              |             |                                       |

009012

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case  | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Westchester Disabled on the Move, Inc. v. County of Westchester | United States District Court for the Southern District of New York | 346 F. Supp. 2d 473; 2004 U.S. Dist. LEXIS 24203 | October 22, 2004 | Plaintiffs sued defendant county, county board of elections, and election officials pursuant to 42 U.S.C.S. §§ 12131--12134, N.Y. Exec. Law § 296, and N.Y. Elec. Law § 4--1--4. Plaintiffs moved for a preliminary injunction, requesting (among other things) that the court order defendants to modify the polling places in the county so that they | The inability to vote at assigned locations on election day constituted irreparable harm. However, plaintiffs could not show a likelihood of success on the merits because the currently named defendants could not provide complete relief sought by plaintiffs. Although the county board of elections was empowered to | No                           | N/A         | No                                    |

009013

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>were accessible to disabled voters on election day. Defendants moved to dismiss.</p> | <p>select an alternative polling place should it determine that a polling place designated by a municipality was "unsuitable or unsafe," it was entirely unclear that its power to merely designate suitable polling places would be adequate to ensure that all polling places used in the upcoming election actually conformed</p> |                              |             |                                       |

009014



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>with the Americans with Disabilities Act. Substantial changes and modifications to existing facilities would have to be made, and such changes would be difficult, if not impossible, to make without the cooperation of municipalities. Further, the court could order defendants to approve voting machines that conformed to</p> |                              |             |                                       |

009015

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the ADA were they to be purchased and submitted for county approval, but the court could not order them to purchase them for the voting districts in the county. A judgment issued in the absence of the municipalities would be inadequate. Plaintiffs' motion for preliminary injunction was denied, and defendants' motion to dismiss was granted.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                            | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Nat'l Org. on Disability v. Tartaglione | United States District Court for the Eastern District of Pennsylvania | 2001 U.S. Dist. LEXIS 16731 | October 11, 2001 | Plaintiffs, disabled voters and special interest organizations, sued defendants, city commissioners, under the Americans with Disabilities Act and § 504 of the Rehabilitation Act of 1973, and regulations under both statutes, regarding election practices. The commissioners moved to dismiss for failure (1) to | The voters were visually impaired or wheelchair bound. They challenged the commissioners' failure to provide talking voting machines and wheelchair accessible voting places. They claimed discrimination in the process of voting because they were not afforded the same opportunity to participate in the voting process as non-disabled | No                           | N/A         | Yes-see if the case was refiled       |

009017

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | state a cause of action and (2) to join an indispensable party. | voters, and assisted voting and voting by alternative ballot were substantially different from, more burdensome than, and more intrusive than the voting process utilized by non--disabled voters. The court found that the complaint stated causes of actions under the ADA, the Rehabilitation Act, and 28 C.F.R. §§ 35.151 and |                              |             |                                       |

009018

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | 35.130. The court found that the voters and organizations had standing to raise their claims. The organizations had standing through the voters' standing or because they used significant resources challenging the commissioners' conduct. The plaintiffs failed to join the state official who would need to approve any talking voting machine as a |                              |             |                                       |

009019

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>party. As the court could not afford complete relief to the visually impaired voters in that party's absence, it granted the motion to dismiss under Fed. R. Civ. P. 12(b)(7) without prejudice. The court granted the commissioners' motion to dismiss in part, and denied it in part. The court granted the motion to dismiss the claims of the</p> |                              |             |                                       |

009020

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                                | Court                       | Citation   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------------|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                             |  |              |  | visually impaired voters for failure to join an indispensable party, without prejudice, and with leave to amend the complaint.  |                              |             |                                       |
| TENNESSEE, Petitioner v. GEORGE LANE et al. | United States Supreme Court | 541 U.S. 509; 124 S. Ct. 1978; 158 L. Ed. 2d 820; 2004 U.S. LEXIS 3386 | May 17, 2004 | Respondent paraplegics sued petitioner State of Tennessee, alleging that the State failed to provide reasonable access to court facilities in violation of Title II of the Americans with Disabilities Act | The state contended that the abrogation of state sovereign immunity in Title II of the ADA exceeded congressional authority under U.S. Const. amend XIV, § 5, to enforce substantive constitutional guarantees. | No                           | N/A         | No                                    |

009021

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of 1990. Upon the grant of a writ of certiorari, the State appealed the judgment of the United States Court of Appeals for the Sixth Circuit which denied the State's claim of sovereign immunity.</p> | <p>The United States Supreme Court held, however, that Title II, as it applied to the class of cases implicating the fundamental right of access to the courts, constituted a valid exercise of Congress's authority. Title II was responsive to evidence of pervasive unequal treatment of persons with disabilities in the administration of state</p> |                              |             |                                       |

009022



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>services and programs, and such disability discrimination was thus an appropriate subject for prophylactic legislation. Regardless of whether the State could be subjected to liability for failing to provide access to other facilities or services, the fundamental right of access to the courts warranted the limited requirement that the State reasonably</p> |                              |             |                                       |

009023

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | accommodate disabled persons to provide such access. Title II was thus a reasonable prophylactic measure, reasonably targeted to a legitimate end. The judgment denying the State's claim of sovereign immunity was affirmed. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation                                | Date           | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|--|---|------------------------------|-------------|---------------------------------------|
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19--3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio | The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did | No                           | N/A         | No                                    |

009025

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>granted summary judgment in favor of defendants. The voters appealed.</p> | <p>not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case           | Court                        | Citation                | Date        | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------------|-------------------------|-------------|---|--|------------------------------|-------------|---------------------------------------|
| Wilson v. Commonwealth | Court of Appeals of Virginia | 2000 Va. App. LEXIS 322 | May 2, 2000 | Defendant appealed the judgment of the circuit court which convicted her of election fraud. | On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form required by Title 24.2. At trial, the Commonwealth | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department |                              |             |                                       |

009029

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including</p> |                              |             |                                       |

009030



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case     | Court         | Citation        | Date             | Facts                  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|------------------------|--|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                        | records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. |                              |             |                                       |
| ACLU of Minn. v. | United States | 2004 U.S. Dist. | October 29, 2004 | Plaintiffs, voters and | Plaintiffs argued that   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court  | Citation    | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Kiffmeyer    | District Court for the District of Minnesota | LEXIS 22996 |      | associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and |                              |             |                                       |

009032

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>address of the individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal</p> |                              |             |                                       |

009033

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on |                              |             |                                       |

009034

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                 | Court  | Citation  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                              |  |   |                   |  | their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.                       |                              |             |                                       |
| Kalsson v. United States FEC | United States District Court for the Southern District of New York | 356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279 | February 16, 2005 | Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's action, which sought a declaration that | The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held that the | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p> | <p>individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and</p> |                              |             |                                       |

009036

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court      | Citation | Date        | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------|----------|-------------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |            |          |             |           | <p>even if such an injury in other circumstances might have sufficed for standing, any dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.</p> |                              |             |                                       |
| Peace &      | California | 114 Cal. | January 15, | Plaintiff | The trial court  | No                           | N/A         | No                                    |

009037

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case             | Court                                     | Citation  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|---|---|------|---|--|------------------------------|-------------|---------------------------------------|
| Freedom Party v. Shelley | Court of Appeal, Third Appellate District | App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | 2004 | political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election. | ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the |                              |             |                                       |

009038



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file</p> |                              |             |                                       |

009039

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and</p> |                              |             |                                       |

070600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case      | Court  | Citation                                 | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|--|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                   |  |  |                    |  | vote. Affirmed.  |                              |             |                                       |
| McKay v. Thompson | United States Court of Appeals for the Sixth Circuit | 226 F.3d 752; 2000 U.S. App. LEXIS 23387 | September 18, 2000 | Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. Plaintiff</p> |                              |             |                                       |

009042

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under</p> |                              |             |                                       |

009043

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | 28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental |                              |             |                                       |

009047

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                               | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |  |  |                  |  | right to vote, free exercise of religion, privileges and immunities, and due process claims.  |                              |             |                                       |
| Lucas County Democratic Party v. Blackwell | United States District Court for the Northern District of Ohio | 341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416 | October 21, 2004 | Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. The organizations claimed that the memorandum contravened provisions of the Help America Vote | The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their Social Security number. In his memorandum, the Secretary informed all | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Act and the National Voter Registration Act. The organizations moved for a preliminary injunction. | Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations |                              |             |                                       |

970600



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were likely to succeed on the merits of their claim. Denying the organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that</p> |                              |             |                                       |

009047

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                                   | Court                            | Citation                             | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------------------|--------------------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|  |                                  |                                      |              |   | they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re--open in--person registration until election day. The public interest would have been ill--served by an injunction. The motion for a preliminary injunction was denied sua sponte. |                              |             |                                       |
| Nat'l Coalition for Students with Disabilities | United States District Court for | 150 F. Supp. 2d 845; 2001 U.S. Dist. | July 5, 2001 | Plaintiff, national organization for disabled | Defendants alleged that plaintiff lacked standing to  | No                           | N/A         | No                                    |

870600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                      | Court                    | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--------------------------|------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Educ. & Legal Def. Fund v. Scales | the District of Maryland | LEXIS 9528 |      | students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not registered |                              |             |                                       |

0090600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim,</p> |                              |             |                                       |

009050

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the court found that the agency practice of only offering voter registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case       | Court                        | Citation                                 | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |                              |  |               |   | <p>university. Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claimant denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p> |                              |             |                                       |
| People v. Disimone | Court of Appeals of Michigan | 251 Mich. App. 605; 650 N.W.2d 436; 2002 | July 11, 2002 | Defendant was charged with attempting to vote more than once in the | Defendant was registered in the Colfax township for the 2000  | No                           | N/A         | No                                    |

009052

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation             | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | Mich. App. LEXIS 826 |      | 2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed. | general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court |                              |             |                                       |

009053

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the |                              |             |                                       |

009054



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                  | Citation                   | Date             | Facts                                  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------------------|----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |                        |                            |                  |  | defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed. |                              |             |                                       |
| Diaz v. Hood | United States District | 342 F. Supp. 2d 1111; 2004 | October 26, 2004 | Plaintiffs, unions and individuals who | The putative voters sought injunctive relief   | No                           | N/A         | No                                    |

009055

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                                      | Citation               | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | Court for the Southern District of Florida | U.S. Dist. LEXIS 21445 |      | had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing | requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box |                              |             |                                       |

009056

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                         | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | and failure to state a claim. | indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter |                              |             |                                       |

009057

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no</p> |                              |             |                                       |

009058

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                                | Court   | Citation  | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|--------------|--|---|------------------------------|-------------|---------------------------------------|
|   |   |   |              |  | injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.  |                              |             |                                       |
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States District Court for the Northern District of Georgia | 324 F. Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120 | July 1, 2004 | Plaintiffs, a voter, fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in | The organization participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African--Americans. Following one such drive, the fraternity members | No                           | N/A         | No                                    |

009059

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.</p> | <p>mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as</p> |                              |             |                                       |

009060

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that</p> |                              |             |                                       |

009061

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from</p> |                              |             |                                       |

009062



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case     | Court         | Citation        | Date             | Facts                   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|-------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                         | <p>the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.</p> |                              |             |                                       |
| Moseley v. Price | United States | 300 F. Supp. 2d | January 22, 2004 | Plaintiff alleged, that | The court concluded that  | No                           | N/A         | No                                    |

009063

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court   | Citation                       | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|--------------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | District Court for the Eastern District of Virginia | 389; 2004 U.S. Dist. LEXIS 850 |      | defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from the race for Commonwealth Attorney because of the investigation. | plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect in the event a mailed registration card was |                              |             |                                       |

009064

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Defendants moved to dismiss the complaint.</p> | <p>returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared.</p> |                              |             |                                       |

009065

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The court found the inference wholly unwarranted because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of</p> |                              |             |                                       |

990600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case       | Court  | Citation   | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|--|--|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |  |  |               |   | <p>fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice.</p> |                              |             |                                       |
| Thompson v. Karben | Supreme Court of New York, Appellate Division, Second Department | 295 A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101 | June 10, 2002 | Respondents filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that | Respondents alleged that appellant was unlawfully registered to vote from an address at which he did not reside and that he should   | No                           | N/A         | No                                    |

009067

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.</p> | <p>have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May</p> |                              |             |                                       |

890600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation  | Date      | Facts         | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--------|-----------|-----------|---------------|---|------------------------------|-------------|---------------------------------------|
|                 |        |           |           |               | <p>2001 paycheck stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address. Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.</p> |                              |             |                                       |
| Nat'l Coalition | United | 2002 U.S. | August 2, | Plaintiffs, a | The court   | No                           | N/A         | No                                    |

690600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court   | Citation          | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|-------------------|------|--|---|------------------------------|-------------|---------------------------------------|
| v. Taft      | States District Court for the Southern District of Ohio | Dist. LEXIS 22376 | 2002 | nonprofit public interest group and certain individuals, sued defendants, certain state and university officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a | found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the |                              |             |                                       |

009070



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | preliminary injunction. | disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included |                              |             |                                       |

009071

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case            | Court                                  | Citation                           | Date        | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|------------------------------------|-------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |  |                                    |             |  | injunction was granted in part and the Secretary of State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability. |                              |             |                                       |
| Lawson v. Shelby County | United States Court of Appeals for the | 211 F.3d 331; 2000 U.S. App. LEXIS | May 3, 2000 | Plaintiffs who were denied the right to vote when they | Plaintiffs attempted to register to vote in October, and   | No                           | N/A         | No                                    |

009073

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court         | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Sixth Circuit | 8634     |      | refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI. | to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one |                              |             |                                       |

009074

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was barred. The court also held the statute of limitations ran from the date plaintiffs</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under</p> |                              |             |                                       |

009076

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |              |  | the Young exception to sovereign immunity, to be fashioned.  |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544 | June 4, 2001 | Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to | Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enjoin a Texas state court proceeding under the All Writs Act. | preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since, |                              |             |                                       |

009078



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and such challenge</p> |                              |             |                                       |

009079

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case      | Court               | Citation           | Date              | Facts                | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------|--------------------|-------------------|----------------------|--|------------------------------|-------------|---------------------------------------|
|                   |                     |                    |                   |                      | properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding. |                              |             |                                       |
| Pepper v. Darnell | United States Court | 24 Fed. Appx. 460; | December 10, 2001 | Plaintiff individual | Individual argued on   | No                           | N/A         | No                                    |

009080

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                            | Citation                   | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|----------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | of Appeals for the Sixth Circuit | 2001 U.S. App. LEXIS 26618 |      | <p>appealed from a judgment of the district court, in an action against defendant state officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p> | <p>appeal that the district court erred in finding that the registration forms used by the state did not violate the NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote provide a specific location as an address, regardless of the transient lifestyle of the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |  |  |                  |   | indigent individual, acting in his own behalf, was clearly unable to represent fairly the class. The district court's judgment was affirmed.  |                              |             |                                       |
| Miller v. Blackwell | United States District Court for the Southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process | No                           | N/A         | No                                    |

009084

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two individuals filed a motion to intervene as defendants.</p> | <p>Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The</p> |                              |             |                                       |

009085

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because they made a</p> |                              |             |                                       |

980600



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | also granted the individuals' motion to intervene. |                              |             |                                       |

009088

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Miller v. Blackwell | United States District Court for the southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants. | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in | No                           | N/A         | No                                    |

009039

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a</p> |                              |             |                                       |

009090

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>likelihood of success on the merits because they made a strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The</p> |                              |             |                                       |

009091

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case         | Court  | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                      |  |  |                  |   | court also granted the individuals' motion to intervene.   |                              |             |                                       |
| Spencer v. Blackwell | United States District Court for the Southern District of Ohio | 347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062 | November 1, 2004 | Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls. | The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that | No                           | N/A         | No                                    |

009092

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and</p> |                              |             |                                       |

009093

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a</p> |                              |             |                                       |

009097



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case                   | Court  | Citation                   | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------|--|----------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                                |  |                            |              |   | state on Election Day.  |                              |             |                                       |
| Charfauros v. Bd. of Elections | United States Court of Appeals for the Ninth Circuit | 2001 U.S. App. LEXIS 15083 | May 10, 2001 | Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity. | Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by administering pre--election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary | No                           | N/A         | No                                    |

009096

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed</p> |                              |             |                                       |

860600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case  | Court   | Citation                                  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|               |   |   |                  |  | where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.   |                              |             |                                       |
| Wit v. Berman | United States Court of Appeals for the Second Circuit | 306 F.3d 1256; 2002 U.S. App. LEXIS 21301 | October 11, 2002 | Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the | Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that, since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p> | <p>of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over--or under--inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to choose which of their residences was their domicile for voting purposes could not be deemed</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case    | Court  | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                 |  |   |                  |  | discriminatory.<br>Affirmed.  |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987 | November 3, 2000 | Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas. | Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self--styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with Texas law, three resident voters filed affidavits challenging the escapees' | No                           | N/A         | No                                    |

009102



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the court issued a preliminary injunction</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future election. Motion for preliminary injunction was</p> |                              |             |                                       |

009104

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case                     | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                  |   |  |                  |   | granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act. |                              |             |                                       |
| Peace & Freedom Party v. Shelley | Court of Appeal of California, Third Appellate District | 114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | January 15, 2004 | Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel | The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed, observing that although the   | No                           | N/A         | No                                    |

009105

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p> | <p>election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to</p> |                              |             |                                       |

009106

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent</p> |                              |             |                                       |

009107

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | <p>certain conditions, inactive voters in California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.</p>   |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts                       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | moved for summary judgment. | afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and</p> |                              |             |                                       |

009110



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case                                | Court   | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States Court of Appeals for the Eleventh Circuit | 408 F.3d 1349; 2005 U.S. App. LEXIS 8320 | May 12, 2005 | Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the | The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration | No                           | N/A         | No                                    |

009112

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | foundation. | forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the |                              |             |                                       |

009113

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court  | Citation | Date      | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|-----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |           |           | <p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p> |                              |             |                                       |
| McKay v.     | United | 226 F.3d | September | Plaintiff | The trial court   | No                           | N/A         | No                                    |

009114

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court   | Citation                        | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---------------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thompson     | States Court of Appeals for the Sixth Circuit | 752; 2000 U.S. App. LEXIS 23387 | 18, 2000 | challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it |                              |             |                                       |

009115

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court  | Citation | Date    | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|---------------------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                     | immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. |                              |             |                                       |
| Nat'l        | United | 150 F.   | July 5, | Plaintiff, national | Defendants  | No                           | N/A         | No                                    |

009117

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case   | Court   | Citation                                 | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--|------|---|--|------------------------------|-------------|---------------------------------------|
| Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | States District Court for the Southern District of Maryland | Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | 2001 | organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not |                              |             |                                       |

009118



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p> |                              |             |                                       |

009119

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case                               | Court  | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |  |                            |                   |   | complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied. |                              |             |                                       |
| Cunningham v. Chi. Bd. of Election Comm'rs | United States District Court for the Northern District of Illinois | 2003 U.S. Dist. LEXIS 2528 | February 24, 2003 | Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed | Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were                                  | No                           | N/A         | No                                    |

009121

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p> | <p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p> |                              |             |                                       |

009123

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |  | preliminary relief was denied.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental | No                           | N/A         | No                                    |

009124

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | prejudice granted.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA | No                           | N/A         | No                                    |

009127

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                |   | summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.  |                              |             |                                       |
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause | The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place | No                           | N/A         | No                                    |

009130

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p> | <p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p> |                              |             |                                       |

009131

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p> |                              |             |                                       |

009132

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

009133

## **FOCUS OF CURRENT RESEARCH**

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;



## **PURPOSE OF WORKING GROUP**

Given the preliminary research, your expertise, and EAC's authority under HAVA, provide your ideas as to ---

## **WHERE DOES EAC GO FROM HERE?**

Purpose is **NOT** to debate what other agencies or organizations should or should not be doing.

## **Defining Election Fraud**

Election fraud is any intentional action, or intentional failure to act when there is a duty to do so, that corrupts the election process in a manner that can impact on election outcomes. This includes interfering in the process by which persons register to vote; the way in which ballots are obtained, marked, or tabulated; and the process by which election results are canvassed and certified.

Examples include the following:

- falsifying voter registration information pertinent to eligibility to cast a vote, (e.g. residence, criminal status, etc);
- altering completed voter registration applications by entering false information;
- knowingly destroying completed voter registration applications (other than spoiled applications) before they can be submitted to the proper election authority;
- knowingly removing eligible voters from voter registration lists, in violation of HAVA, NVRA, or state election laws;
- intentional destruction by election officials of voter registration records or balloting records, in violation of records retention laws, to remove evidence of election fraud;
- vote buying;
- voting in the name of another;
- voting more than once;
- coercing a voter's choice on an absentee ballot;
- using a false name and/or signature on an absentee ballot;
- destroying or misappropriating an absentee ballot;
- felons, or in some states ex-felons, who vote when they know they are ineligible to do so;
- misleading an ex-felon about his or her right to vote;
- voting by non-citizens who know they are ineligible to do so;
- intimidating practices aimed at vote suppression or deterrence, including the abuse of challenge laws;
- deceiving voters with false information (e.g.; deliberately directing voters to the wrong polling place or providing false information on polling hours and dates);
- knowingly failing to accept voter registration applications, to provide ballots, or to accept and count voted ballots in accordance with the Uniformed and Overseas Citizens Absentee Voting Act;
- intentional miscounting of ballots by election officials;
- intentional misrepresentation of vote tallies by election officials;

- acting in any other manner with the intention of suppressing voter registration or voting, or interfering with vote counting and the certification of the vote.

Voting fraud does not include mistakes made in the course of voter registration, balloting, or tabulating ballots and certifying results. For purposes of the EAC study, it also does not include violations of campaign finance laws.

DRAFT

**Determining a Methodology for Measuring Voter Fraud and Intimidation:  
Recommendations of Political Scientists**

The following is a summary of interviews conducted with a number of political scientists and experts in the field as to how one might undertake a comprehensive examination of voter fraud and intimidation. A list of the individuals interviewed and their ideas are available, and all of the individuals welcome any further questions or explanations of their recommended procedures.

- 1) In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that ask whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. (Stephen Ansolobhere, MIT)
- 2) Several political scientists with expertise in these types of studies recommended a methodology that includes interviews, focus groups, and a limited survey. In determining who to interview and where the focus groups should be drawn from, they recommend the following procedure:
  - Pick a number of places that have historically had many reports of fraud and/or intimidation; from that pool pick 10 that are geographically and demographically diverse, and have had a diversity of problems
  - Pick a number of places that have not had many reports of fraud and/or intimidation; from that pool pick 10 places that match the geographic and demographic make-up of the previous ten above (and, if possible, have comparable elections practices)
  - Assess the resulting overall reports and impressions resulting from these interviews and focus groups, and examine comparisons and differences among the states and what may give rise to them.

In conducting a survey of elections officials, district attorneys, district election officers, they recommend that:

- The survey sample be large in order to be able to get the necessary subsets
- The survey must include a random set of counties where there have and have not been a large number of allegations

(Allan Lichtman, American University; Thad Hall, University of Utah; Bernard Grofman, UC – Irvine)

- 3) Another political scientist recommended employing a methodology that relies on qualitative data drawn from in-depth interviews with key critics and experts on all sides of the debate on fraud; quantitative data collected through a survey of state and local elections and law enforcement officials; and case studies. Case studies should focus on the five or ten states, regions or cities where there has been a history of election fraud to examine past and present problems. The survey should be mailed to each state's attorney general and secretary of state, each county district attorney's office and each county board of elections in the 50 states. (Lorraine Minnite, Barnard College)
- 4) The research should be a two-step process. Using LexisNexis and other research tools, a search should be conducted of news media accounts over the past decade. Second, interviews with a systematic sample of election officials nationwide and in selected states should be conducted. (Chandler Davidson, Rice University)
- 5) One expert in the field posits that we can never come up with a number that accurately represents either the incidence of fraud or the incidence of voter intimidation. Therefore, the better approach is to do an assessment of what is most likely to happen, what election violations are most likely to be committed – in other words, a risk analysis. This would include an analysis of what it would actually take to commit various acts, e.g. the cost/benefit of each kind of violation. From there we could rank the likely prevalence of each type of activity and examine what measures are or could be effective in combating them. (Wendy Weiser, Brennan Center of New York University)
- 6) Replicate a study in the United States done abroad by Susan Hyde of the University of California- San Diego examining the impact of impartial poll site observers on the incidence of election fraud. Doing this retrospectively would require the following steps:
  - Find out where there were federal observers
  - Get precinct level voting information for those places
  - Analyze whether there was any difference in election outcomes in those places with and without observers, and whether any of these results seem anomalous.

Despite the tremendous differences in the political landscapes of the countries examined by Hyde in previous studies and the U.S., Hyde believes this study could be effectively replicated in this country by sending observers to a random sample of precincts. Rather than compare the incumbent's vote share, such factors such as voter complaints, voter turnout, number of provisional ballots used, composition of the electorate, as well as any anomalous voting results could be compared between sites with and without monitors.

For example, if intimidation is occurring, and if reputable monitors make intimidation less likely or voters more confident, then turnout should be higher on average in monitored precincts than in unmonitored precincts. If polling station officials are intentionally refusing to issue provisional ballots, and the polling station officials are

more likely to adhere to regulations while being monitored, the average number of provisional ballots should be higher in monitored precincts than in unmonitored precincts. If monitors cause polling station officials to adhere more closely to regulations, then there should be fewer complaints (in general) about monitored than unmonitored precincts (this could also be reversed if monitors made voters more likely to complain).

Again, random assignment controls for all of the other factors that otherwise influence these variables.

One of the downsides of this approach is it does not get at some forms of fraud, e.g. absentee ballot fraud; those would have to be analyzed separately

7) Another political scientist recommends conducting an analysis of vote fraud claims and purging of registration rolls by list matching. Allegations of illegal voting often are based on matching of names and birth dates. Alleged instances of double voting are based on matching the names and birth dates of persons found on voting records. Allegations of ineligible felon (depending on state law), deceased, and of non-citizen voting are based on matching lists of names, birth dates, and sometimes addresses of such people against a voting records. Anyone with basic relational database skills can perform such matching in a matter of minutes.

However, there are a number of pitfalls for the unwary that can lead to grossly over-estimating the number of fraudulent votes, such as missing or ignored middle names and suffixes or matching on missing birth dates. Furthermore, there is a surprising statistical fact that a group of about three hundred people with the same first and last name are almost assured to share the exact same birth date, including year. In a large state, it is not uncommon for hundreds of Robert Smiths (and other common names) to have voted. Thus, allegations of vote fraud or purging of voter registration rolls by list matching almost assuredly will find a large proportion of false positives: people who voted legally or are registered to vote legally.

Statistics can be rigorously applied to determine how many names would be expected to be matched by chance. A simulation approach is best applied here: randomly assign a birth date to an arbitrary number of people and observe how many match within the list or across lists. The simulation is repeated many times to average out the variation due to chance. The results can then be matched back to actual voting records and purge lists, for example, in the hotly contested states of Ohio or Florida, or in states with Election Day registration where there are concerns that easy access to voting permits double voting. This analysis will rigorously identify the magnitude alleged voter fraud, and may very well find instances of alleged fraud that exceed what might have otherwise happened by chance.

This same political scientist also recommends another way to examine the problem: look at statistics on provisional voting: the number cast might provide indications of intimidation (people being challenged at the polls) and the number of those not counted

would be indications of "vote fraud." One could look at those jurisdictions in the Election Day Survey with a disproportionate number of provisional ballots cast and cross reference it with demographics and number of provisional ballots discarded. (Michael McDonald, George Mason University)

- 8) Spencer Overton, in a forthcoming law review article entitled *Voter Identification*, suggests a methodology that employs three approaches— investigations of voter fraud, random surveys of voters who purported to vote, and an examination of death rolls provide a better understanding of the frequency of fraud. He says all three approaches have strengths and weaknesses, and thus the best studies would employ all three to assess the extent of voter fraud. An excerpt follows:

1. *Investigations and Prosecutions of Voter Fraud*

Policymakers should develop databases that record all investigations, allegations, charges, trials, convictions, acquittals, and plea bargains regarding voter fraud. Existing studies are incomplete but provide some insight. For example, a statewide survey of each of Ohio's 88 county boards of elections found only four instances of ineligible persons attempting to vote out of a total of 9,078,728 votes cast in the state's 2002 and 2004 general elections. This is a fraud rate of 0.00000045 percent. The Carter-Baker Commission's Report noted that since October 2002, federal officials had charged 89 individuals with casting multiple votes, providing false information about their felon status, buying votes, submitting false voter registration information, and voting improperly as a non-citizen. Examined in the context of the 196,139,871 ballots cast between October 2002 and August 2005, this represents a fraud rate of 0.0000005 percent (note also that not all of the activities charged would have been prevented by a photo identification requirement).

A more comprehensive study should distinguish voter fraud that could be prevented by a photo identification requirement from other types of fraud — such as absentee voting and stuffing ballot boxes — and obtain statistics on the factors that led law enforcement to prosecute fraud. The study would demand significant resources because it would require that researchers interview and pour over the records of local district attorneys and election boards.

Hard data on investigations, allegations, charges, pleas, and prosecutions is important because it quantifies the amount of fraud officials detect. Even if prosecutors vigorously pursue voter fraud, however, the number of fraud cases charged probably does not capture the total amount of voter fraud. Information on official investigations, charges, and prosecutions should be supplemented by surveys of voters and a comparison of voting rolls to death rolls.

2. *Random Surveys of Voters*

Random surveys could give insight about the percentage of votes cast fraudulently. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted at the polls in the last election, ask them if they actually voted, and confirm the percentage who are valid voters. Researchers should conduct the survey soon after an election to locate as many legitimate voters as possible with fresh memories.

Because many respondents would perceive voting as a social good, some who did not vote might claim that they did, which may underestimate the extent of fraud. A surveyor might mitigate this skew through the framing of the question (“I’ve got a record that you voted. Is that true?”).

Further, some voters will not be located by researchers and others will refuse to talk to researchers. Photo identification proponents might construe these non-respondents as improper registrations that were used to commit voter fraud.

Instead of surveying all voters to determine the amount of fraud, researchers might reduce the margin of error by focusing on a random sampling of voters who signed affidavits in the three states that request photo identification but also allow voters to establish their identity through affidavit—Florida, Louisiana, and South Dakota. In South Dakota, for example, only two percent of voters signed affidavits to establish their identity. If the survey indicates that 95 percent of those who signed affidavits are legitimate voters (and the other 5 percent were shown to be either fraudulent or were non-responsive), this suggests that voter fraud accounts for, at the maximum, 0.1 percent of ballots cast.

The affidavit study, however, is limited to three states, and it is unclear whether this sample is representative of other states (the difficulty may be magnified in Louisiana in the aftermath of Hurricane Katrina’s displacement of hundreds of thousands of voters). Further, the affidavit study reveals information about the amount of fraud in a photo identification state with an affidavit exception—more voter fraud may exist in a state that does not request photo identification.

### 3. *Examining Death Rolls*

A comparison of death rolls to voting rolls might also provide an estimate of fraud.

Imagine that one million people live in state A, which has no documentary identification requirement. Death records show that 20,000 people passed away in state A in 2003. A cross-referencing of this list to the voter rolls shows that 10,000 of those who died were registered voters, and these names remained on the voter rolls during the November 2004 election. Researchers would look at what percentage of the 10,000 dead-but-registered people who “voted” in the November 2004 election. A researcher should distinguish the votes cast in the name of the dead at the polls from those cast



absentee (which a photo identification requirement would not prevent). This number would be extrapolated to the electorate as a whole.

This methodology also has its strengths and weaknesses. If fraudulent voters target the dead, the study might overestimate the fraud that exists among living voters (although a low incidence of fraud among deceased voters might suggest that fraud among all voters is low). The appearance of fraud also might be inflated by false positives produced by a computer match of different people with the same name. Photo identification advocates would likely assert that the rate of voter fraud could be higher among fictitious names registered, and that the death record survey would not capture that type of fraud because fictitious names registered would not show up in the death records. Nevertheless, this study, combined with the other two, would provide important insight into the magnitude of fraud likely to exist in the absence of a photo identification requirement.



## **VOTING FRAUD-VOTER INTIMIDATION WORKING GROUP MEETING**

**Thursday, May 18, 2006**

**1:00 PM - 5:30 PM**

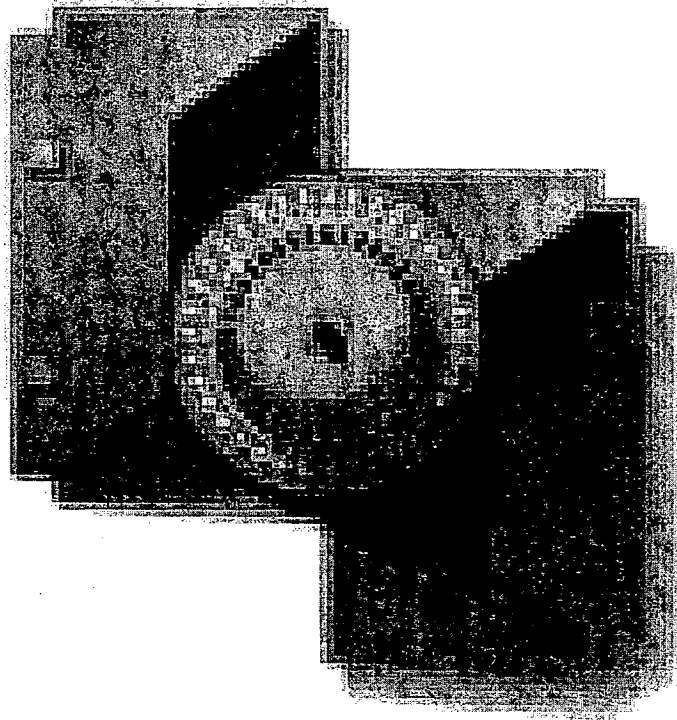
**U.S. Election Assistance Commission  
1225 New York Avenue, N.W., 11<sup>th</sup> Floor  
Washington, D.C. 20005**

### **AGENDA**

- |                          |   |
|--------------------------|---|
| <b>1:00 PM - 1:30 PM</b> | <b>Introduction</b><br><br>EAC Authority<br>Overview and Purpose of Current Project<br>Purpose and Members of the Working Group<br>Related EAC Research |
| <b>1:30 PM - 2:00 PM</b> | <b>Review of Preliminary Research</b><br><br>Literature & Reports<br>Interviews<br>News Articles<br>Court Cases   |
| <b>2:00 PM - 3:15 PM</b> | <b>Definition &amp; Findings from Current Project Research</b>  |
| <b>3:15 PM - 3:30 PM</b> | <b>Break</b>  |
| <b>3:30 PM - 5:00 PM</b> | <b>Ideas for Future EAC Activities</b><br><br>Recommended Research Methodologies<br>Consultant Recommendations<br>Working Group Ideas                   |
| <b>5:00 PM - 5:30 PM</b> | <b>EAC Next Steps</b>   |

## Development of:

- nationwide statistics and methods of identifying, deterring, and investigating ██████████ in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating ██████████ [section 241(b)(7)].



Federal Government



# Biographies

# Practice Areas

Offices

009150



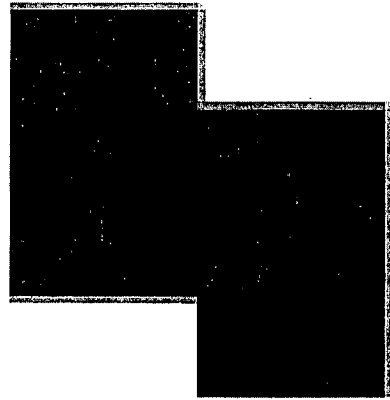
gr\_style

```
.RecordTitle {
    FONT-WEIGHT: bold; FONT-SIZE: 10pt; COLOR: white; FONT-STYLE: normal;
FONT-FAMILY: Verdana, Arial, Helvetica
}
#search {
    FONT-SIZE: xx-small; COLOR: #ffffff; FONT-STYLE: normal; FONT-FAMILY:
verdana, arial, helvetica; TEXT-ALIGN: right
}
.bold {
    FONT-WEIGHT: bolder; FONT-SIZE: 11px; FONT-FAMILY: verdana, arial, helvetica
}
#header1 {
    FONT-SIZE: 18px; COLOR: #ffffff; FONT-FAMILY: verdana, arial, helvetica
}
#header2 {
    FONT-SIZE: 16px; COLOR: #ffffff; FONT-FAMILY: verdana, arial, helvetica
}
#header3 {
    FONT-SIZE: 13px; COLOR: #ffffff; FONT-FAMILY: verdana, arial, helvetica
}
#practicearea {
    FONT-SIZE: xx-small; Z-INDEX: 100; LEFT: 20px; COLOR: #ffffff; FONT-STYLE:
normal; FONT-FAMILY: verdana, arial, helvetica; WHITE-SPACE: nowrap; POSITION:
absolute; TOP: 109px
}
#officeloc {
    FONT-SIZE: xx-small; Z-INDEX: 100; LEFT: 20px; COLOR: #ffffff; FONT-STYLE:
normal; FONT-FAMILY: verdana, arial, helvetica; WHITE-SPACE: nowrap; POSITION:
absolute; TOP: 109px
}
#buttonstyle {
    Z-INDEX: 100; LEFT: 0px; POSITION: absolute; TOP: 130px
}
#animatedicon {
    Z-INDEX: 100; RIGHT: 10px; POSITION: absolute; TOP: 30px
}
#attyname {
    FONT-SIZE: xx-small; Z-INDEX: 100; LEFT: 20px; COLOR: #ffffff; FONT-STYLE:
normal; FONT-FAMILY: verdana, arial, helvetica; WHITE-SPACE: nowrap; POSITION:
absolute; TOP: 109px
}
#attycontact {
    FONT-SIZE: xx-small; Z-INDEX: 100; LEFT: 0px; COLOR: #ffffff; FONT-STYLE:
normal; FONT-FAMILY: verdana, arial, helvetica; WHITE-SPACE: nowrap; POSITION:
absolute; TOP: 276px
}
#attypic {
    Z-INDEX: 100; LEFT: 0px; POSITION: absolute; TOP: 214px
}
#defaultheader {
    FONT-WEIGHT: 200; FONT-SIZE: 11px; COLOR: #990000; FONT-FAMILY: verdana,
arial, helvetica
}
#defaulttext {
    FONT-SIZE: 10px; FONT-FAMILY: verdana, arial, helvetica
}
#announcement {
    FONT-SIZE: xx-small; COLOR: #ffffff; FONT-STYLE: normal; FONT-FAMILY:
verdana, arial, helvetica
}
#text {
    FONT-SIZE: x-small; COLOR: #ffffff; FONT-STYLE: normal; FONT-FAMILY:
verdana, arial, helvetica
}
```

## gr\_style

```
}
#hyperlinktext {
    COLOR: #ffffff
}
#hyperlinktext2 {
    FONT-SIZE: xx-small; COLOR: #ffffff; FONT-STYLE: normal; FONT-FAMILY:
    verdana, arial, helvetica
}
.hyperlinknew {
    COLOR: #ffffff
}
#contact {
    FONT-SIZE: xx-small; MARGIN-LEFT: 5px; MARGIN-RIGHT: 5px; FONT-STYLE:
    normal; FONT-FAMILY: verdana, arial, helvetica
}
#Bottom {
    FONT-SIZE: xx-small; FONT-STYLE: normal; FONT-FAMILY: verdana, arial,
    helvetica; TEXT-ALIGN: right
}
#newshead {
    FONT-WEIGHT: bold; FONT-SIZE: medium; COLOR: #ffffff; FONT-FAMILY: verdana,
    arial, helvetica
}
P {
    TEXT-ALIGN: left
}
#presshead {
    FONT-SIZE: 16px; FONT-FAMILY: verdana,arial, helvetica
}
#sidebar {
    PADDING-RIGHT: 10px; PADDING-LEFT: 10px; PADDING-TOP: 10px;
    BACKGROUND-COLOR: #c4cfd
}
.border1 {
    BORDER-LEFT-COLOR: #ebe0b4; BORDER-BOTTOM-COLOR: #ebe0b4; BORDER-TOP-COLOR:
    #ebe0b4; BORDER-RIGHT-COLOR: #ebe0b4
}
.border2 {
    BORDER-RIGHT: #000099 5px solid; PADDING-RIGHT: 10px; BORDER-TOP: #000099
    5px solid; PADDING-LEFT: 10px; BORDER-LEFT: #000099 5px solid; PADDING-TOP: 10px;
    BORDER-BOTTOM: #000099 5px solid; BACKGROUND-COLOR: #ffffff
}
}
```

B L A N K



R O M E

G O V E R N M E N T R E L A T I O N S U C

009153



009154

# **PATRICK J. ROGERS**

## **PROFESSIONAL EMPLOYMENT**

|              |   |
|--------------|---|
| 1988-Present | Partner/Shareholder, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico |
| 1993-1995    | Executive Committee, Modrall, Sperling, Roehl, Harris & Sisk, P.A., Albuquerque, New Mexico   |
| 1983-1988    | Associate Attorney, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico  |
| 1981-1983    | Legislative Assistant to U.S. Senator Harrison H. Schmitt                                     |
| 1976-1981    | Land Law Examiner, Bureau of Land Management, Santa Fe, New Mexico and Washington, D.C.       |

## **EDUCATION**

|      |  |
|------|--|
| J.D. | GEORGETOWN UNIVERSITY SCHOOL OF LAW,<br>Washington, D.C. - December, 1981<br>Dean's List, Law Fellow |
| B.A. | UNIVERSITY OF NEW MEXICO,<br>December, 1976 Magna Cum Laude<br>Major - Political Science/Economics   |

## **PROFESSIONAL ORGANIZATIONS/ACTIVITIES**

|              |  |
|--------------|--|
| 1997-2002    | Mountain States Legal Foundation, Litigation Board of Directors                |
| 1991-2003    | General Counsel to the New Mexico Republican Party, Executive Committee Member |
| 1993-2000    | Counsel to the Bernalillo County Republican Party, Executive Committee Member  |
| 1983-Present | Albuquerque Bar Association  |
| 1983-Present | New Mexico Bar Association   |
| 1983-Present | American Bar Association, Litigation and Trial Sections                        |
| 1988         | Law Day Chairman, State Bar of New Mexico                                      |

## **COMMUNITY ACTIVITIES**

|              |  |
|--------------|--|
| 2000-2003    | Dismas House Board of Directors                        |
| 1997-2000    | Economic Forum Board of Directors                      |
| 1990-1995    | Governor's Organized Crime Prevention Commission       |
| 1989-Present | Kiwanis  |
| 1985-1998    | YABL Basketball Coach; NWRG - Alameda Soccer Coach     |
| 1987-1991    | Special Assistant District Attorney, Bernalillo County |
| 1989-1991    | Metropolitan Court Judicial Selection Committee        |

## **PRACTICE AREAS (AV Rated Martindale-Hubbell)**

Commercial, Administrative and Constitutional Litigation  
Lobbying: (Representative clients: Newmont Mining Company, Duke Energy North America and Verizon Wireless)

## **PUBLICATIONS**

Survey of the New Mexico Privacy and Related Claims against the Media for the National Libel Research Defense Counsel

Reporters Committee for Freedom of the Press: New Mexico Open Records, Open Meetings and Related Constitutional Issues

New Mexico Reporter=s Handbook on Media Law

Reporters Committee for Freedom of the Press: ATapping Officials= Secrets@

### **ELECTION LAW EXPERIENCE**

*The Coalition to Expose Ballot Deception, et al v. Judy N. Chavez, et al*; Second Judicial District Court of Bernalillo County, New Mexico (2005); represented plaintiffs challenging petition procedures.

*Miguel Gomez v. Ken Sanchez and Judy Chaves*; Second Judicial District Court of Bernalillo County, New Mexico (2005); residency challenge.

*Moises Griego, et al v. Rebecca Vigil-Giron v. Ralph Nader and Peter Miguel Camejo*, Supreme Court for the State of New Mexico (2004); represented Ralph Nader and Peter Camejo, ballot access issues.

*Larry Larrañaga, et al v. Mary E. Herrera and Rebecca Vigil-Giron*, Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues.

*Decker, et al v. Kunko, et al*; District Court of Chaves County, New Mexico (2004); voter identification and fraudulent registration issues.

*Kunko, et al v. Decker, et al*; Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues.

*In the Matter of the Security of Ballots Cast in Bernalillo County in the 2000 General Election*; Second Judicial District Court of Bernalillo County, New Mexico (2000); voting and counting irregularities and fraud.

*Larrogoite v. Vigil-Giron and Archuletta*; First Judicial District Court of Santa Fe County, New Mexico (1990); petition challenge, U.S. House of Representatives

J. R. Perez  
Guadalupe County Elections Administrator  
307 West Court  
Seguin, Texas 78155  
Business 830-303-6363

  
Website: [www.Guadalupe-Elections.com](http://www.Guadalupe-Elections.com)

Education:

The University of Texas at Austin  
Bachelor of Business Administration

Office Held:

Appointed Guadalupe County Elections Administrator, January 1993.

Credits:

**Certified Elections / Registration Administrator**; August 26, 1998. The Election Center;  
Professional Education Program.

**Elected President of the Texas Association of Elections Administrators, 1997-1998.**

**Legislative Chairman for Texas Association of Elections Administrators, 1998-1999**

**Received Certificate of Appreciation from the Secretary of State, Elections Division, for  
Presentation Made During the Thirteenth Annual Election Law Seminar.**

**Received Certificate of Appreciation from the Secretary of State, Elections Division, for  
"Training Your Judges" Presentation Made During the Fourteenth Annual Election Law Seminar.**

**Received Certificate of Appreciation from the Secretary of State, Elections Division, for  
"Creating Your Own Website." Presentation Made During the Fifteenth Annual Election Law  
Seminar.**

**Received Certificate of Award, Professional Practices Paper, Elections Center Conference,  
Boston.**

**Received Certificate of Award, Iacreat Website: Contest, Recognition of Excellence in Category I  
for Website:**

**Appointed to the Secretary of State's Advisory Panel for the Texas Voter Registration System.  
(TEAM)**

**Received Certificate of Appreciation from the Secretary of State, Elections Division, for the "  
Website:" presentation made during the Eighteenth Annual Election Law Seminar.**

**Received Certificate of Award, Professional Practices Paper, Elections Center Conference,  
Beverly Hills.**

**Received Certificate of Appreciation from the Secretary of State, Elections Division  
for presentation made during the Twenty First Annual Election Law Seminar.**

**Received Certificate of Appreciation from the Secretary of State, Elections Division  
for presentation made during the Twenty Third Annual Election Law Seminar.**

**Participated in the U. S. Election Assistance Commission Meeting on improving the collection of  
Election Data.**

009157

**Atascosa County**  
Elections Administrator  
Rosaria Reyes  
914 North Main, Suite 115, Jourdanton 78026  
Tel: (830) 769-1472  
Fax: (830) 769-1482

**Bastrop County**  
Elections Administrator  
Nora Cano  
804 Pecan, Bastrop 78602  
Tel: (512) 581-7160  
Fax: 512-581-4260

**Bexar County**  
Elections Administrator  
Jacque Callanen  
203 W. Nueva, Suite 3.61, San Antonio 78207-4045  
Tel: (210) 335-8683  
Fax: (210) 335-0343

**Brewster County**  
Elections Administrator  
Isabel Segura LaSoya  
107 West Ave E., # 3, Alpine 79830  
Tel: (432) 837-6230  
Fax: (432) 837-3871

**Calhoun County**  
Elections Administrator  
Dora Garcia  
211 S. Ann St., Port Lavaca 77979  
Tel: (361) 553-4440  
Fax: (361) 553-4442

**Cameron County**  
Elections Administrator  
Rogelio Ortiz  
P.O. Box 3587, Brownsville 78523-3587  
[REDACTED]  
Fax: (956) 550-7298

**El Paso County**  
Elections Administrator  
Helen Jamison  
500 E. San Antonio, Rm. 402, El Paso 79901  
Tel: (915) 546-2154  
Fax: (915) 546-2220

**Guadalupe County**  
Elections Administrator  
J.R. Perez  
P.O. Box 1346, Seguin 78156-1346  
Tel: (830) 303-6363  
Fax: (830) 303-6373

**Hidalgo County**  
Elections Administrator  
Teresa R. Navarro  
P.O. Box 659, Edinburg 78540-0659  
Tel: (956) 318-2570  
Fax: (956) 318-2569

**Maverick County**  
Elections Administrator  
Porfirio A. Esparza  
500 Quarry Street, Box 1, Eagle Pass 78852  
[REDACTED]  
Fax: (830) 773-6450



**Refugio County**

Elections Administrator

Rachael B. Garcia

P.O. Box 452, Refugio 78377

Tel: (361) 526-2151

Fax: (361) 526-2102

**Webb County**

Elections Administrator

Oscar Villarreal

P.O. Drawer 29, Laredo 78042-0029

Tel: (956) 523-4050

Fax: (956) 523-5006

Benjamin L. Ginsberg represents numerous political parties, political campaigns, candidates, members of Congress and state legislatures, Governors, corporations, trade associations, vendors, donors and individuals participating in the political process.

In both the 2004 and 2000 election cycles, Mr. Ginsberg served as national counsel to the Bush-Cheney presidential campaign; he played a central role in the 2000 Florida recount. He also represents the campaigns and leadership PACs of numerous members of the Senate and House, as well as the Republican National Committee, National Republican Senatorial Committee and National Republican Congressional Committee. He serves as counsel to the Republican Governors Association and has wide experience on the state legislative level from directing Republican redistricting efforts nationwide following the 1990 Census and being actively engaged in the 2001—2002 round of redistricting.

In addition to advising on election law issues, particularly those involving federal and state campaign finance laws, ethics rules, redistricting, communications law, and election recounts and contests, Mr. Ginsberg represents clients before Congress and state legislatures.

Before entering law school, he spent five years as a newspaper reporter on The Boston Globe, Philadelphia Evening Bulletin, The Berkshire (Mass.) Eagle, and The Riverside (Calif.) Press-Enterprise. He has been adjunct professor of law at the Georgetown University Law Center lecturing on law and the political process.

**Education**

- Georgetown University Law Center, J.D., 1982
- University of Pennsylvania, A.B., 1974

**Bar Admissions**

- District of Columbia

2550 M Street, NW  
Washington, DC 20037  
T: 202-457-6405 F: 202-457-6315

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                                | Court   | Citation  | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |   |               |   | Additionally, none of the ballots in Monroe County's second precinct contained the requisite initialing.  |                              |             |                                       |
| Gilmore v. Amityville Union Free Sch. Dist. | United States District Court for the Eastern District of New York | 305 F. Supp. 2d 271; 2004 U.S. Dist. LEXIS 3116 | March 2, 2004 | Plaintiffs, two school board candidates, filed a class action complaint against defendants, a school district, the board president, and other district agents or employees, challenging a school board election. Defendants moved to dismiss. | During the election, a voting machine malfunctioned, resulting in votes being cast on lines that were blank on the ballot. The board president devised a plan for counting the machine votes by moving each tally up one line. The two candidates, who were African | No                           | N/A         | No                                    |

Deliberative Process  
Privilege

009161

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>American, alleged that the president's plan eliminated any possibility that an African American would be elected. The court found that the candidates failed to state a claim under § 1983 because they could not show that defendants' actions were done or approved by a person with final policymaking authority, nor was there a showing of intentional or</p> |                              |             |                                       |

009162

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>purposeful discrimination on defendants' part. The vote-counting method applied equally to all candidates. The candidates' claims under § 2000a and 2000c--8 failed because schools were not places of public accommodation, as required under § 2000a, and § 2000c--8 applied to school segregation. Their claim under § 1971 of deprivation of voting rights failed because §</p> |                              |             |                                       |

009163

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                             | Court                        | Citation                              | Date                      | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|------------------------------|---------------------------------------|---------------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |                              |                                       |                           |   | <p>1971 did not provide for a private right of action. The court declined to exercise supplemental jurisdiction over various state law claims. Defendants' motion to dismiss was granted with respect to the candidates' federal claims; the state law claims were dismissed without prejudice.</p> |                              |             |                                       |
| <p>State ex rel. Mackey v. Blackwell</p> | <p>Supreme Court of Ohio</p> | <p>106 Ohio St. 3d 261; 2005 Ohio</p> | <p>September 28, 2005</p> | <p>Appellants, a political group and county electors who voted by provisional ballot,</p> | <p>The Secretary of State issued a directive to all Ohio county boards of</p>   | <p>No</p>                    | <p>N/A</p>  | <p>No</p>                             |

009164

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation  | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|---|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | 4789;<br>834<br>N.E.2d<br>346;<br>2005<br>Ohio<br>LEXIS<br>2074 |      | sought review of a judgment from the court of appeals, which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional ballots were not counted. They, together with a political activist group, brought the mandamus action to compel |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The court dismissed the complaint, finding that no clear legal right was established under Ohio law and the federal claims could be adequately raised in an action under §</p> |                              |             |                                       |

009166



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>1983. On appeal, the Ohio supreme court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed under § 1983 to raise the federal--law claims. Affirmed.</p> |                              |             |                                       |

009167

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case           | Court   | Citation  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|---|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
| Touchston v. McDermott | United States District Court for the Middle District of Florida | 120 F. Supp. 2d 1055; 2000 U.S. Dist. LEXIS 20091 | November 14, 2000 | In action in which plaintiffs, registered voters in Brevard County, Florida, filed suit against defendants, members of several County Canvassing Boards and the Secretary of the Florida Department of State, challenging the constitutionality of Fla. Stat. Ann. § 102.166(4) (2000), before the court was plaintiffs' emergency motion for temporary restraining order and/or preliminary injunction. | In their complaint, plaintiffs challenged the constitutionality of § 102.166(4), asserting that the statute violated their rights under the Equal Protection and Due Process Clauses of U.S. Const. amend. XIV. Based on these claims, plaintiffs sought an order from the court stopping the manual recount of votes. The court found that plaintiffs had failed to set forth a valid | No                           | N/A         | No                                    |

009168

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | basis for intervention by federal courts. They had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. Moreover, plaintiffs had not established a likelihood of success on the merits of their claims. Plaintiffs' motion for temporary restraining order and/or |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case     | Court   | Citation  | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|---|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |   |   |                   |   | preliminary injunction denied; plaintiffs had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. |                              |             |                                       |
| Siegel v. LePore | United States District Court for the Southern District of Florida | 120 F. Supp. 2d 1041; 2000 U.S. Dist. LEXIS 16333 | November 13, 2000 | Plaintiffs, individual Florida voters and Republican Party presidential and vice-presidential candidates, moved for a temporary restraining order and preliminary injunction to | The court addressed who should consider plaintiffs' serious arguments that manual recounts would diminish the accuracy of vote counts due to ballot  | No                           | N/A         | No                                    |

009170

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enjoin defendants, canvassing board members from four Florida counties, from proceeding with manual recounts of election ballots. | degradation and the exercise of discretion in determining voter intent. The court ruled that intervention by a federal district court, particularly on a preliminary basis, was inappropriate. A federal court should not interfere except where there was an immediate need to correct a constitutional violation. Plaintiffs neither demonstrated a clear deprivation of a constitutional |                              |             |                                       |

009171

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>injury or a fundamental unfairness in Florida's manual recount provision. The recount provision was reasonable and non--discriminatory on its face and resided within the state's broad control over presidential election procedures. Plaintiffs failed to show that manual recounts were so unreliable as to constitute a constitutional injury, that plaintiffs'</p> |                              |             |                                       |

009172

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court            | Citation        | Date              | Facts                               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|------------------|-----------------|-------------------|-------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                |                  |                 |                   |                                     | <p>alleged injuries were irreparable, or that they lacked an adequate state court remedy. Injunctive relief denied because plaintiffs demonstrated neither clear deprivation of constitutional injury or fundamental unfairness in Florida's manual recount provision to justify federal court interference in state election procedures.</p> |                              |             |                                       |
| Gore v. Harris | Supreme Court of | 773 So. 2d 524; | December 22, 2000 | In a contest to results of the 2000 | The state supreme court   | No                           | N/A         | No                                    |

009173

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court   | Citation             | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------|----------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | Florida | 2000 Fla. LEXIS 2474 |      | presidential election in Florida, the United States Supreme Court reversed and remanded a Florida Supreme Court decision that had ordered a manual recount of certain ballots. | had ordered the trial court to conduct a manual recount of 9000 contested Miami--Dade County ballots, and also held that uncounted "undervotes" in all Florida counties were to be manually counted. The trial court was ordered to use the standard that a vote was "legal" if there was a clear indication of the intent of the voter. The United States Supreme Court released an |                              |             |                                       |

009174



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>opinion on December 12, 2000, which held that such a standard violated equal protection rights because it lacked specific standards to ensure equal application, and also mandated that any manual recount would have to have been completed by December 12, 2000. On remand, the state supreme court found that it was impossible under that time frame to adopt adequate</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court       | Citation | Date     | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|-------------|----------|----------|---------------------|---|------------------------------|-------------|---------------------------------------|
|                |             |          |          |                     | standards and make necessary evaluations of vote tabulation equipment. Also, development of a specific, uniform standard for manual recounts was best left to the legislature. Because adequate standards for a manual recount could not be developed by the deadline set by the United States Supreme Court, appellants were afforded no relief. |                              |             |                                       |
| Goodwin v. St. | Territorial | 43 V.I.  | December | Plaintiff political | Plaintiff alleged   | No                           | N/A         | No                                    |

009176

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                      | Court                       | Citation               | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------------|------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thomas--St. John Bd. of Elections | Court of the Virgin Islands | 89; 2000 V.I. LEXIS 15 | 13, 2000 | candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots. | that defendants counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The |                              |             |                                       |

009177

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court held that plaintiff was not entitled to relief since he failed to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election</p> |                              |             |                                       |

009178

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements. Further, while defendants improperly counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court  | Citation | Date       | Facts              | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|------------|--------------------|--|------------------------------|-------------|---------------------------------------|
|              |        |          |            |                    | <p>ballots without notarized signatures were proper. Plaintiff's request for declaratory and injunctive relief was denied. Invalidation of absentee ballots was not required since the irregularities asserted by plaintiff involved ballots which were in fact valid, were not tabulated by defendants, or were insufficient to change the outcome of the election.</p> |                              |             |                                       |
| Shannon v.   | United | 394 F.3d | January 7, | Plaintiffs, voters | Local election   | No                           | N/A         | No                                    |

009180

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court  | Citation                     | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Jacobowitz   | States Court of Appeals for the Second Circuit | 90; 2005 U.S. App. LEXIS 259 | 2005 | and an incumbent candidate, sued defendants, a challenger candidate, a county board of election, and commissioners, pursuant to § 1983 alleging violation of the Due Process Clause of the Fourteenth Amendment. The United States District Court for the Northern District of New York granted summary judgment in favor of plaintiffs. Defendants appealed. | inspectors noticed a problem with a voting machine. Plaintiffs asserted that their votes were not counted due to the machine malfunction. Rather than pursue the state remedy of quo warranto, by requesting that New York's Attorney General investigate the machine malfunction and challenge the election results in state court, plaintiffs filed their complaint in federal court. |                              |             |                                       |

009181

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The court of appeals found that United States Supreme Court jurisprudence required intentional conduct by state actors as a prerequisite for a due process violation. Neither side alleged that local officials acted intentionally or in a discriminatory manner with regard to the vote miscount. Both sides conceded that the recorded results were</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>likely due to an unforeseen malfunction with the voting machine. Because no conduct was alleged that would indicate an intentional deprivation of the right to vote, there was no cognizable federal due process claim. The proper remedy was to assert a quo warranto action to challenge the outcome of a general election based on an alleged voting machine malfunction.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court                       | Citation   | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-----------------------------|--|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |                             |  |                  |  | The district court's grant of summary judgment was reversed and its injunctions were vacated. The case was remanded for further proceedings consistent with this opinion.                              |                              |             |                                       |
| GEORGE W. BUSH v. PALM BEACH COUNTY CANVASSING BOARD, ET AL. | United States Supreme Court | 531 U.S. 70; 121 S. Ct. 471; 148 L. Ed. 2d 366; 2000 U.S. LEXIS 8087 | December 4, 2000 | Appellant Republican presidential candidate's petition for writ of certiorari to the Florida supreme court was granted in a case involving interpretations of Fla. Stat. Ann. §§ 102.111, 102.112, in proceedings brought by | The Supreme Court vacated the state court's judgment, finding that the state court opinion could be read to indicate that it construed the Florida Election Code without regard to the extent to which | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellees Democratic presidential candidate, county canvassing boards, and Florida Democratic Party regarding authority of the boards and respondent Florida Secretary of State as to manual recounts of ballots and deadlines.</p> | <p>the Florida Constitution could, consistent with U.S. Const. art. II, § 1, cl. 2, circumscribe the legislative power. The judgment of the Florida Supreme Court was vacated and remanded for further proceedings. The court stated the judgment was unclear as to the extent to which the state court saw the Florida constitution as circumscribing the legislature's authority under</p> |                              |             |                                       |

009185

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case           | Court   | Citation                                  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|---|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |   |   |                   |  | Article II of the United States Constitution, and as to the consideration given the federal statute regarding state electors.  |                              |             |                                       |
| Touchston v. McDermott | United States Court of Appeals for the Eleventh Circuit | 234 F.3d 1130; 2000 U.S. App. LEXIS 29366 | November 17, 2000 | Plaintiff voters appealed from judgment of the United States District Court for the Middle District of Florida, which denied their emergency motion for an injunction pending appeal against defendant county election officials. Plaintiffs sought to enjoin defendants from conducting manual ballot recounts or | Plaintiff voters sought an emergency injunction pending appeal to enjoin defendant county election officials from conducting manual ballot recounts or to enjoin defendants from certifying the results of the Presidential election which | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | to enjoin defendants from certifying results of the presidential election that contained any manual recounts. | contained any manual recounts. The district court denied the emergency injunction and plaintiffs appealed. Upon review, the emergency motion for injunction pending appeal was denied without prejudice. Florida had adequate election dispute procedures, which had been invoked and were being implemented in the forms of administrative |                              |             |                                       |

009187

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>actions by state officials and actions in state court. Therefore, the state procedures were adequate to preserve for ultimate review in the United States Supreme Court any federal questions arising out of the state procedures. Moreover, plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would warrant granting the extraordinary</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | remedy of an injunction pending appeal. Denial of plaintiff's petition for emergency injunction pending appeal was affirmed. The state procedures were adequate to preserve any federal issue for review, and plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would have warranted granting the extraordinary remedy of the |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court                    | Citation                              | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|---------------------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                |                          |                                       |                  |  | injunction.  |                              |             |                                       |
| Gore v. Harris | Supreme Court of Florida | 772 So. 2d 1243; 2000 Fla. LEXIS 2373 | December 8, 2000 | The court of appeal certified as being of great public importance a trial court judgment that denied all relief requested by appellants, candidates for President and Vice President of the United States, in appellants' contest to certified election results. | Appellants contested the certification of their opponents as the winners of Florida's electoral votes. The Florida supreme court found no error in the trial court's holding that it was proper to certify election night returns from Nassau County rather than results of a machine recount. Nor did the trial court err in refusing to include votes that the Palm Beach County | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Canvassing Board found not to be legal votes during a manual recount. However, the trial court erred in excluding votes that were identified during the Palm Beach County manual recount and during a partial manual recount in Miami--Dade County. It was also error to refuse to examine Miami--Dade County ballots that registered as non--votes during the machine count.</p> |                              |             |                                       |

009191

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The trial court applied an improper standard to determine whether appellants had established that the result of the election was in doubt, and improperly concluded that there was no probability of a different result without examining the ballots that appellants claimed contained rejected legal votes. The judgment was reversed and remanded; the</p> |                              |             |                                       |

009192

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | trial court was ordered to tabulate by hand Miami-Dade County ballots that the counting machine registered as non--votes, and was directed to order inclusion of votes that had already been identified during manual recounts. The trial court also was ordered to consider whether manual recounts in other counties were necessary. |                              |             |                                       |

009193

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case      | Court                           | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
| James v. Bartlett | Supreme Court of North Carolina | 359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146 | February 4, 2005 | Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed. | The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out-of-precinct provisional | No                           | N/A         | No                                    |

003194

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded. |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 387 F.3d 565; 2004 U.S. App. LEXIS 22320 | October 26, 2004 | Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast | The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42  | No                           | N/A         | No                                    |

009195

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p> | <p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p> |                              |             |                                       |

009196

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                      | Court                 | Citation  | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|---|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |   |                    |  | legal votes. Affirmed in part and reversed in part.  |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074 | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional | No                           | N/A         | No                                    |

009198



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p> |                              |             |                                       |

009199

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p> |                              |             |                                       |

009260

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                  | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |   |   |                  |  | under § 1983 to raise the federal-law claims. Affirmed.   |                              |             |                                       |
| Fla. Democratic Party v. Hood | United States District Court for the Northern District of Florida | 342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720 | October 21, 2004 | Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings. | The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise | No                           | N/A         | No                                    |

009201

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p> |                              |             |                                       |

009202

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p> |                              |             |                                       |

009203

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |  | was cast in the proper precinct under State law.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss. | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the | No                           | N/A         | No                                    |

009204

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the |                              |             |                                       |

009205

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, |                              |             |                                       |

009206



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | even if the cost, in terms of uncounted ballots, was regrettable.  |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 386 F.3d 815; 2004 U.S. App. LEXIS 28765 | October 23, 2004 | Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements. | On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p> |                              |             |                                       |

009208

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case     | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |                             |                  |   | valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.   |                              |             |                                       |
| Hawkins v. Blunt | United States District Court for the Western District of Missouri | 2004 U.S. Dist. LEXIS 21512 | October 12, 2004 | In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved | The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements. | No                           | N/A         | No                                    |

009209

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | for summary judgment. | The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional |                              |             |                                       |

009210

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court   | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |  | ballot, the voter would first be directed to his proper polling place.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551 | October 13, 2004 | Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal | The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper | No                           | N/A         | No                                    |

009211

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>legislation. Defendants filed a motion to transfer venue.</p> | <p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p> |                              |             |                                       |

009212

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a |                              |             |                                       |

009213

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |   | mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872 | October 19, 2004 | Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a | The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a | No                           | N/A         | No                                    |

009214



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p> | <p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first--time voters who registered by mail were consistent with federal and state law. |                              |             |                                       |

009216

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case      | Court                           | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
| James v. Bartlett | Supreme Court of North Carolina | 359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146 | February 4, 2005 | Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed. | The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional | No                           | N/A         | No                                    |

009217

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | ballots to be counted in state and local elections. The candidates failure to challenge the counting of out--of--precinct provisional ballots before the election did not render their action untimely. Reversed and remanded. |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 387 F.3d 565; 2004 U.S. App. LEXIS 22320 | October 26, 2004 | Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast | The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42  | No                           | N/A         | No                                    |

009218

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p> | <p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p> |                              |             |                                       |

009219

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                      | Court                 | Citation  | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|---|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |   |                    |  | legal votes.<br>Affirmed in part and reversed in part.   |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074 | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional | No                           | N/A         | No                                    |

009221

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established |                              |             |                                       |

009222



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p> |                              |             |                                       |

009223

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                  | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |   |   |                  |  | under § 1983 to raise the federal-law claims.<br>Affirmed.  |                              |             |                                       |
| Fla. Democratic Party v. Hood | United States District Court for the Northern District of Florida | 342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720 | October 21, 2004 | Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings. | The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise | No                           | N/A         | No                                    |

009224

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p> |                              |             |                                       |

009225

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p> |                              |             |                                       |

009226

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |  | was cast in the proper precinct under State law.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss. | The directive in question instructed election officials to issue provisional ballots to first--time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first--time voter could identify himself by providing his driver's license number or the | No                           | N/A         | No                                    |

009227

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | even if the cost, in terms of uncounted ballots, was regrettable.  |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 386 F.3d 815; 2004 U.S. App. LEXIS 28765 | October 23, 2004 | Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements. | On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | 2004--33<br>violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a |                              |             |                                       |

009230

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case     | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |                             |                  |   | valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.   |                              |             |                                       |
| Hawkins v. Blunt | United States District Court for the Western District of Missouri | 2004 U.S. Dist. LEXIS 21512 | October 12, 2004 | In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved | The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements. | No                           | N/A         | No                                    |

009231

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | for summary judgment. | The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional |                              |             |                                       |

009232

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                        | Court   | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |  | ballot, the voter would first be directed to his proper polling place.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551 | October 13, 2004 | Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal | The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper | No                           | N/A         | No                                    |

009233

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>legislation. Defendants filed a motion to transfer venue.</p> | <p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p> |                              |             |                                       |

009234

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a |                              |             |                                       |

009235

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                        | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |   | mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872 | October 19, 2004 | Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a | The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a | No                           | N/A         | No                                    |

009236

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p> | <p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first--time voters who registered by mail were consistent with federal and state law. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case         | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Spencer v. Blackwell | United States District Court for the Southern District of Ohio | 347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062 | November 1, 2004 | Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the | The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | polls. | challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all</p> |                              |             |                                       |

009241

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case  | Court                       | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------------|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |                             |   |                  |   | defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.   |                              |             |                                       |
| MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al. (No. 04A360) SUMMIT COUNTY DEMOCRATIC CENTRAL and EXECUTIVE COMMITTEE, et al., Petitioners v. MATTHEW HEIDER, et al. (No. 04A364) | United States Supreme Court | 125 S. Ct. 305; 160 L. Ed. 2d 213; 2004 U.S. LEXIS 7400 | November 2, 2004 | In two separate actions, plaintiffs sued defendant members of a political party, alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to | Plaintiffs contended that the members planned to send numerous challengers to polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause | No                           | N/A         | No                                    |

009242  
009242

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities.</p> | <p>voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a single Circuit Justice, declined to reinstate the injunctions for</p> |                              |             |                                       |

009243

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Racial Discrimination Challenge Cases

| Name of Case            | Court         | Citation        | Date         | Facts                           | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---------------|-----------------|--------------|---------------------------------|--|------------------------------|-------------|---------------------------------------|
|                         |               |                 |              |                                 | <p>prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters.</p> |                              |             |                                       |
| Charles H. Wesley Educ. | United States | 324 F. Supp. 2d | July 1, 2004 | Plaintiffs, a voter, fraternity | The organization participated in   | No                           | N/A         | No                                    |

009244

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case        | Court   | Citation                          | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---|-----------------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
| Found., Inc. v. Cox | District Court for the Northern District of Georgia | 1358; 2004 U.S. Dist. LEXIS 12120 |      | members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter | numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they |                              |             |                                       |

009245



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Registration Act and U.S. Const. amends. I, XIV, and XV.</p> | <p>were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that:</p> |                              |             |                                       |

009246

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case                                   | Court                            | Citation                        | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------------------|---------------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |                                  |                                 |                  |  | <p>plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.</p> |                              |             |                                       |
| Jacksonville Coalition for Voter Prot. v. Hood | United States District Court for | 351 F. Supp. 2d 1326; 2004 U.S. | October 25, 2004 | Plaintiffs, voter protection coalition, union, and | The coalition, the union, and the voters based their claim on  | No                           | N/A         | No                                    |

009247

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                          | Citation          | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------------------------------|-------------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | the Middle District of Florida | Dist. LEXIS 26522 |      | voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials', implementation of early voting procedures violated the Voting Rights | the fact that the county had the largest percentage of African--American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African--American registered voter percentages had more early voting sites. Based on that, they argued that African--American voters in the county were disproportionately affected. The |                              |             |                                       |

009248

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts                                | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--------------------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Act and their constitutional rights. | court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's implementation |                              |             |                                       |

009249

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case   | Court                          | Citation                           | Date            | Facts                                     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------------|------------------------------------|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                                |                                    |                 |   | of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied. |                              |             |                                       |
| Taylor v. Howe | United States Court of Appeals | 225 F.3d 993; 2000 U.S. App. LEXIS | August 31, 2000 | Plaintiffs, African American voters, poll | The court of appeals affirmed--in--part, reversed--  | No                           | N/A         | No                                    |

009250

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                  | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------------------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | for the Eighth Circuit | 22241    |      | watchers, and candidates appealed from a judgment of the United States District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of | in--part, and remanded the district court's judgment. The court found that the district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a |                              |             |                                       |

009251

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case         | Court                                | Citation                                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------------------|--|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                      |                                      |  |                   | discriminatory intent.                                  | voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part. |                              |             |                                       |
| Stewart v. Blackwell | United States District Court for the | 356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS | December 14, 2004 | Plaintiffs, including African--American voters, alleged | The primary thrust of the litigation was an attempt to federalize  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                     | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Northern District of Ohio | 26897    |      | that use of punch card voting and "central--count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights Act. | elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000 |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local variety</p> |                              |             |                                       |

009254

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case     | Court                  | Citation                  | Date               | Facts                               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|------------------------|---------------------------|--------------------|-------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                        |                           |                    |                                     | in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible. |                              |             |                                       |
| Taylor v. Currie | United States District | 386 F. Supp. 2d 929; 2005 | September 14, 2005 | Plaintiff brought an action against | This action involved issues pertaining to   | No                           | N/A         | No                                    |

009255

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                                      | Citation               | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | Court for the Eastern District of Michigan | U.S. Dist. LEXIS 20257 |      | defendants, including a city elections commission, alleging defects in a city council primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff. | absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African-- American. The court ordered the case remanded because it found no basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter</p> |                              |             |                                       |

009257

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a goal of perpetuating their violation of a non-discriminatory state law. |                              |             |                                       |

009258

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Motion to remand granted. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case     | Court  | Citation                                  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Weber v. Shelley | United States Court of Appeals for the Ninth Circuit | 347 F.3d 1101; 2003 U.S. App. LEXIS 21979 | October 28, 2003 | Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter--verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the | On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and | No                           | N/A         | No                                    |

009260

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | secretary and the registrar summary judgment. The voter appealed. | excluded references to news--paper articles and unidentified studies absent any indication that experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found |                              |             |                                       |

009261



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California made a reasonable, politically neutral and non-discriminatory choice to certify touchscreen systems as an</p> |                              |             |                                       |

009262

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case                                     | Court   | Citation  | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|--------------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |   |              |   | alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed.  |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Shelley | United States District Court for the Central District of California | 324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587 | July 6, 2004 | Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew | The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was | No                           | N/A         | No                                    |

009263

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on the merits; (2) the possibility of irreparable injury in the</p> | <p>not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was</p> |                              |             |                                       |

009264

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>absence of an injunction; (3) a balancing of the harms; and (4) the public interest.</p> | <p>comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's</p> |                              |             |                                       |

009265

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case                  | Court                                      | Citation                                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                               |  |   |                  |   | for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships. |                              |             |                                       |
| Fla. Democratic Party v. Hood | Court of Appeal of Florida, First District | 884 So. 2d 1148; 2004 Fla. App. LEXIS 16077 | October 28, 2004 | Petitioner, the Florida Democratic Party, sought review of an emergency rule adopted by the Florida | The Party argued that: (1) the Florida Administrative Code, recast language from the earlier invalidated rule   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed.</p> | <p>prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if</p> |                              |             |                                       |

009268

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>no rule were in place, the same confusion and inconsistency in divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate.</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>But, the following question was certified to the Supreme Court: Whether under Fla. Stat. ch. 120.54(4), the Department of State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was</p> |                              |             |                                       |

009270

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case     | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |   |   |                  |   | certified to the supreme court as a matter of great public importance.   |                              |             |                                       |
| Wexler v. Lepore | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344 | October 25, 2004 | Plaintiffs, a congressman, state commissioners, and a registered voter, brought a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const. | The officials claimed that the state had established an updated standard for manual recounts in counties using optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | amends. V and XIV. A bench trial ensued. | constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules prescribed uniform, |                              |             |                                       |

009272

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida</p> |                              |             |                                       |

009273

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | law because the manual recount scheme properly reflected a voter's choice. Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case     | Court  | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval. | The court issued an order to assure that the service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee ballots cast by service members and other | No                           | N/A         | No                                    |

009275

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against the Governor or the Secretary.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                  | Court  | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                               |  |                             |                  |   | The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.   |                              |             |                                       |
| United States v. Pennsylvania | United States District Court for the Middle district of Pennsylvania | 2004 U.S. Dist. LEXIS 21167 | October 20, 2004 | Plaintiff United States sued defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who | The testimony of the two witnesses offered by the United States did not support its contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified | No                           | N/A         | No                                    |

009277



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.</p> | <p>that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support</p> |                              |             |                                       |

009278

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by</p> |                              |             |                                       |

009279

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. must consider the following four factors: (1) the likelihood that the applicant will prevail on the merits of the substantive claim; (2) the extent to which the moving party will be irreparably harmed in the absence of injunctive relief; (3) the extent to which the nonmoving party</p> |                              |             |                                       |

009280

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                               | Court   | Citation  | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |   |      |   | will suffer irreparable harm if the court grants the requested injunctive relief; and (4) the public interest. District courts should only grant injunctive relief after consideration of each of these factors. Motion for injunctive relief denied. |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 |      | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee | Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee   | No                           | N/A         | No                                    |

009281

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>state ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p> | <p>state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee</p> |                              |             |                                       |

009282

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>voter to sign an oath that the ballot was mailed from outside the United States and requiring the state election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had</p> |                              |             |                                       |

009283

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and relief GRANTED in part and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign</p> |                              |             |                                       |

009284

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                                  | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                  |  | postmark, or solely because there was no record of an application for a state absentee ballot.   |                              |             |                                       |
| Harris v. Florida Elections Canvassing Comm'n | United States District Court for the Northern District of Florida | 122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875 | December 9, 2000 | Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida election law. | In two separate cases, plaintiff electors originally sued defendant state elections canvassing commission and state officials in Florida state circuit court, challenging the counting of overseas absentee ballots received after 7 p.m. on election day. Defendant governor removed one case | No                           | N/A         | No                                    |

009285



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose</p> |                              |             |                                       |

009286

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants |                              |             |                                       |

009287

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case   | Court  | Citation   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--|--|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |  |  |                   |   | because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law. |                              |             |                                       |
| Romeu v. Cohen | United States District Court for the Southern District of New York | 121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842 | September 7, 2000 | Plaintiff territorial resident and plaintiff--intervenor territorial governor moved for summary judgment and defendant federal, | Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the  | No                           | N/A         | No                                    |

009288

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election.</p> | <p>Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff-intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non-justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had standing because he made a substantial</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential election. The</p> |                              |             |                                       |

009290

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case   | Court   | Citation                                 | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---|--|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                |   |  |                   |   | court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.   |                              |             |                                       |
| Romeu v. Cohen | United States Court of Appeals for the Second Circuit | 265 F.3d 118; 2001 U.S. App. LEXIS 19876 | September 6, 2001 | Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of | The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents | No                           | N/A         | No                                    |

009291

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>residence. The resident appealed the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p> | <p>residing in a territory, who were not permitted to vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such</p> |                              |             |                                       |

009292

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated</p> |                              |             |                                       |

009293



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                        | Court  | Citation   | Date          | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|---------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |               |  | identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed.  |                              |             |                                       |
| Igartua de la Rosa v. United States | United States District Court for the District of Puerto Rico | 107 F. Supp. 2d 140; 2000 U.S. Dist. LEXIS 11146 | July 19, 2000 | Defendant United States moved to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in | The court denied the motion of defendant United States to dismiss the action of plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became | No                           | N/A         | No                                    |

009294

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights.</p> | <p>ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote</p> |                              |             |                                       |

009295

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential elections. No constitutional amendment was needed. The</p> |                              |             |                                       |

009296

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in</p> |                              |             |                                       |

009297

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                 | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|-------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Presidential elections. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case      | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
| Powers v. Donahue | Supreme Court of New York, Appellate Division, First Department | 276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644 | December 5, 2000 | Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names. | When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted. | No                           | N/A         | No                                    |

009299

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p> |                              |             |                                       |

009300

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case            | Court                    | Citation         | Date              | Facts               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--------------------------|------------------|-------------------|---------------------|--|------------------------------|-------------|---------------------------------------|
|                         |                          |                  |                   |                     | <p>local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed.</p> |                              |             |                                       |
| Goodwin v. St. Thomas-- | Territorial Court of the | 43 V.I. 89; 2000 | December 13, 2000 | Plaintiff political | Plaintiff alleged that defendants  | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case              | Court          | Citation      | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|----------------|---------------|------|--|--|------------------------------|-------------|---------------------------------------|
| St. John Bd. of Elections | Virgin Islands | V.I. LEXIS 15 |      | candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results | counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                           | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | tabulated without such ballots. | establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot |                              |             |                                       |

009303

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case         | Court                    | Citation        | Date             | Facts             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------|-----------------|------------------|-------------------|---|------------------------------|-------------|---------------------------------------|
|                      |                          |                 |                  |                   | <p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p> |                              |             |                                       |
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. LEXIS | December 9, 2005 | The circuit court | The voters and the incumbent all  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | 214      |      | <p>overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross-- appealed. In the meantime, the trial court stayed enforcement of its judgment pending</p> | <p>challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with</p> |                              |             |                                       |

009305

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | resolution of the appeal. | their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to |                              |             |                                       |

009306

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                            | Court   | Citation   | Date            | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |  |                 |   | <p>count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.</p> |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Supreme Court of New York, Appellate Division, Third Department | 10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS | August 23, 2004 | Appellant candidates appealed from a judgment entered by the supreme court, which partially | The candidates argued that the Board violated a federal court order regarding the election. The appellate court   | No                           | N/A         | No                                    |

009307

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | 10360    |      | <p>granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.</p> | <p>held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to</p> |                              |             |                                       |

009308

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p> |                              |             |                                       |

009309



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case           | Court                      | Citation                             | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|----------------------------|--------------------------------------|----------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |                            |                                      |                |  | properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.  |                              |             |                                       |
| Erlandson v. Kiffmeyer | Supreme Court of Minnesota | 659 N.W.2d 724; 2003 Minn. LEXIS 196 | April 17, 2003 | Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief | The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly | No                           | N/A         | No                                    |

009310

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p> | <p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p> |                              |             |                                       |

009311

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p> |                              |             |                                       |

009312

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case        | Court   | Citation   | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                     |   |  |              |  | mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot. |                              |             |                                       |
| People v. Deganutti | Appellate Court of Illinois, First District, Third Division | 348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App. | May 12, 2004 | Defendant appealed from a judgment of the circuit court, which convicted | Defendant went to the voters' homes and obtained their signatures on absentee ballot   | No                           | N/A         | No                                    |

009313

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation     | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>518 |      | defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters. | request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not |                              |             |                                       |

009314

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p> |                              |             |                                       |

009315

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                             | Court         | Citation                             | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---------------|--------------------------------------|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |               |                                      |                   |  | and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed. |                              |             |                                       |
| Jacobs v. Seminole County Canvassing Bd. | Supreme Court | 773 So. 2d 519; 2000 Fla. LEXIS 2404 | December 12, 2000 | In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require | Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.   | No                           | N/A         | No                                    |

009316

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.</p> | <p>Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the</p> |                              |             |                                       |

009317



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the |                              |             |                                       |

009318

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                            | Court                        | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                              |  |                  |  | other party's forms. Affirmed.  |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Court of Appeals of New York | 3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412 | October 14, 2004 | Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters. | Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be | No                           | N/A         | No                                    |

009319

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p> |                              |             |                                       |

009320

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors."<br/>Affirmed.</p> |                              |             |                                       |

009321

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case  | Court                         | Citation                                       | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-------------------------------|--|---------------|---|--|------------------------------|-------------|---------------------------------------|
| In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election | Supreme Court of Pennsylvania | 577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431 | March 8, 2004 | A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain | The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and | No                           | N/A         | No                                    |

009322

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | candidates and voters. | that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non--disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third--person hand--delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in--person delivery |                              |             |                                       |

009323

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case     | Court                 | Citation           | Date              | Facts                | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-----------------------|--------------------|-------------------|----------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                       |                    |                   |                      | <p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p> |                              |             |                                       |
| In re Canvass of | Commonwealth Court of | 839 A.2d 451; 2003 | December 22, 2003 | The Allegheny County | On appeal, the issue was whether  | No                           | N/A         | No                                    |

009324

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                         | Court        | Citation             | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--------------|----------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Absentee Ballots of November 4, 2003 | Pennsylvania | Pa. Commw. LEXIS 963 |      | Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order. | non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory |                              |             |                                       |

009325



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p> |                              |             |                                       |

009326

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                  | Court  | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |  |                             |                  |  | <p>Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.</p> |                              |             |                                       |
| United States v. Pennsylvania | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21167 | October 20, 2004 | Plaintiff United States sued defendant Commonwealth of | The testimony of the two witnesses offered by the United States did not support its   | No                           | N/A         | No                                    |

009327

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p> | <p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p> |                              |             |                                       |

009328

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                      | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | late in the election year. | right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had |                              |             |                                       |

009329

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                              | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied. |                              |             |                                       |
| Hoblock v. Albany County Bd. of Elections | United States District Court for the Northern District of New York | 341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326 | October 25, 2004 | Plaintiffs, candidates and voters, sued defendant, the Albany County, New York, | An election for members of the Albany County Legislature had been enjoined, and special   | No                           | N/A         | No                                    |

009330

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p> | <p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p> |                              |             |                                       |

009331

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case      | Court  | Citation                                  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                   |  |   |                  |  | Board from certifying winners of the election was granted.  |                              |             |                                       |
| Griffin v. Roupas | United States Court of Appeals for the Seventh Circuit | 385 F.3d 1128; 2004 U.S. App. LEXIS 21476 | October 15, 2004 | In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District | The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the | No                           | N/A         | No                                    |

009334

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim.</p> | <p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p> |                              |             |                                       |

009335

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p> |                              |             |                                       |

009336

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case     | Court  | Citation                    | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |  |                             |                  |   | applied to everyone.<br>Affirmed.  |                              |             |                                       |
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a | The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee | No                           | N/A         | No                                    |

009337

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | voluntary agreement and submitted it to the court for approval. | ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against |                              |             |                                       |

009338

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                               | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |  | the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.   |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 | December 8, 2000 | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write-in ballots based | Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write-in ballots based on criteria inconsistent with the Uniformed | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p> | <p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p> |                              |             |                                       |

009340

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p> |                              |             |                                       |

009341



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court         | Citation | Date      | Facts           | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|-----------|-----------------|--|------------------------------|-------------|---------------------------------------|
|              |               |          |           |                 | <p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write-in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p> |                              |             |                                       |
| Kolb v.      | Supreme Court | 270      | March 17, | Both petitioner | Both petitioner  | No                           | N/A         | No                                    |

009342

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court  | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|--|------|---|---|------------------------------|-------------|---------------------------------------|
| Casella      | of New York, Appellate Division, Fourth Department | A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483 | 2000 | and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election. | and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter |                              |             |                                       |

009343

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee |                              |             |                                       |

009344

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case    | Court                        | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|------------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                              |   |               |   | ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.                            |                              |             |                                       |
| People v. Woods | Court of Appeals of Michigan | 241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156 | June 27, 2000 | Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to | Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election | No                           | N/A         | No                                    |

009345

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | pursue the interlocutory appeal, in a criminal action alleging violations of election laws. | fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary |                              |             |                                       |

009326

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p> |                              |             |                                       |

009327

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                  | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                  |   | violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense. |                              |             |                                       |
| Harris v. Florida Elections Canvassing Comm'n | United States District Court for the Northern District of Florida | 122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875 | December 9, 2000 | Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the | The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did  | No                           | N/A         | No                                    |

009378

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                    | Court   | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |                             |                  | ballots violated Florida law.  | not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. |                              |             |                                       |
| Weldon v. Berks County Dep't of Election Servs. | United States District Court for the Eastern District of Pennsylvania | 2004 U.S. Dist. LEXIS 21948 | November 1, 2004 | Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary | The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to   | No                           | N/A         | No                                    |

009379



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p> | <p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p> |                              |             |                                       |

009350

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p><b>OVERVIEW:</b><br/>The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p> |                              |             |                                       |

009351

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p> |                              |             |                                       |

009352

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case           | Court  | Citation                                 | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |                   |  | concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction. |                              |             |                                       |
| Qualkinbush v. Skubisz | Court of Appeals of Illinois, First District | 822 N.E.2d 38; 2004 Ill. App. LEXIS 1546 | December 28, 2004 | Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court | Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | declared petitioner mayor. | violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that |                              |             |                                       |

009354

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters. Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots. The Election Code did not violate equal protection principles, as the burden placed</p> |                              |             |                                       |

009355

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case        | Court  | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |  |   |                  |   | upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.                                |                              |             |                                       |
| Panio v. Sunderland | Supreme Court of New York, Appellate Division, Second Department | 14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433 | January 25, 2005 | In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of | The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by: | No                           | N/A         | No                                    |

009356

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p> | <p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p> |                              |             |                                       |

009357



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p> |                              |             |                                       |

009358

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                | Court   | Citation   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |  |                   |   | equivalent of an application for a special ballot. Order modified and judgment affirmed.  |                              |             |                                       |
| Pierce v. Allegheny County Bd. of Elections | United States District Court for the Western District of Pennsylvania | 324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569 | November 13, 2003 | Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those | Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear | No                           | N/A         | No                                    |

009359

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction. | regarding whether the absentee ballot provision requiring hand-delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies. |                              |             |                                       |

009350

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p> |                              |             |                                       |

009361

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case       | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |   |   |                  |   | court by virtue of the state court's concurrent jurisdiction.  |                              |             |                                       |
| Friedman v. Snipes | United States District Court for the Southern District of Florida | 345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739 | November 9, 2004 | Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters | The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of § | No                           | N/A         | No                                    |

009362

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p> | <p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p> |                              |             |                                       |

009363

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p> |                              |             |                                       |

009364

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                        | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--------------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Preliminary injunction denied. |                              |             |                                       |

009365



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case    | Court   | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. | No                           | N/A         | No                                    |

009366

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p> |                              |             |                                       |

009367

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case       | Court   | Citation                    | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |   | <p>minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.</p> |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights  | No                           | N/A         | No                                    |

899368

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>violations of the Voting Rights Act. The parties filed cross-motions for summary judgment.</p> | <p>schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of</p> |                              |             |                                       |

009369

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>minorities; as a result, minorities were under-represented in Washington's political process. The Rooker-Feldman doctrine barred the felons from bringing any as-applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case            | Court  | Citation                                  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                         |  |   |               |   | constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Farrakhan v. Washington | United States Court of Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.   | No                           | N/A         | No                                    |

009371

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p> | <p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p> |                              |             |                                       |

009372

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p> |                              |             |                                       |

009373



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case       | Court   | Citation                                | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |   |   |                |   | less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim. |                              |             |                                       |
| Muntaqim v. Coombe | United States Court of Appeals for the Second Circuit | 366 F.3d 102; 2004 U.S. App. LEXIS 8077 | April 23, 2004 | Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation | At issue was whether the VRA could be applied to N.Y. Elec. Law§ 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the   | No                           | N/A         | No                                    |

009374

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | of § 2 of the Voting Rights Act of 1965. | New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p> |                              |             |                                       |

009376

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                | Court   | Citation                                  | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|---|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                             |   |   |                   |  | district court's judgment was affirmed.   |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 353 F.3d 1287; 2003 U.S. App. LEXIS 25859 | December 19, 2003 | Plaintiffs, ex-felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws. | The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a | No                           | N/A         | No                                    |

009377

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p> |                              |             |                                       |

009378

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p> |                              |             |                                       |

009379

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | violation of federal voting laws and remanded the matter to the district court for further proceedings.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court | No                           | N/A         | No                                    |

009330

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p> |                              |             |                                       |

009381



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case           | Court                  | Citation       | Date           | Facts                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------|----------------|----------------|----------------------------|---|------------------------------|-------------|---------------------------------------|
|                        |                        |                |                |                            | <p>authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.</p> |                              |             |                                       |
| Johnson v. Governor of | United States Court of | 405 F.3d 1214; | April 12, 2005 | Plaintiff individuals sued | The individuals argued that the   | No                           | N/A         | No                                    |

009382

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court                            | Citation                  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|---------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Fla.         | Appeals for the Eleventh Circuit | 2005 U.S. App. LEXIS 5945 |      | defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted. | racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial |                              |             |                                       |

009383

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p> |                              |             |                                       |

009384

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case          | Court                              | Citation                      | Date               | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|-------------------------------|--------------------|---|---|------------------------------|-------------|---------------------------------------|
|                       |                                    |                               |                    |   | <p>permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.</p> |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief | Petitioner convicted felons were presently or had formerly been confined in state   | No                           | N/A         | No                                    |

009385

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation     | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>534 |      | as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' |                              |             |                                       |

009386

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex-felon voting rights. The court sustained respondents' objection since</p> |                              |             |                                       |

009387

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court  | Citation                    | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|-----------------------------|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                     |  |                             |                   |  | incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them. |                              |             |                                       |
| Rosello v. Calderon | United States District Court for the District of Puerto Rico | 2004 U.S. Dist. LEXIS 27216 | November 30, 2004 | Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the | The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the  | No                           | N/A         | No                                    |

009388

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>invalidity of absentee and split ballots in a gubernatorial election.</p> | <p>same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal constitutions. The</p> |                              |             |                                       |

009389



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law pursuant to federal</p> |                              |             |                                       |

009390

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court  | Citation                                      | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 |   | guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.  |                              |             |                                       |
| Woodruff v. Wyoming | United States Court of Appeals for the Tenth Circuit | 49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060 | October 7, 2002 | Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10-106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon which relief could | The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing fee or filed a | No                           | N/A         | No                                    |

009391

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts                        | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|------------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | be granted and as frivolous. | motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who heard their cases. |                              |             |                                       |

009392

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                      | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |  |   |                  |  | The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed. |                              |             |                                       |
| N.J. State Conf.--NAACP v. Harvey | Superior Court of New Jersey, Appellate Division | 381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316 | November 2, 2005 | The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it denied | The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey discriminated   | No                           | N/A         | No                                    |

009393

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p> | <p>against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting. Moreover, those</p> |                              |             |                                       |

009394

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case           | Court  | Citation                   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |  | convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed. |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was  | No                           | N/A         | No                                    |

009395

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>excluded incarcerated felons from voting while they were imprisoned.</p> | <p>not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices</p> |                              |             |                                       |

009396

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional</p> |                              |             |                                       |

009397



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case  | Court   | Citation  | Date            | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|-----------------|--|---|------------------------------|-------------|---------------------------------------|
|   |   |   |                 |  | rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.  |                              |             |                                       |
| Southwest Voter Registration Educ. Project v. Shelley | United States District Court for the Central District of California | 278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413 | August 15, 2003 | Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be conducted without use of punch--card | Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch--card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the votes on the basis of race, in violation | No                           | N/A         | No                                    |

009398

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | machines. | of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if plaintiffs could show disparate |                              |             |                                       |

009399

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with plaintiffs' ex parte application for</p> |                              |             |                                       |

003600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                         | Court  | Citation                                 | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--|--|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                                      |  |  |                |   | temporary restraining order) was denied.  |                              |             |                                       |
| Igartua--de la Rosa v. United States | United States Court of Appeals for the First Circuit | 417 F.3d 145; 2005 U.S. App. LEXIS 15944 | August 3, 2005 | Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States. | The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were not, but were voting for electors. | No                           | N/A         | No                                    |

009401

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p> |                              |             |                                       |

009402

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                            | District | Case Number | Date             | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|-------------|------------------|--|------------------------------|-------------|---------------------------------------|
| United States v. Rogelio Mejorada-Lopez | Alaska   | 05-CR-074   | December 5, 2005 | Mejorada-Lopez, a Mexican citizen, completed several voter registration applications to register to vote in Alaska and voted in the 2000, 2002, and 2004 general elections. He was charged with three counts of voting by a non-citizen in violation of 18 U.S.C. section 611 and pled guilty. Mejorada-Lopez was sentenced to probation for | No                           | N/A         | No                                    |

009403

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                | District         | Case Number   | Date             | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further             |
|-----------------------------|------------------|---------------|------------------|--|------------------------------|-------------|---|
|                             |                  |               |                  | one year.  |                              |             |   |
| United States v. Shah       | Colorado         | 1:04-CR-00458 | March 1, 2005    | Shah was indicted on two counts of providing false information concerning United States citizenship in order to register to vote in violation of 18 U.S.C. section 911 and 1015(f). Shah was convicted on both counts. | No                           | N/A         | No  |
| United States v. Mohsin Ali | Northern Florida | 4:05-CR-47    | January 17, 2006 | A misdemeanor was filed against Ali charging him with voting by a non-citizen of 18 U.S.C. section 611. Trial was set for January 17, 2006   | No                           | N/A         | Yes-need information on the outcome of the trial. |

009600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case               | District         | Case Number   | Date         | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|------------------|---------------|--------------|---|------------------------------|-------------|---------------------------------------|
| United States v. Chaudhary | Northern Florida | 4:04-CR-00059 | May 18, 2005 | Chaudhary was indicted for misuse of a social security number in violation of 42 U.S.C. section 408 and for making a false claim of United States citizenship on a 2002 driver's license application in violation of 18 U.S.C. section 911. A superceding indictment was returned, charging Chaudhary with falsely claiming United States citizenship on a driver's license | No                           | N/A         | No                                    |

009405



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case               | District         | Case Number   | Date              | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|------------------|---------------|-------------------|---|------------------------------|-------------|---------------------------------------|
|                            |                  |               |                   | application and on the accompanying voter registration application. He was convicted of the false citizenship claim on his voter registration application.  |                              |             |                                       |
| United States v. Velasquez | Southern Florida | 1:03-CR-20233 | September 9, 2003 | Velasquez, a former 1996 and 1998 candidate for the Florida legislature, was indicted on charges of misrepresenting United States citizenship in connection with voting and for making false statements | No                           | N/A         | No                                    |

009406

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case   | District                | Case Number  | Date                 | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------------|--|----------------------|---|------------------------------|-------------|---------------------------------------|
|  |                         |  |                      | <p>to the Immigration and Naturalization Service, in violation of 18 U.S.C. section 911, 1015(f) and 1001. Velasquez was convicted on two counts of making false statements on his naturalization application to the INS concerning his voting history.</p> |                              |             |                                       |
| <p>United States v. McKenzie;<br/>United States v. Francois;<br/>United States v. Exavier; United States v. Lloyd Palmer; United</p> | <p>Southern Florida</p> | <p>0:04-CR-60160;<br/>1:04-CR-20488;<br/>0:04-CR-60161;<br/>0:04-CR-60159;</p> | <p>July 15, 2004</p> | <p>Fifteen non-citizens were charged with voting in various elections beginning in 1998 in</p>  | <p>No</p>                    | <p>N/A</p>  | <p>No</p>                             |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case   | District          | Case Number   | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------|---|-------------------|--|------------------------------|-------------|---------------------------------------|
| States v. Velrine Palmer; United states v. Shivdayal; United States v. Rickman; United States v. Knight; United States v. Sweeting; United States v. Lubin; United States v. Bennett; United States v. O'Neil; United States v. Torres-Perez; United States v. Phillip; United States v. Bain Knight |                   | 0:04-CR-60162;<br>0:04-CR-60164;<br>1:04-CR-20491;<br>1:04-CR-20490;<br>1:04-CR-20489;<br>0:04-CR-60163;<br>1:04-CR-14048;<br>0:04-CR-60165;<br>2:04-CR-14046;<br>9:04-CR-80103;<br>2:04-CR-14047 |                   | violation of 18 U.S.C. section 611. Four of the defendants were also charged with making false citizenship claims in violation of 18 U.S.C. sections 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government. |                              |             |                                       |
| United States v. Brooks  | Southern Illinois | 3:03-CR-30201   | February 12, 2004 | East St. Louis election official Leander Brooks was indicted for   | No                           | N/A         | No                                    |

807600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District          | Case Number   | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-------------------|---|---------------|--|------------------------------|-------------|---------------------------------------|
|   |                   |   |               | submitting fraudulent ballots in the 2002 general election in violation of 42 U.S.C. section 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. sections 241 and 371. Brooks pled guilty to all charges. |                              |             |                                       |
| United States v. Scott; United States v. Nichols; United States v. Terrance Stith; United States v. Sandra Stith; United States v. Powell, et al. | Southern Illinois | 3:05-CR-30040;<br>3:05-CR-30041;<br>3:05-CR-30042;<br>3:05-CR-30043;<br>3:05-CR-30044 | June 29, 2005 | Four Democrat precinct committeemen in East St. Louis were charged with vote buying on the 2004 general election in violation of 42 U.S.C.   | No                           | N/A         | No                                    |

603600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | section 1973i(c). All four pled guilty. Also indicted were four additional Democrat committeemen, Charles Powell, Jr., Jesse Lewis, Sheila Thomas, Kelvin Ellis, and one precinct worker, Yvette Johnson, on conspiracy and vote buying charges in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). All five defendants were convicted. Kelvin Ellis |                              |             |                                       |

009410

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case              | District | Case Number   | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|----------|---------------|-------------------|--|------------------------------|-------------|---------------------------------------|
|                           |          |               |                   | also pled guilty to one count of 18 U.S.C. section 1512(c)(2) relative to a scheme to kill one of the trial witnesses and two counts of 18 U.S.C. section 1503 relative to directing two other witnesses to refuse to testify before the grand jury. |                              |             |                                       |
| United States v. McIntosh | Kansas   | 2:04-CR-20142 | December 20, 2004 | A felony information was filed against lawyer Leslie McIntosh for voting in both Wyandotte County, Kansas and Jackson  | No                           | N/A         | No                                    |

009411

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District         | Case Number                      | Date                              | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|----------------------------------|-----------------------------------|---|------------------------------|-------------|---------------------------------------|
|   |                  |                                  |                                   | County, Missouri, in the general elections of 2000 and 2002 in violation of 42 U.S.C. section 1973i(e). A superseding misdemeanor information was filed, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. section 242, to which the defendant pled guilty. |                              |             |                                       |
| United States v. Conley; United States v. Slone; United States v. | Eastern Kentucky | 7:03-CR-00013;<br>7:03-CR-00014; | March 28, 2003 and April 24, 2003 | Ten people were indicted on vote buying charges in  | No                           | N/A         | No                                    |

009412

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District         | Case Number   | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---|---------------|--|------------------------------|-------------|---------------------------------------|
| Madden; United States v. Slone et al.; United States v. Calhoun; United States v. Johnson; United States v. Newsome, et al. |                  | 7:03-CR-00015;<br>7:03-CR-00016;<br>7:03-CR-00017;<br>7:03-CR-00018;<br>7:03-CR-00019 |               | connection with the 1998 primary election in Knott County, Kentucky, in violation of 42 U.S.C. section 1973i(c). Five of the defendants pled guilty, two were convicted, and three were acquitted. |                              |             |                                       |
| United States v. Hays, et al.   | Eastern Kentucky | 7:03-CR-00011   | March 7, 2003 | Ten defendants were indicted for conspiracy and vote buying for a local judge in Pike County, Kentucky, in the 2002 general election, in violation of 42 U.S.C. section                            | No                           | N/A         | No                                    |

009413



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                    | District         | Case Number   | Date        | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------|---------------|-------------|--|------------------------------|-------------|---------------------------------------|
|                                 |                  |               |             | 1973i(c) and 18 U.S.C. section 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government. |                              |             |                                       |
| United States v. Turner, et al. | Eastern Kentucky | 3:05-CR-00002 | May 5, 2005 | Three defendants were indicted for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties, Kentucky, in violation of 42 | No                           | N/A         | Yes-need update on case status.       |

009414

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                | District          | Case Number   | Date           | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|-------------------|---------------|----------------|--|------------------------------|-------------|---------------------------------------|
|                             |                   |               |                | U.S.C. section 1973i(c) and 18 U.S.C. section 341.   |                              |             |                                       |
| United States v. Braud      | Middle Louisiana  | 3:03-CR-00019 | May 2, 2003    | Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of eleven voter registration applications, in violation of 18 U.S.C. section 1623. Braud pled guilty on all counts. | No                           | N/A         | No                                    |
| United States v. Thibodeaux | Western Louisiana | 6:03-CR-60055 | April 12, 2005 | St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on  | No                           | N/A         | No                                    |

009415

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District         | Case Number   | Date  | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---|---|---|------------------------------|-------------|---------------------------------------|
|   |                  |   |   | two counts of conspiring to submit false voter registration information, in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). She pled guilty to both charges. |                              |             |                                       |
| United States v. Scherzer;<br>United States v. Goodrich;<br>United States v. Jones; United States v. Martin | Western Missouri | 4:04-CR-00401;<br>4:04-CR-00402;<br>4:05-CR-00257;<br>4:05-CR-00258 | January 7, 2005;<br>March 28, 2005;<br>September 8, 2005;<br>October 13, 2005 | Two misdemeanor informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2000 and 2002 general elections on                     | No                           | N/A         | No                                    |

009416

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>both Johnson County, Kansas and in Kansas City, Missouri. The informations charged deprivation of a constitutional right by causing spurious ballots, in violation of 18 U.S.C. sections 242 and 2. Both pled guilty. Additionally, similar misdemeanor informations were filed against Tammy J. Martin, who voted in both Independence and Kansas City, Missouri</p> |                              |             |                                       |

009417

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting**

|        |                |           |               |   |                      |  |  |  |
|--------|----------------|-----------|---------------|---|----------------------|--|--|--|
|        | North Carolina | 24-Oct-04 | 2000 and 2002 | The Observer found up to 180 people who were listed as having voted in both Carolinas in either the 2000 or 2002 elections. Reporters found no one who admitted to double voting and discovered plausible explanations for many of the duplications. In one case, an Army captain in North Carolina shared the same name as his father in South Carolina. The father was likely mistakenly recorded under his son's name when he cast his ballot.   | AP                   |  |  |  |
| Jones  | North Carolina | 30-Oct-04 | primary       | Four men were charged with voting by absentee and on election day. Three denied the allegations or said they misunderstood the process.   | AP                   |  |  |  |
| Gaston | North Carolina | 16-Dec-04 | presidential  | There are differences in most precincts between the number of ballots cast and the number of people recorded as voting. State investigators have concluded there is no way to rule out double-voting or missing votes because poll workers cannot explain the discrepancies.  | Charlotte Observer   |  |  |  |
|        | Ohio           | 2-Nov-04  | presidential  | Republican attorney cites a Plain Dealer report saying more than 27,000 people are registered to vote in both Ohio and Florida and that 100 people cast votes in both places four years ago. A Dispatch investigation of the allegations found little proof of duplicate voting after comparing the Ohio and Florida state databases and conducting further research. After culling the list through those methods, the Dispatch interviewed the people left in question. This failed to turn up anyone who had ever voted twice. Many had never been to Florida; some had never lived in Ohio. | Columbus Dispatch    |  |  |  |
| Summit | Ohio           | 8-Dec-04  | local         | The Director of the Board of Elections says the number of people under investigation for voting twice has decreased from 19 to 10. The board already determined that there were legitimate explanations for about half of the votes. In one case it appeared a man voted absentee and at the polling place but it turned out the absentee ballot had been cast by his son who has the same name.  | Akron Beacon Journal |  |  |  |
| London | Ohio           | 9-Dec-04  | presidential  | A couple who admitted voting twice were not indicted -- they voted by absentee ballot and then voted in person because they thought their absentee ballots had been lost  | AP                   |  |  |  |
| Logan  | Oklahoma       | 24-Feb-01 | primary       | A man is charged with voting twice, once by absentee and once on election day. Although election board officials said they haven't seen a case like this in twenty years, they won't dismiss the charge.  | Daily Oklahoman      |  |  |  |
|        | Oregon         | 11-Apr-02 | 2000 general  | The Secretary of State has referred five cases of possible double voting to the Attorney General (Oregon votes entirely by mail)  | AP                   |  |  |  |
|        | Oregon         | 16-May-04 | 2000          | Republicans claimed 1,200 Oregonians had registered in two counties and voted twice. But a state Elections Division investigation found that just a handful of voters were registered to vote in two counties and one had cast more than one ballot   | AP                   |  |  |  |

Deliberative Process  
Privilege

009418

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|                 |              |           |                   |   |                              |  |  |  |
|-----------------|--------------|-----------|-------------------|---|------------------------------|--|--|--|
|                 | Oregon       | 1-Nov-04  | presidential      | The state Republican Chair claims in a news conference that he has uncovered six cases of people voting twice. The elections division immediately showed that five of the voters had only voted once, and the sixth case had immediately been caught by election workers.   | The Oregonian                |  |  |  |
| Pawtucket       | Rhode Island | 14-Jan-03 | General Assembly  | The Pawtucket Board of Canvassers determined there was no truth to the allegation that Louis C. Yip, owner of the China Inn restaurant and a well-known developer, had shepherded the same couple to two different polling places, getting them to vote twice.<br>City Registrar of Voters Dawn M. McCormick said that when voting records were checked, it turned out that the couple that Yip was accused of getting to vote at Towers East and Kennedy Housing was actually two different couples, both elderly and Chinese.   | Providence Journal Bulletin  |  |  |  |
| Hamilton County | Tennessee    | 19-Dec-02 | county commission | The county election commissioner said she believed people were using other names to vote and that addresses were changed fraudulently. Voters sign fail-safe affidavits when they change their addresses and their voting records have not yet been updated. Oaths of identity are signed when voters have no other form of identification. The commissioner said she questioned the validity of 11 oaths of identity and 68 fail-safe affidavits in the District 4 election.   | Chattanooga Times Free Press |  |  |  |
|                 | Tennessee    | 14-Dec-05 | state senate      | A second dead voter cast a ballot in the September special election held to fill the seat vacated by former state senator John Ford. Like a similar case documented earlier this week, this one involves an elderly voter who died weeks before the Sept. 15 election, an investigation by The Commercial Appeal found.<br>Both of the suspect votes occurred in Precinct 27-1, in the heart of heavily Democratic North Memphis. By law, health officials report deaths once a month to the state Election Commission, which then purges the dead from voter registration rolls.<br>In that window of time - a month or so before the election - there's a good chance dead voters will remain on the rolls on Election Day. | Commercial Appeal            |  |  |  |
| Houston         | Texas        | 25-Nov-04 | state legislature | State legislator who lost by 32 votes alleges 32 people voted twice and 101 residents from other districts cast ballots   | Austin American Statesemen   |  |  |  |
| San Juan        | Texas        | 12-May-05 | city              | The county is investigating three voters suspected of voting early and on election day  | The Monitor                  |  |  |  |
| King            | Washington   | 22-Jun-05 | gubernatorial     | criminal charges filed against six voters for allegedly casting more than one ballot under a variety of circumstances: two for casting ballots in the names of recently deceased spouses; mother and daughter charged with casting a ballot in the name of recently deceased mother's dead husband; one for casting a ballot in the name of someone who had lived at the same address and died; one using someone else's name   | Seattle Times                |  |  |  |

009719

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting**

|           |            |           |                                 |  |                            |  |  |  |
|-----------|------------|-----------|---------------------------------|--|----------------------------|--|--|--|
| King      | Washington | 13-Oct-05 | gubernatorial                   | Republican officials release the names of 16 people they say voted twice. One person is found to be two people with the same name but different birthdates. Two names were referred to the prosecutors office, files were charged against one.                     | Seattle Times              |  |  |  |
| King      | Washington | 14-Oct-05 | gubernatorial and local primary | Woman on Republican list under investigation for double voting   | Seattle Times              |  |  |  |
| Appleton  | Wisconsin  | 12-Jan-05 | nonpartisan election            | student who voted by absentee ballot and in person at college sentenced to probation   | Post Crescent              |  |  |  |
| Milwaukee | Wisconsin  | 22-Aug-05 | presidential                    | GOP claims there were nine cases where people voted in Milwaukee and another city. US Attorney says he found no fraud, but rather clerical errors.   | Journal Sentinel           |  |  |  |
| Milwaukee | Wisconsin  | 21-Sep-05 | presidential                    | Man charged with voting twice said he filled out two on-site registration cards by mistake but voted only once   | Journal Sentinel           |  |  |  |
| Milwaukee | Wisconsin  | 5-Dec-05  | presidential                    | Four people charged with double voting; none convicted   | Milwaukee Journal Sentinel |  |  |  |
| Laramie   | Wyoming    | 2-Nov-04  |                                 | Laramie County Clerks says there has never been any intentional double registration or double voting   |                            |  |  |  |
| national  |            | 23-Oct-02 | presidential                    | RNC compiles a national database of 3,273 people who voted twice in 2000. In North Carolina, the first name on the list was the chair of the Assembly's election law committee, and the California Secretary of State says they will be able to refute the claims. | USA Today                  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |

009420

009421



009422

009423

009424

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

| Resolution of Incident / Allegation | Source of Resolution:1 | Source of Resolution:2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |

009425

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009426

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

|                        |                                       |  |
|------------------------|---------------------------------------|--|
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |
| Two people are charged | Kansas City Star<br>(January 8, 2005) |  |
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |

009427

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

|   |                         |  |
|---|-------------------------|--|
|   |                         |  |
|   |                         |  |
|   |                         |  |
|   |                         |  |
| The Board of Elections reviewed all of the allegations of double voting and found that of 18 cases, 11 did not vote twice and seven did but did not intend to. All of the double votes were caught by the board and not counted twice. The board forwarded only one case of alleged double voting to the sheriff for further investigation. | 2/24/2005, Akron Beacon |  |
|   |                         |  |
|   |                         |  |
|   |                         |  |
|   |                         |  |

009428

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|  |   |  |
|--|---|--|
|  |   |  |
|  |   |  |
|  |   |  |
|  |   |  |
| Most of the allegations seem to be cases of innocent mistakes that may have been technically illegal but not fraud | Houston Chronicle<br>(January 16, 2005) |  |
|  |   |  |
| See Washington summary   |   |  |

009429



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

|                                 |  |  |
|---------------------------------|--|--|
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
| see larger summary of Milwaukee |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |

009430

009431

009432

009433

009434

| City / County    | State      | Date                           | Type of Election         | Alleged Instance of fraud  | Original Source         | Source 1 | Source 2 | Source 3 |
|------------------|------------|--------------------------------|--------------------------|--|-------------------------|----------|----------|----------|
| Jefferson County | Alabama    | 10-Jan-06                      | sheriff                  | Former sheriff and an attorney said in a federal criminal trial that they did not conspire to illegally run criminal history checks on absentee voters for the sheriff's election. Prosecutors say he started doing the check after he lost the election, while the sheriff says he did it to ferret out voter fraud   | Birmingham News         |          |          |          |
| San Francisco    | California | 28-Nov-01                      | municipal                | The Coast Guard found the lids to eight absentee ballot boxes floating in the bay, raising suspicions of tampering.  | San Francisco Chronicle |          |          |          |
| Compton          | California | November 15, 2001; /11/16/2001 | mayoral                  | Mayor Bradley accuses opponent of stuffing boxes with counterfeit ballots and having noncitizens vote  | LA Times                |          |          |          |
| Broward          | Florida    | 27-Jan-03                      | ohi                      | The lawyer for a board of elections employee said she discovered more than 500 unopened absentee bal-lots in the office mailroom two days after the election. According to the story she laid out to prosecutors, she notified her supervisor and was told there had been a mix-up and that the votes needed to disappear.   | Brandenton Herald       |          |          |          |
| Detroit          | Michigan   | 12-Nov-05                      | mayoral                  | Nearly 3000 votes were lost for two days as some were taken home by poll workers, others misplaced. Vote totals failed to add up correctly when the votes were restored.   | Detroit Free Press      |          |          |          |
| Detroit          | Michigan   | 26-Nov-05                      | mayoral                  | Detroit officials lost track of ballots in nine precincts and did not count them until two days after the polls closed; a poll worker took home two computer data packs containing ballot information and did not return them until the next day, leading to tampering allegations. Judge overseeing the recount orders more security for the ballots  | Detroit Free Press      |          |          |          |
| Middlesex County | New Jersey | 19-Jun-03                      | assembly primary         | Assemblywoman Friscia's suit alleges that election workers told voters who to vote for; allowed two or three people to enter voting booths at the same time; permitted people to vote even though their home addresses and signatures did not match the elections register; allowed registered Republicans to vote in a Democratic pri-mary; provided faulty voting machines; paid people to vote for Vas; allowed non-citizens to vote; refused to accept absentee ballots, and closed Friscia's own polling station in Woodbridge. | Home News Tribune       |          |          |          |
| Atlantic City    | New Jersey | 11-Nov-05                      | mayoral and city council | city council member accused of filing absentee ballot applications for 10 people without their authorization. The Attorney General charges councilman with 10 counts of tampering with public records and one count of hindering or preventing voting  | AP                      |          |          |          |
| Cleveland        | Ohio       | 20-Jun-05                      | presidential             | A Cleveland elections board employee is charged with changing the votes on ballots completed by five nursing home residents in favor of Bush   | Yahoo News              |          |          |          |

009435

|                 |            |           |                   |   |                              |  |  |  |
|-----------------|------------|-----------|-------------------|---|------------------------------|--|--|--|
| Hamilton County | Tennessee  | 18-Jan-03 | district primary  | The Tennessee Bureau of Investigation searched the home of former Hamilton County Election Commission employee Rita Jones on Friday and seized an undis-closed number of documents. Ms. Jones, a 14-year employee of the Election Commission, was fired two days after the Nov. 5 general election when officials discovered a box of 189 ballots had not been counted on Election Day.   | Chattanooga Times Free Press |  |  |  |
| San Antonio     | Texas      | 10-Dec-02 | unclear           | The county election administrator found that ballot counters switched ballots from Republican to Democrat   | San Antonio Express News     |  |  |  |
| Alamo           | Texas      | 15-Dec-03 | county commission | A supporter of one of the candidates alleges that he saw the mayor in the city secretary's office going over a list of residents that showed who had voted and who had not and that th+E340ere were open mail-in ballots in front of them   | The Monitor                  |  |  |  |
| Ector County    | Texas      | 15-Dec-04 | county commission | On Election Day, Republican David Dunn had one more vote than his opponent for an Ector County commission seat. After a recount, he lost by a vote.<br>He filed a lawsuit Tuesday accusing opponent Barbara Graff and elections ad-ministrator Sharon Wilson of election fraud. He accused Graff of ballot tamper-ing during the recount, claiming she or her supporters doctored tally sheets. Wilson mishandled the recount, tossing out two duplicate ballots for Dunn, ac-cording to the suit.  | AP                           |  |  |  |
| Forney          | Texas      | 13-Dec-05 | mayoral           | A judge found that votes cast by several people, including City Council member Andy Parker, could not be found in the ballot box. Mr. Parker testified during the seven-day trial that he had used ballot No. 331, but the No. 331 in the box did not match the way he voted. In all, 165 people testified that they had voted early for Mr. Wilson, while just 152 early votes were counted for him - something Judge Kupper called an "irreconcilable discrepancy." The Sheriff's Department is investigating   | Dallas Morning News          |  |  |  |
| Salt Lake       | Utah       | 20-Nov-02 | County Council    | County clerk candidate writes a letter to the Attorney General alleging altering of vote counts   | Salt Lake Tribune            |  |  |  |
| King            | Washington | 26-May-05 | gubernatorial     | An election administrator admitted she falsified a report to make it appear that all absentee ballots were accounted for. It later proved inaccurate when workers discovered 95 unopened, uncounted absentee ballots in a warehouse. Republicans say of the 96 ballots, 47 came from Rossi districts and 28 Gregoire. Gregoir won four of the five King County precincts that recorded more votes than voters. Rossi won four of the six King County precincts that recorded more voters than votes. Republicans claim this proves ballot boxes were stuffed in precincts that favored Gregoire and ballots vanished in precincts favoring Rossi. | News Tribune                 |  |  |  |

009436

|      |            |           |               |   |              |  |  |  |
|------|------------|-----------|---------------|---|--------------|--|--|--|
|      | Washington | 30-May-05 | gubernatorial | Republican attorneys allege King County election officials committee fraud by allowing illegal ballots in Democratic districts, ballot box stuffing and thefts of votes from the Republican candidate     | The Olympian |  |  |  |
| King | Washington |           | gubernatorial | GOP lawyer contends claim that the Democrats rigged the election by stuffing ballot boxes in the Democrat's two strongest precincts and by "losing" votes in two of the Republican's strongest precincts. | AP           |  |  |  |

|             |                |           |                      |  |                    |  |  |  |
|-------------|----------------|-----------|----------------------|--|--------------------|--|--|--|
| Los Angeles | California     | 7-Feb-03  | neighborhood council | In the 2002 election two candidates had to be physically removed from the polling place, one for allegedly attempting to steal ballots. Charges of fraud and improprieties included photocopying ballots and stuffing ballot boxes. 135 more ballots than stakeholders were cast. After investigating, the city found no cause to dismiss the election and the League of Women Voters did not find any stuffing of the ballot boxes. | LA Weekly          |  |  |  |
| Durham      | North Carolina | 29-Mar-04 | city council         | poll worker adds ballots – state board investigates but does not recommend criminal charges, instead recommending that the poll judges in that precinct step down  | Herald Sun         |  |  |  |
| Gaston      | North Carolina | 16-Dec-04 | presidential         | There are differences in most precincts between the number of ballots cast and the number of people recorded as voting. State investigators have concluded there is no way to rule out double voting or missing votes because poll workers cannot explain the discrepancies. More than 13,000 votes were omitted from the county's unofficial results, including 1,200 votes from a Dallas precinct and about 12,000 early votes.    | Charlotte Observer |  |  |  |



009438

009439

077600

009441

| Resolution of Incident / allegation | Source of Resolution:1 | Source of Resolution:2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |

009442

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
| See Washington summary -- judge eventually found<br>no fraud |  |  |

0077600

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |

577600

00944



977600

009447

877600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intentional Felon Voting

| City / County   | State      | Date      | Type of Election | Alleged instance of fraud  | Original Source           | Source1 | Source 2 | Source 3 |
|-----------------|------------|-----------|------------------|--|---------------------------|---------|----------|----------|
| Phillips County | Arkansas   | 2-Nov-02  |                  | The state Republican Party alleges five convicted felons voted, four of them in early voting   | Arkansas Democrat-Gazette |         |          |          |
| Sacramento      | California | 12-Sep-04 | gubernatorial    | For the first time since 1994, a man was charged with three counts of registering to vote while on parole and a fourth count of voting in the recall election.   | Sacramento Bee            |         |          |          |
|                 | Colorado   | 25-Mar-05 |                  | In a survey of counties, 13 counties had referred 69 cases of possible felon voting to county attorneys. Denver County referred 52 cases of felon voting.  | Denver Post               |         |          |          |
|                 | Florida    | 29-Oct-04 | presidential     | Florida's Republican Party says it has a list of 925 felons who have voted illegally or are planning to. The information could be used to challenge voters. The GOP found the allegedly illegal voters by starting with the same flawed set of names the state compiled in order to purge the rolls -- that list was scrapped when its inaccuracies were exposed. Democrats and civil rights groups suggested that Republicans wanted to use the list to intimidate black Democrats from going to the polls. The party took the initial state list of voters and compared it to the Florida Parole Commission names of felons rights who had been restored | Miami Herald              |         |          |          |
| Okaloosa        | Florida    | 19-Oct-05 |                  | Man is accused of registering to vote in Okaloosa County in 1999 and casting a ballot in November 2002, even though he had been convicted of a felony offense of selling illegal drugs in Colorado in 1980, said Michele Nicholson, spokeswoman for the Okaloosa County sheriff's department. It is illegal for felons to vote in Florida unless their rights have been restored   | Miami Herald              |         |          |          |
| Port Deposit    | Maryland   | 8-Jun-03  | mayor            | Losing candidate alleges people convicted of crimes were allowed to vote. The chief election official of the town dismissed the allegations.   | Baltimore Sun             |         |          |          |

677600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intentional Felon Voting

|            |            |           |               |  |                             |  |  |  |
|------------|------------|-----------|---------------|--|-----------------------------|--|--|--|
|            | Oklahoma   | 22-May-05 | presidential  | <p>A death row inmate and a child pornographer are among about 2,500 felons who remained on Oklahoma voting rolls after their convictions, The Oklahoman re-reported on Sunday.</p> <p>Records show some felons have voted, even though it's illegal while they're serving their sentences.</p> <p>"It's a huge problem," said state Rep. Mike Reynolds, who estimates as many as 16,000 felons are on voting rolls.</p> <p>About 1,100 may have voted in last year's general election. An exact count is difficult - in part because voters sometimes sign the wrong lines in poll books. Most significantly, the Oklahoma State Election Board has ignored the notices from U.S. prosecutors in Oklahoma and other states. Thousands are filed away in a back room. The law is unclear whether voting rights can be stripped after a guilty plea or only after sentencing. Some convicts are unsure about their voting status, and judges rarely explain it to them at sentencing.</p> | AP                          |  |  |  |
| Davidson   | Tennessee  | 12-Jan-05 | presidential  | <p>31 provisional voters were found to be felons whose voting rights had not been restored. The county election commission is debating action.</p>   | Nashville City Paper        |  |  |  |
| Falfurrias | Texas      | 11-Sep-04 | city          | <p>Three indicted on illegal voting charges were ineligible to vote because they were convicted felons who lost voting privileges. One said she has been on probation for two years, and said she did not know that she was ineligible to vote because officials in the local voter registration office approved a replacement voter registration card before the city election.</p>   | Corpus Christi Caller Times |  |  |  |
| Norfolk    | Virginia   | 14-Jan-04 | unclear       | <p>Man convicted in 1986 for larceny by check votes after being notified he had been taken off the voter rules. He entered a plea of illegal voting; State Attorney General says he has never prosecuted or seen such a case during his five years on the election board</p>   | Hampton Roads News          |  |  |  |
| King       | Washington | 29-Apr-05 | gubernatorial | <p>In its case to overturn the election, Republicans allege 736 King County felons illegally cast ballots, and another 220 illegal felon votes were cast elsewhere. Knowingly casting an illegal vote is a crime, but several felon votes said they were unaware they could not vote.</p>  | Seattle Post-Intelligencer  |  |  |  |
| Milwaukee  | Wisconsin  | 10-May-05 | presidential  | <p>investigators say they have evidence of 200 felons voting illegally</p>   | Milwaukee Journal Sentinel  |  |  |  |
| Hanna      | Wyoming    | 27-Apr-01 | mayor         | <p>State Division of Criminal Investigation says convicted felons allegedly voted</p>  | AP                          |  |  |  |

009450

009451

009452

009453



009454

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intentional Felon Voting

| Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |

009455

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intentional Felon Voting**

|  |                            |                            |
|--|----------------------------|----------------------------|
|  |                            |                            |
|  |                            |                            |
|  |                            |                            |
|  |                            |                            |
|  |                            |                            |
| See summary of Washington  |                            |                            |
| May 5, 2005: Officials say charges will be filed, although officials said these cases are hard to prosecute because it must be established that the felon knew he could not vote -- see complete summary of Milwaukee; December 5, 2005: federal prosecutors charge 10 felons with voting illegally -- four were convicted, one was acquitted and five cases are still pending; the County DA charged two with felon voting -- still pending. See Milwaukee summary. | Milwaukee Journal Sentinel | Milwaukee Journal Sentinel |
|  |                            |                            |

009456

009457

009458

009459

095600

EAC Voting Fraud-Voter Intimidation Preliminary Research

Nexis Articles - Intimidation and Suppression

| City / County  | State    | Date      | Type of Election | Alleged Instance of Fraud   | Original Source           | Source 1 | Source 2 | Source 3 |
|----------------|----------|-----------|------------------|---|---------------------------|----------|----------|----------|
| Bayou La Batre | Alabama  | 29-Aug-04 | city council     | About 50 challenged ballots in a Bayou La Batre City Council contest have stirred discrimination concerns because they were all demanded from Asian-American voters. Fred Marceaux of Coden, an advocate for the Asian community, called the challenged ballots "scare tactics." By all accounts, the voters were challenged to their faces as they walked into the polling place at the Bayou La Batre Community Center. Being publicly confronted on their first trip to the voting booth visibly up-set many of those who were challenged. Until this year, Asians here have seemed reluctant to step into local politics, preferring to live as a self-contained community for the most part.   | AP                        |          |          |          |
|                | Arizona  | 1-Oct-04  | presidential     | A pollworker says that during the primary two men came in and said they were checking the polls to see if illegal aliens were voting. They said the name of their organization was Truth in Action. A voting rights advocate says the group was visiting many poll sites. The editor of the organization's website says he visited the polls wearing a black t-shirt with "US Constitutional Enforcement" on the back and the image of a badge on the front. He carried tools, a camera and a video recorder to "film all the conversations I had." He said that for the general election, if he sees "a busload of Hispanic individuals who didn't speak English and who voted," he plans to follow that bus to make sure they aren't voting more than once.   | The Progressive           |          |          |          |
|                | Arizona  | 6-Nov-05  |                  | In Maricopa County, home to Phoenix, more than 10,000 people trying to register have been rejected for being unable to prove their citizenship. Yvonne Reed, a spokesman for the recorder's office, said Friday that most are probably U.S. citizens whose married names differ from the ones on their birth certificates or who have lost documentation. Reed said she hopes the number of rejected voters shrinks as election officials explain the new requirements. But, she said, "there will be an amount of people who we will not be able to get on the rolls because of not being able to find the right documents or just losing interest." In Pima County, home to Tucson, 60 percent of those who tried to register initially could not. Chris Roads, the elections chief there, said that all appeared to be U.S. citizens, but many had moved to Arizona recently and couldn't access their birth certificates or passports. Many of those prospective voters have since been able to register, but Roads said about 1,000 citizens are still unable to vote in this week's election because of Proposition 200 requirements. | Los Angeles Times         |          |          |          |
|                | Arkansas | 31-Oct-02 |                  | State Democratic Party Chair accuses a Republican poll worker of focusing only on black and elderly voters during his challenges.   | Arkansas Democrat-Gazette |          |          |          |
|                | Arkansas | 6-Nov-02  |                  | In Arkansas, where voters were allowed to cast their ballots up to two weeks early to lessen the pressure on election day, there were allegations of intimidation in the early voting. Democrats claimed that black voters were photographed as they arrived at polling booths and had their identities subjected to disproportionate scrutiny.   | The Guardian              |          |          |          |

009461



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|                |             |           |                                   |  |                       |  |  |  |
|----------------|-------------|-----------|-----------------------------------|--|-----------------------|--|--|--|
| Pine Bluff     | Arkansas    | 30-Dec-02 |                                   | Democrats accused Republican poll watchers of driving away voters in predominantly black precincts by taking photos of them and demanding identification during early voting   | The American Prospect |  |  |  |
|                | Arkansas    | 17-Nov-04 | presidential                      | DNC Chair says black voters in Arkansas were harassed during early voting  | Ethnic News Watch     |  |  |  |
| Compton        | California  | 14-Nov-01 | mayoral                           | The ousted mayor's attorney, in a legal challenge to the election, said he intends to show that Perrodin's supporters pulled guns on voters at precincts   | AP                    |  |  |  |
| South Gate     | California  | 28-Jan-03 | treasurer and city council recall | The anti-recall camp accuses police officers of harassment and of "staring down" residents.  | Los Angeles Times     |  |  |  |
| North County   | California  | 5-Nov-03  | local                             | Latino community organizer tells city council panel that Latinos have experienced poll workers who intimidate Latinos by illegally asking them to show identification.   | Union-Tribune         |  |  |  |
| San Francisco  | California  | 2-Feb-04  | mayoral                           | A group called the People of Color Caucus alleged that some Latinas wearing Gonzalez buttons were told they were not allowed to vote   | Los Angeles Times     |  |  |  |
|                | Colorado    | 28-Oct-04 | presidential                      | Democrats fear what they believe to be a plan by Republicans to challenge new voters, especially students at the University of Colorado at Boulder who may seek to use student IDs as proof of identification at the polls. State GOP brass said they have no such plan.   | Denver Post           |  |  |  |
| 2nd district   | Connecticut | 11-Nov-02 | congressional                     | U.S. Representative tells Republican registrars to request police supervision at the polls if they are concerned about fraud or disturbance  | The Day Online        |  |  |  |
| Osceola County | Florida     | 23-May-02 | 2001 special election             | Federal observers found pollworkers downright "hostile" to Hispanics, even insisting that voters must speak English to vote  | St. Petersburg Times  |  |  |  |
| Miami          | Florida     | 1-Nov-02  |                                   | Citing fears of voter intimidation and a repeat by GOP operatives to "barrage polling places," local Democrats – including former U.S. Attorney General Janet Reno and U.S. Rep. Carrie Meek – are suing to block Miami-Dade County from allowing a Republican political action committee to put poll watchers inside the county's precincts Tuesday.  | Miami Herald          |  |  |  |
|                | Florida     | 22-Jun-04 | presidential                      | Harkening back to the 1960s, when Southern states used poll taxes and intimidation to shut blacks out of elections, the Rev. Jesse Jackson on Monday accused Florida Gov. Jeb Bush of engaging in "disenfranchisement schemes" by asking counties to purge felons from voter rolls. "This is a typical South [tactic], denying the right to vote based on race and class," Jackson said. "You see classical voter disenfranchisement. These schemes to deny or suppress voters are not new schemes." | Miami Herald          |  |  |  |
|                | Florida     | 19-Sep-04 | presidential                      | The Justice Department is investigating accusations that Florida law enforcement officers intimidated elderly black voters during a probe of voting fraud in the Orlando mayoral election. Civil rights groups and Democrats contend that the agents presence and behavior, including allegedly displaying their guns, intimidated the minority voters they visited.   | AP                    |  |  |  |
|                | Florida     | 1-Oct-04  | presidential                      | Representatives from People for the American Way saw poll workers turn back registered voters who did not have ID, although that is not required. A spokeswoman from Election Protection says that several voters report being asked if they are citizens during early voting.   | The Progressive       |  |  |  |
|                | Florida     | 16-Oct-04 | presidential                      | Democratic election lawyer says Republican plans to challenge voters at the polls may intimidate voters  | St. Petersburg Times  |  |  |  |

009462

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|         |         |           |              |   |                  |  |  |  |
|---------|---------|-----------|--------------|---|------------------|--|--|--|
| Duval   | Florida | 25-Oct-04 | presidential | Two white men were filming voters as they entered the poll site in a presumed attempt at intimidation   | Financial Times  |  |  |  |
|         | Florida | 26-Oct-04 | presidential | The Republican Party distributed to the media affidavits from anonymous voters claiming to be harassed at polling sites in Miami, Pembroke Pines, Boca Raton, Plantation, St. Petersburg, Jacksonville Apopka and Tallahassee.  | Miami Herald     |  |  |  |
|         | Florida | 27-Oct-04 | presidential | Democratic National Committee (DNC) Chairman Terry McAuliffe has accused Re-publicans of engaging in "systematic efforts" to disenfranchise voters, imposing unlawful identification requirements on voters, throwing eligible voters off the rolls and depriving voters of their right to cast a provisional ballot.   | Washington Times |  |  |  |
|         | Florida | 28-Oct-04 | presidential | Democrats have complained that GOP poll watchers will issue challenges in order to slow down the voting process and drive people away from the polls  | Palm Beach Post  |  |  |  |
|         | Florida | 29-Oct-04 | presidential |   | Miami Herald     |  |  |  |
|         | Florida | 30-Oct-04 | presidential | Democrats fear Republicans will systematically challenge black and Hispanic voters and create long lines at the polls. The suspicions were fed by reports that Republicans had a list of 1,866 voters they were planning to challenge in predominantly black areas of Jacksonville.   | Orlando Sentinel |  |  |  |
|         | Florida | 30-Oct-04 | presidential | Based on a 1982 consent decree, The Advancement Project filed a lawsuit asking a federal district court in New Jersey to ban GOP poll watcher activities in heavily minority precincts in Florida. The suit contends that in New Jersey, Louisiana, and North Carolina, the RNC sent mass mailers to thousands of voters registered predominantly in black precincts. When thousands were returned because of incorrect addresses, those names went on lists for challenges. The GOP says it has just done a mass mailer to new voters. | Tampa Tribune    |  |  |  |
| Broward | Florida | 30-Oct-04 | presidential | At one polling station, Republicans claimed that Democratic poll watchers were approaching Republican voters and shouting "There's a dirty Bush supporter!" as they waited on line.   | Ottawa Citizen   |  |  |  |
| Miami   | Florida | 30-Oct-04 | presidential | Democratic poll workers say Republican poll workers are intimidating Kerry supporters, staring at them and refusing to move away if they decline to accept a Bush-Kerry sticker.  | The Boston Globe |  |  |  |
| Broward | Florida | 30-Oct-04 | presidential | A Republican Party spokesman said elderly voters standing in line at early polling places who refuse to accept Kerry stickers have been harassed with shouts of "Hey, we've got a Bush voter here!" He says Republican poll watchers and volunteers have been "pretty much continually harassed and intimidated."   | The Boston Globe |  |  |  |

009763

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|         |         |           |              |   |                              |  |  |  |
|---------|---------|-----------|--------------|---|------------------------------|--|--|--|
|         |         |           |              | Democrats say Republicans are disproportionately putting poll watchers in predominantly minority precincts and said it could signal plans to intimidate or slow down voters. In Miami-Dade County, Democrats said 59% of predominantly black precincts have at least one Republican poll watcher, while 24 % of predominantly white precincts have them. In Leon County, 64% of black precincts have at least one Republican poll watcher compared with 24% of majority white precincts. In Alachua, 71% of black precincts have a Republican poll watcher assigned, while 24% of white precincts do. |                              |  |  |  |
|         | Florida | 31-Oct-04 | presidential |   | St. Petersburg Times         |  |  |  |
| Miami   | Florida | 1-Nov-04  | presidential | Election Protection reports that Haitian Americans complained that "thugs" had walked along the waiting lines at an early polling site and demanded to see identification, while telling voters they could be deported.   | Cox News Service             |  |  |  |
| Broward | Florida | 3-Nov-04  | presidential | Four GOP poll watchers were ejected from the polls by police and another was "threatened by poll workers for telling them to assign voters provisional ballots. These are people without ids or even listed on the voter roll," according to a party statement.   | Boston Globe                 |  |  |  |
| Miami   | Florida | 3-Nov-04  | presidential | GOP challengers were monitoring the polls, armed with packets that included color mug shots of felons the party said were improperly included on the voting rolls. At the urging of the Bush campaign, some of the poll watchers were wearing buttons, hats or T-shirts that said "voting rights counselor."  | Washington Post              |  |  |  |
| Sanford | Florida | 3-Nov-04  | presidential | At Midway Elementary School east of Sanford, a predominantly black voter pre-cinct, Democratic officials complained a large law-enforcement presence intimidated voters. A deputy sheriff assigned to the precinct moved his patrol car, with his po-lice dog inside, after Democrats complained to the Seminole County Sheriff's Of-ice about it being parked at the entrance to the parking lot, where they said there were as many as four deputies at a time.   | Orlando Sentinel             |  |  |  |
|         | Florida | 2-Mar-05  | presidential | Shouting matches and rowdy behavior forced elections officials across the state to step in to keep the peace. Voters reported being harassed and intimidated at the polls.  | Orlando Sentinel             |  |  |  |
|         | Georgia | 3-Nov-04  | presidential | Many voters said they were denied provisional ballots or had to argue with poll workers to get them.  | Atlanta Journal Constitution |  |  |  |

009460

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|                 |         |           |              |  |           |  |  |  |
|-----------------|---------|-----------|--------------|--|-----------|--|--|--|
| Atkinson County | Georgia | 28-Oct-04 | presidential | <p>Ninety-five people who make up more than three-quarters of a rural Georgia county's registered Hispanic voters were summoned to a courthouse Thursday to defend their right to vote after a complaint alleged a county commissioner attempted to register non-U.S. citizens.</p> <p>The Atkinson County Board of Registrars, however, dismissed most of the complaint at the beginning of the hearing, saying the case could open the county to charges of violating the Voting Rights Act. Remaining complaints against two voters were dropped when the complainants declined to present any evidence against them.</p> <p>The three men who filed the complaint had said they have evidence a county commissioner attempted to help non-U.S. citizens register so they could vote for him in the July 20 Democratic primary.</p> <p>Lawyers from the American Civil Liberties Union and the Mexican American Legal Defense and Education Fund got involved because the men filed the challenges based on a list they had received from the Board of Registrars of all Hispanics registered in the south Georgia county.</p> <p>Linda Davis, chief registrar in Atkinson County, said</p> |           |  |  |  |
| East Chicago    | Indiana | 21-Apr-04 | mayoral      | <p>The Mexican American Legal Defense and Educational Fund filed a federal lawsuit last October alleging that election officials conspired to persuade Hispanics to vote by absentee ballot and limit their access to the polls in the 2003 Democratic primary.</p> <p>The U.S. Attorney's Office is investigating similar allegations.</p> <p>The lawsuit seeks to overturn the election of Mayor Robert Pastrick, who defeated challenger George Pabey, who is of Puerto Rican descent.</p>  | AP        |  |  |  |
|                 | Indiana | 7-Oct-04  | presidential | <p>Persistent warnings about terrorism also have drawn skepticism from some Democratic election officials and civil rights advocates who have accused the Republican White House of creating a climate of fear that, among other things, could suppress voter turnout. Heavy voter turnout historically has favored Democrats in U.S. elections.</p> <p>Some local officials in Indiana accused Secretary of State Todd Rokita, a Republican, of trying to intimidate voters after he asked election clerks to develop responses to "an immediate and present danger." Engy Abdeikader, civil rights director for the Council on American-Islamic Relations, says that Arab-Americans and other minorities could choose to stay away from the polls if they believe that federal agents will be questioning people there.</p>  | USA Today |  |  |  |

009765

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|                  |          |           |                         |  |                           |  |  |  |
|------------------|----------|-----------|-------------------------|--|---------------------------|--|--|--|
| Clay County      | Kentucky | 29-May-02 | county clerk<br>primary | A poll worker, Jeff Farmer, was stationed at Horse Creek Elementary School as a "challenger," someone who observes the process and can ask voters to prove identities or addresses. The sheriff said Farmer was warned after interfering with voters. "I told him to sit his ass down," Jordan said. When Farmer went outside about 10:30 a.m. and began "pulling voters out of line," according to Jordan, a sheriff's deputy told him to leave or face arrest. Farmer had a different version of events, saying he went out to smoke and wasn't allowed back in.                           | Lexington Herald Leader   |  |  |  |
| Jefferson        | Kentucky | 31-Oct-03 | gubernatorial           | A flyer written and distributed by the Republican in charge of recruiting poll workers asserts that in three previous races the NAACP and the Philip Randolph Institute have targeted "poor, black voters" and encouraged them to "commit voter fraud." Civil rights leaders say this shows that the Republican plan to put challengers in predominantly African American poll sites is racially based. The Republican County chair had announced that Republicans would place challengers at 59 precincts that were either chosen at random or because there were too few election workers. | The Courier-Journal       |  |  |  |
| Louisville       | Kentucky | 2-Nov-03  | gubernatorial           | Black voters in Louisville sued Friday over a Republican plan to put vote "challengers" in dozens of black precincts   | AP                        |  |  |  |
| Louisville       | Kentucky | 4-Nov-03  | gubernatorial           | Republicans plan to deploy "a small army" of challengers in Jefferson County. Critics say the mobilization of mostly white challengers in poorer minority districts is intended to intimidate. Black leaders held a rally decrying the Republican initiative.  | Christian Science Monitor |  |  |  |
| Jefferson County | Kentucky | 3-Aug-04  | presidential            | A group of Republicans called on the county party chair to resign because of plans to use voter challengers in the election. In 2003, the party used Republicans from across the county to watch voting in 18 predominantly Democratic districts -- most of them with large numbers of black voters.   | Courier Journal           |  |  |  |

009466

EAC Voting Fraud-Voter Intimidation Preliminary Research

Nexis Articles - Intimidation and Suppression

|             |               |           |               |   |                 |  |  |  |
|-------------|---------------|-----------|---------------|---|-----------------|--|--|--|
| Baton Rouge | Louisiana     | 7-Oct-03  | sheriff       | Tangipahoa Parish Sheriff Ed Layrisson said Monday he has suspended two deputies while his office investigates allegations of public intimidation against them.<br>The deputies were at a polling place Saturday and allegedly asked several people in a group how they planned to vote in the sheriff's race, authorities said.<br>The deputies "have adamantly denied the allegation," Layrisson said.<br>He said the deputies were not in uniform, but were carrying their badges and weapons. | The Advocate    |  |  |  |
| New Orleans | Louisiana     | 2-Nov-04  | presidential  | Louisiana Election Protection says it received many complaints of voters being denied the right to vote if they did not have a drivers license.   | AP              |  |  |  |
| Baltimore   | Maryland      | 5-Nov-02  | gubernatorial | The Democratic National Committee filed a lawsuit seeking to prevent the Ehrlich campaign from using off-duty police officers as poll workers. The Democrats dropped the action when the campaign agreed the officers would not wear uniforms, badges or sidearms or identify themselves as police officers.  | Washington Post |  |  |  |
|             | Maryland      | 6-Nov-02  | statewide     | In Maryland, David Paulson, the director of communications for the state Democratic Party, charged that signs saying voters needed photo identification to vote had been "illegally" or "extralegally" placed by the Board of Elections in Prince George's County, just outside of Washington. Photo identification has never been required for voters there, he said.  | UPI             |  |  |  |
| Boston      | Massachussets | 12-Mar-05 |               | In 2002, there were allegations that Russian and Chinese voters were being told how to vote by translators in a Brighton precinct that is home to the Jewish Community Housing for the Elderly complex on Wallingford Road. After those allegations, the city changed the rules at the polling place located there: Now, no resident of the building is allowed to work as an elections official there.   | Boston Globe    |  |  |  |
| Boston      | Massachussets | 30-Jul-05 |               | In a lawsuit filed yesterday, the Justice Department alleges that the city and its poll workers interfered with voters' rights by "improperly influencing, coercing, or ignoring the ballot choices of limited English proficient Hispanic and Asian-American voters" and of generally "abridging" their voting rights by treating Hispanic and Asian voters disrespectfully at the polls and by failing to provide adequate translation services for them.                                       | Boston Globe    |  |  |  |
|             | Massachussets | 18-Aug-05 | presidential  | A survey by the Asian American Legal Defense and Education Fund found 10 voters who had been turned away because their names were not on the rolls and who were not offered provisional ballots as required by law.   | Boston Globe    |  |  |  |

009467

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|         |           |           |              |   |                         |  |  |
|---------|-----------|-----------|--------------|---|-------------------------|--|--|
| Detroit | Michigan  | 8-Nov-02  |              | <p>Trouble was reported at Bowen Recreation Center in Pontiac, where police were called after voters and election workers complained that a Republican Party volunteer was harassing people. Precinct chairwoman Linda Nichols said the woman, who identified herself as Teresa Sayer, came to the poll after leaving another location where voters had complained that she was questioning whether they were eligible to vote. "She would be behind the shoulder of the poll worker telling them what they could and could not do," Nichols said. "She even got behind the voter when they were going into the voting booth, asking them if they had identification."</p> <p>State election officials say challengers are not allowed to talk directly to voters but can question the veracity of a voter with poll chairpersons. State Republican officials denied that the woman was intimidating voters at the polling place. The precinct, on Bagley near Orchard Lake, is heavily Democratic and black.</p> | Detroit News            |  |  |
|         | Michigan  | 18-Sep-04 | presidential | <p>Democrats were outraged when Republican state representative John Pappageorge was quoted in July as warning that "if we do not suppress the Detroit vote, we're going to have a tough time in this election." Detroit is 83% black.</p>  | San Francisco Chronicle |  |  |
| Detroit | Michigan  | 4-Nov-04  | presidential | <p>Reggie Turner, a Detroit lawyer with the Kerry campaign, complained of voter intimidation by GOP challengers at Detroit sites.</p> <p>"The documented incidents of intimidation and harassment that we have in our files are right out of the stories regarding harassment and intimidation in the South in the 1950s and 1960s," Turner said. "GOP challengers harassed people in line to vote, requesting identification when they had no right to, and had lists of voters they intended to challenge without any legal basis for such challenges."</p> <p>The GOP's Paolino said the lists were of newly registered Detroit voters to whom the GOP had sent mailings that came back from the post office as address unknown.</p>   | Detroit Free Press      |  |  |
| Detroit | Michigan  | 8-Nov-05  | mayoral      | <p>The NAACP has received more than 100 complaints including ones involving intimidation at the polls. There were many fights between challengers and poll workers.</p>   | Detroit Free Press      |  |  |
| Duluth  | Minnesota | 3-Nov-04  | presidential | <p>Republicans systematically challenged a group of voters brought in by a nonprofit group and a group from a shelter. At another site, a minority group advocate accused a Republican challenger of intimidating American Indian and black voters.</p>   | Duluth News-Tribune     |  |  |

097600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|                             |           |           |              |  |                        |  |  |  |
|-----------------------------|-----------|-----------|--------------|--|------------------------|--|--|--|
|                             | Minnesota | 3-Nov-04  | presidential | Secretary of State Kiffmeyer said her office received about 140 complaints about MoveOn. Minnesota Republican Party leaders tried and failed to get a restraining order against the MoveOn organization, which they accused of stationing activists too close to polling places Tuesday. But the judge disagreed. "The evidence has consisted almost entirely of hear-say," said Hennepin County District Judge Francis Connelly after a two-hour hearing Tuesday afternoon.   | St. Paul Pioneer Press |  |  |  |
|                             | Minnesota | 3-Nov-04  | presidential | Officials in Beltrami County and throughout the Twin Cities reported seeing poll challengers increasingly focused on polling places with particularly heavy populations of specific groups. Examples of those specific groups were college students, Indians on reservations, minorities or the homeless. In one case, the chairman of a Minnesota Indian tribe accused Republican poll challengers of intimidating legitimate voters by aggressively challenging their residency.   | Star Tribune           |  |  |  |
| Red Lake Indian Reservation | Minnesota | 22-Mar-05 | presidential | A get out the vote activist and an election judge say that a Republican operative improperly challenged so many Indian voters at the reservation on Election Day that the challenger eventually was removed by tribal police. Director of Minnesota Election Protection 2004 said that most of the 46 complaints that her group forwarded to the national database had to do with "overzealous partisan challengers." The challenges were often based "on the way a person looked" or the fact that the person was not speaking English. | Star Tribune           |  |  |  |
| St. Louis                   | Missouri  | 28-Oct-04 | presidential | Civil rights groups accuse the Republican Party of hiring hundreds of poll challengers as part of an effort to suppress the black vote in St. Louis. The Republican Party strongly denies this.  | AP                     |  |  |  |
|                             | national  | 15-Oct-04 | presidential | The Justice Department is ill prepared to handle a large influx of complaints about voting rights violations in the Nov. 2 presidential election, according to a report released yesterday by the Government Accountability Office. The Justice Department "lacks a clear plan" to reliably document and track allegations in a manner that could allow monitors to swiftly pick up patterns of abuse and take corrective steps, according to the GAO, Congress's nonpartisan investigative arm.   | Washington Post        |  |  |  |
|                             | national  | 3-Nov-04  | presidential | Republicans filed complaints with courts about poll monitors from the liberal group Moveon.org "intimidating" voters in New Hampshire, Iowa, Minnesota, Colorado and Michigan - all close states. Moveon.org's Eli Pariser said the GOP charges were intended to "create a false and distorted record to assist them in any legal challenges."   | New York Daily News    |  |  |  |

0097600



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|                |            |           |              |  |                      |  |  |  |
|----------------|------------|-----------|--------------|--|----------------------|--|--|--|
|                |            |           |              | Racial slurs from election workers, missing bilingual ballots and unwarranted demands to check voter identification turned away Asian American voters across the nation, according to reports by the Asian American Legal Defense and Education Fund. "There were racist remarks in New York City - poll workers were blaming them for holding up the lines. One of them said, "You Oriental guys are taking too long to vote," she said. Although the legal fund continues to tally its exiting poll surveys and has no firm estimate for the number of incidents, Fung said repeated requests from poll workers to check identification hindered the high turnout of Asian American voters. With their patience worn thin by the inadequacy of their voting site, many simply left without voting. In polling sites across Detroit, University of Michigan student volunteers monitoring the polling sites said they not only encountered deficient polling sites, but also challengers from the Republican Party deliberately aiming to drive voters away through tactics of intimidation.                                      |                      |  |  |  |
|                | national   | 4-Nov-04  | presidential |  | University Wire      |  |  |  |
|                |            |           |              | In his first high-profile address since conceding the presidential election, Senator John F. Kerry used Boston's annual Martin Luther King Jr. memorial breakfast yesterday to decry what he called the suppression of thousands of would-be voters last November.<br>"Thousands of people were suppressed in their efforts to vote. Voting machines were distributed in uneven ways," the former Democratic nominee told an enthusiastic audience of 1,200 at the Boston Convention and Exhibition Center in South Boston.<br>"In Democratic districts, it took people four, five, 11 hours to vote, while Republicans [went] through in 10 minutes. Same voting machines, same process, our America," Kerry said.<br>Critics of the election process in Ohio say there were not enough voting machines in urban, Democrat-leaning precincts, leading to long lines that dissuaded many voters from casting ballots. In some cases, polls were held open after the announced closing time to allow everyone in line to vote, but some left without voting after standing in line for hours. Some blacks in particular have also c |                      |  |  |  |
|                | national   | 18-Jan-05 | presidential |  | Boston Globe         |  |  |  |
| Tonopah        | Nevada     | 23-Oct-02 | local        | A group called "Concerned Citizens for Fair Elections" filed 1,200 voter challenges, nearly 200 of which were duplicates or triplicates of the same challenge; 220 were improper; several of those who signed the challenges under penalty of perjury said they never inspected the residence they claimed was abandoned or not occupied by a registered voter. District Attorney investigates whether there was perjury   | Pahrump Valley Times |  |  |  |
| Washoe County  | Nevada     | 1-Oct-04  | presidential | The registrar says an official of the Republican Party came to his office with a small group asking how to launch a "full scale program for challenging voters."   | The Progressive      |  |  |  |
| Las Vegas      | Nevada     | 29-Oct-04 | presidential | An effort by a former Nevada GOP operative to question 17,000 Democratic voters in Las Vegas was rejected earlier this month by election officials there   | Washington Post      |  |  |  |
| Passaic County | New Jersey | 26-Jun-01 | municipal    | A court appointed election monitor found that in the May 8 election violations included refusing to provide provisional ballots and intimidation of voters by candidates' representatives  | New York Times       |  |  |  |

009470

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|                |            |           |              |   |                     |  |  |  |
|----------------|------------|-----------|--------------|---|---------------------|--|--|--|
| Passaic County | New Jersey | 6-Nov-01  | US Senate    | Hispanic and black residents in the city of Passaic receive postcards in the mail warning of "armed law enforcement officers" at the polls and fines or prisons for anyone violating voting laws  | The Record          |  |  |  |
| Passaic        | New Jersey | 4-Dec-01  | sheriff      | The federal monitor found that the weekend before Election Day, Passaic city voters received a mass mailed post card reminding them that "armed law enforcement officers" would be policing the polls. The cards inferred they were official and cited the name of the monitor. He said they seemd aimed at minority voters   | The Record          |  |  |  |
| Licking County | New Jersey | 27-Oct-04 | presidential | A resident files challenges of 55 county residents whose voter confirmation cards sent from the Board of Elections were returned undeliverable. He withdrew 47 of his challenges and the board denied the other eight. The county Republican chair said that the state Republican Party directed counties to challenge suspect voters such as those who have an address where voter confirmation cards could not be delivered.  | Newark Advocate     |  |  |  |
|                | New Jersey | 9-Nov-05  | statewide    | The state Democratic Party won an injunction in the Superior Court in Passaic County, with the judge issuing a statewide order barring any challenger from disputing any voter's ability to vote based on the voter's signature. The Democrats said they heard numerous complaints about GOP challengers interfering in the signature comparison process.   | Star Ledger         |  |  |  |
| Sandoval       | New Mexico | 20-Oct-04 | presidential | At a special meeting Tuesday, Sandoval County commissioners voted 3-1 against opening an additional early voting site in Rio Rancho. Commissioners cited a short time line and legal questions in voting against the poll. The commission called the meeting after Republican legislative candidates and the mayor of Rio Rancho complained that the lack of an early voting site in the city disenfranchised voters. "The combination of an incompetent county clerk and highly partisan Democrat commission has allowed disenfranchisement of the fourth largest city in New Mex-ico," said Whitney Cheshire, a spokeswoman for New Mexico Victory. | Albuquerque Journal |  |  |  |
|                | New Mexico | 25-Oct-04 | presidential | In a mass mailing, the Republican National Committee is citing Hispanic voter registration campaigns as proof that "Democrats... will cheat in order to win." Hispanic advocates say this is designed to suppress Hispanic voting.  | Washington Post     |  |  |  |
|                | New Mexico | 3-Nov-04  | presidential | In New Mexico, a Republican poll watcher videotaped a man as he left a poll-ing station after casting a provisional ballot on Saturday, said Secretary of State Rebecca Vigil-Giron, a Democrat. Vigil-Giron said Republicans argued they wanted to record the voter's face for a possible legal challenge. Federal officials were investigating, she said.   | Chicago Tribune     |  |  |  |
| New York       | New York   | 31-Oct-05 | mayoral      | Democratic candidate sends a letter to the Department of Justice complaining of Republican election day plans to man some polls with off-duty corrections officers, calling it a bid to intimidate voters.  | New York Daily News |  |  |  |

009771

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|                 |                |           |              |  |                        |  |  |  |
|-----------------|----------------|-----------|--------------|--|------------------------|--|--|--|
| Alamance County | North Carolina | 27-Oct-04 | presidential | The head of the Mexican-American Legal Defense Fund says the sheriff gave a list of registered Hispanic voters to immigration authorities to check their status. The sheriff "also threatened to go door-to-door personally with his department to ensure that immigration status was checked and make sure there was no 'perception of fraud by Latinos'"   | Agence France Presse   |  |  |  |
|                 | North Carolina | 29-Oct-04 | presidential | In southeast Charlotte, Elections Director Michael Dickerson told poll workers at the Morrison Regional Library to stop asking people waiting to cast early votes to get identification cards ready. Richard Friedman, an unaffiliated voter who is volunteering with the Kerry campaign, complained after elections staff told people standing in line to get their driver's license or voter registration card ready. Most N.C. voters are not required to show ID when they vote, and no one asked for it when voters got in to cast ballots, Friedman said.  | Charlotte Observer     |  |  |  |
|                 | Ohio           | 6-Sep-04  | presidential | Ohio polling sites plan to add security, which some election officials believe will intimidate voters and poll workers   | Columbus Dispatch      |  |  |  |
|                 | Ohio           | 20-Oct-04 | presidential | Democrats believe the Secretary of State's order that people who appear to vote in the wrong precinct should not be allowed a provisional ballot and the unnecessary purging of voter rolls, and the Republicans' checking of new registrants are designed to intimidate voters into staying home.   | Columbus Dispatch      |  |  |  |
| Montgomery      | Ohio           | 23-Oct-04 | presidential | Republicans filed a challenger list in 191 precincts - many of them in largely black neighborhoods around Dayton. Republicans say it is to prevent vote fraud  | Cleveland Plain Dealer |  |  |  |
|                 | Ohio           | 23-Oct-04 | presidential | Republicans formally challenged the validity of 35,000 voter registrations across the state  | Cleveland Plain Dealer |  |  |  |
| Franklin County | Ohio           | 24-Oct-04 | presidential | Dozens of Republican challenges to newly registered voters in Franklin County will be tossed out because they were not properly filed, a local elections official said yesterday.<br>An initial review of 50 challenge forms filed by GOP activists shows 40 with an incorrect ward or precinct listed for the voter, said Michael Hackett, deputy director of the Franklin County Board of Elections. He said such mistakes will nullify requests to have people removed from the list of eligible voters. Voters whose eligibility is challenged need to prove Thursday that they're registered at their correct address. If they don't show up, elections board members can decide whether to keep them on the rolls.<br>Franklin County Republican Chairman Doug Preisse said his party's challenges of voters' eligibility is not an attempt to deny legitimately registered people the right to cast a ballot. In Franklin County, beyond the challenges with incorrect information, it appears Republicans included some legitimately registered voters, including members of the military. | Columbus Dispatch      |  |  |  |
| Cleveland       | Ohio           | 29-Oct-04 | presidential | In a lawsuit, a voter and Democrats contend Republican challenges to voters around Cleveland and Columbus are designed to keep poor and minority voters from voting.   | AP                     |  |  |  |
| Hamilton        | Ohio           | 30-Oct-04 | presidential | Jeff Gamso of the ACLU said in Hamilton County, 250 of 251 precincts targeted by Republicans with challengers are majority African-American precincts.   | Toledo Blade           |  |  |  |

009472

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|        |      |           |              |  |                         |  |  |  |
|--------|------|-----------|--------------|--|-------------------------|--|--|--|
|        | Ohio | 31-Oct-04 | presidential | Democrats accuse Republicans of using challengers to suppress voter turnout. Republicans will not allow the press to attend training sessions.   | Cleveland Plain Dealer  |  |  |  |
|        | Ohio | 1-Nov-04  | presidential | In a lawsuit in Hamilton County, civil rights activists say GOP challenges are discriminatory because they were filed disproportionately in precincts with a majority of black voters. A civil rights group seeks to block challengers in Ohio by arguing they violate a 1981 national order prohibiting the Republican National Committee from trying to intimidate black voters.   | Columbus Dispatch       |  |  |  |
| Lucas  | Ohio | 3-Nov-04  | presidential | In Lucas County, Ohio, Republicans asked a judge to bar poll monitors from wearing "Voter Protection Staff" and "Voting Rights Staff" armbands from polling spots.   | New York Daily News     |  |  |  |
| Summit | Ohio | 5-Nov-04  | presidential | The Board of Elections threw out 976 of the challenges filed by the Republican Party without prejudice after a volunteer who brought the challenges revealed she did not have any personal information about the eligibility of the challenged voters. A member of the Board told the volunteer she could be indicted for signing a sworn challenge without personal knowledge of eligibility. The Board has indicated they plan to call the Department of Justice to conduct a criminal investigation of the challenges.  | Philadelphia Tribune    |  |  |  |
|        | Ohio | 11-Dec-04 | presidential | Because blue-collar and lower-income workers tend to vote Democratic, the long lines in Akron and other urban areas fueled suspicion of a deliberate tactic to hold down the turnout -- especially in largely African-American precincts -- for presidential challenger John Kerry.  | Akron Beacon Journal    |  |  |  |
|        | Ohio | 23-Jun-05 | presidential | Blacks and young voters in Ohio faced widespread voter suppression - mostly because of long lines and improper identification checks - during last year's presidential election, a new report released Wednesday by the Democratic Party said. Democratic National Committee Chairman Howard Dean said that while it's unclear whether the suppression was intentional or whether it influenced the election results, the party's five-month, \$250,000 investigation showed that 28 percent of Ohio voters - and twice as many black voters - reported facing challenges on Election Day. "You have a particular ethnic group that has to wait three times as long as other voters, then clearly there is something going on that is aimed at particular precincts," Dean said at a news conference in Washington. Blacks waited an average of 52 minutes to vote while white voters waited about 18 minutes. It also found that 37 percent of Ohio voters reported being asked for identification. Ohio law requires only new voters to produce identification, and new registrants accounted for 7 percent of all voters. Blacks and voters under 30 were | The Cincinnati Enquirer |  |  |  |
|        | Ohio | 23-Jun-05 | presidential | Long lines were caused by the scarcity of voting machines in a number of precincts, particularly in minority areas, a report by the DNC on the election in Ohio says.  | Washington Post         |  |  |  |

009473

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|              |              |           |              |   |                           |  |  |  |
|--------------|--------------|-----------|--------------|---|---------------------------|--|--|--|
|              | Oregon       | 21-Oct-04 | presidential | Officials are concerned about voter intimidation at ballot drop-off sites the evening of the Nov. 2 deadline. A Republican manual instructs GOP volunteers to take video cameras. Party officials say this is to make sure no ballots are collected after the 8 pm cutoff, but Democrats worry that it could frighten away some voters.   | Christian Science Monitor |  |  |  |
|              | Pennsylvania | 6-Nov-02  | statewide    | Democrats in the state are concerned about Operation Swarm and Storm – the name they say was given to an effort by the George Gekas campaign to challenge voters based on old information.<br>A pamphlet was allegedly prepared by the campaign, which instructed Republican poll workers to challenge voters who had recently moved to new districts. The laws had been changed, however, and such challenges could have been wrongly made.<br>Voters in some districts were also challenged to produce identification, charged state Democratic Party spokeswoman Mia DeVane. Voters she said need only provide a matching signature to vote in the state.  | UPI                       |  |  |  |
| Philadelphia | Pennsylvania | 5-Nov-03  | mayoral      | Complaints filed with the police, the district attorney's office, and the Committee of Seventy alleging physical violence, harassment and intimidation were the highest in modern history. The DA's office reported it had received at least 171 complaints, nearly quadruple the 41 complaints of four years ago. Most charged that voters and poll workers had been intimidated or interfered with. Inspector William Colarulo said the Police Department had received at least 110 complaints, most dealing with simple assaults, vandalism and disturbances. In the course of the day, Common Pleas Judge Benjamin Lemer signed two orders directing Republican workers at polling places in Germantown and North Philadelphia to stop demanding identification from people showing up to vote. | Philadelphia Daily News   |  |  |  |
| Philadelphia | Pennsylvania | 26-Oct-04 | presidential | Republican Representative John Perzel, speaker of the state house, told US News and World Report that "The Kerry campaign needs to come out with humongous numbers here in Philadelphia. Its important for me to keep that number down." At the same time, he said campaign workers are examining voting records for evidence of Democrats registering more than once or otherwise violating election rules. An aide to Perzel said challengers will have lists of questionable registrations at the polls.   | AP                        |  |  |  |
| Philadelphia | Pennsylvania | 31-Oct-04 | presidential | In Philadelphia, Republicans unsuccessfully sought last week to change locations of 63 polling places, contending that their placement in closed bars or in homes would intimidate voters. Democrats pointed out that most of those locations were in minority neighborhoods and branded the move an effort to suppress black votes.  | Philadelphia Inquirer     |  |  |  |

009474

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|              |              |           |              |  |                       |  |  |  |
|--------------|--------------|-----------|--------------|--|-----------------------|--|--|--|
| Philadelphia | Pennsylvania | 2-Nov-04  | presidential | Philadelphia's voter-registration administrator cried foul last night over a letter sent from the state GOP to judges of elections, the men and women who run the city's 1,681 polling places. He said the letter had wrongly instructed those poll workers to check and compare voters' various signatures "at will." He pointed to state law, which limits such checks to prevent long voting delays. State Republicans released additional details yesterday from their list of 10,000 letters to Philadelphia voters that they said were returned as undeliverable. They said they would use this list to challenge voters at the polls today. Counsel to the state Republican Party said there were multiple reports yesterday that elderly voters in Lancaster and York Counties in Central Pennsylvania - an area the Bush campaign has been heavily courting - got phone calls telling them they would not be allowed to vote and urging them not to show up at the polls. | Philadelphia Inquirer |  |  |  |
|              | Pennsylvania | 3-Nov-04  | presidential | While overwhelmed poll workers pushed provisional ballots on some voters who should not have been using them, other voters who could have used provisional ballots were being turned away. In Allentown, about 10 lawyers and community activists rushed to the Salvation Army building on North Eighth Street to challenge poll workers who were stopping about eight people whose names were not in the registration list. In Montgomery County, a judge issued a mid-day order telling poll workers they that no longer needed county approval to give out provisional ballots.   | Morning Call          |  |  |  |
|              | Pennsylvania | 4-Nov-04  | presidential | There were long lines throughout the state, leading voters to wait for several hours in order to vote. Some voters waited into the night in order to vote. Some reportedly left without voting.  | Philadelphia Inquirer |  |  |  |
| Philadelphia | Pennsylvania | 8-Dec-04  | presidential | In Philadelphia, some voters were sent to police stations to cast provisional ballots, House Minority Whip Steny H. Hoyer (D-Md.) told a voting rights forum. "Clearly an intimidation," he said.  | Los Angeles Times     |  |  |  |
| Lancaster    | Pennsylvania | 24-Apr-05 | presidential | The Board of Elections fired three elections officials because of charges they intimidated Democratic voters. One voter said a poll worker was aggressive in challenging his eligibility. Another said a worker yelled at her and then grabbed her arm and forced her out of the polling place because she was wearing a Kerry button.   | Lancaster Sunday News |  |  |  |

009475

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|          |                |           |                  |   |                                     |  |  |  |
|----------|----------------|-----------|------------------|---|-------------------------------------|--|--|--|
| Beaufort | South Carolina | 5-Nov-02  |                  | Voters in Beaufort County who only have rural route addresses or post office box numbers on their voter registration cards might face problems at the polls today, a federal lawsuit filed in Charleston late Monday alleges. The lawsuit said that poll workers could challenge these voters' ballots, and that if this happens, black voters would be disproportionately affected. The chair of the election commission said poll workers will ask these voters to identify exactly where they live, possibly by having them point out their homes on a map. He said the purpose of doing this is not to discourage or embarrass the voter; it's to ensure they get the correct ballot. He said if there is any confusion, voters will be given failsafe ballots that exclude district races but still allow voters to cast ballots in federal, state and countywide races. | The Post and Courier                |  |  |  |
| Greer    | South Carolina | 12-Aug-04 | county council   | Candidate says he plans to have observers at the polls and may call for sheriff's deputies to enforce voting laws when voters try for a third time to nominate a Republican County Council candidate. His opponent alleges he is trying to intimidate black voters from voting.   | Greenville News                     |  |  |  |
| Columbia | South Carolina | 2-Nov-04  | presidential     | Dozens of voters, many students, were turned away from a precinct at Benedict College after Republican poll watchers contested the legality of their vote. Challenges slowed voting at the precinct causing waits as long as four hours. The Republican Party executive director said poll watchers were challenging people who did not have proper state identification, such as a drivers license. Alternate forms of identification permit student to vote provisional ballots.  | AP                                  |  |  |  |
|          | South Dakota   | 31-Oct-02 | US Senate        | Senator Daschle says Republicans have targeted Native American communities in making allegations of vote fraud and launching initiatives in order to suppress the Native American vote  | Washington Times                    |  |  |  |
|          | South Dakota   | 1-Jan-03  | senate           | Republican attorneys fanned out across the state on Election Day to gather affidavits to show vote buying. The State Attorney General (a Republican) says that of the 50 affidavits only three alleged criminal activity, and two of those proved to be false. One person is being investigated. Two of the affidavits were found to have been forged or perjurious. Each affidavit states that the person allegedly signing it claimed to have been picked up by a van driver, offered 10 to vote, taken to the polling place and home again and again offered the 10. Most of the allegations focused on the Rosebud Reservation  | Indian Country Today (Lakota Times) |  |  |  |
|          | South Dakota   | 30-Jun-04 | special election | During the June 1 special election, several Native American voters were told they could not vote if they did not have ID and were not told about the affidavit option. Most of the complaints came from across the state, many from reservations and some from Rapid City, where there is a large American Indian population. A Republican poll watcher denied this was the case. He said Indian voting rights workers were intimidating poll workers.  | Indian Country Today (Lakota Times) |  |  |  |
|          | South Dakota   | 26-Aug-04 | presidential     | Some American Indians were not allowed to vote in the primary because they did not have photo ID and some said they were not told they could instead sign an affidavit.   | Newsday                             |  |  |  |

009476

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|              |              |           |                       |   |                      |  |  |  |
|--------------|--------------|-----------|-----------------------|---|----------------------|--|--|--|
| Sioux Falls  | South Dakota | 2-Nov-04  | senatorial            | On Election Day, a district court judge ruled Republican poll watchers in Charles Mix County had to stop following American Indian voters after they cast ballots. The GOP workers were also ordered to stop writing down those people's license plate numbers.   | AP                   |  |  |  |
|              | Tennessee    | 5-Nov-02  |                       | A GOP memo to its poll watchers said, "There are problems" with the instructions [state election director]Thompson's office provided to local officials, and focuses on whether the would-be voters are legitimately qualified. "If the officers at the precinct are not screening voters for their qualifications to vote, including their citizenship, they should be challenged so that the election officials will carry out the law and make sure they are qualified to vote if they are first-time voters," the memo saysThompson said the U.S. Department of Justice, part of President Bush's ad-ministration, notified him of the GOP memo last week and expressed concerns about it. After conferring with the Justice Department and state Attorney General's office, Thompson sent a four-page memo to local election officials Friday that makes it clear that poll watchers are forbidden by law to question or challenge voters directly and that election officials are not to require would-be voters to provide proof of eligibility, as the GOP memo seeks. The state Democratic Chair said the challenges targetted Afr | Commercial Appeal    |  |  |  |
| Prairie View | Texas        | 6-Oct-04  |                       | Students at historically black college Prairie View A & M filed several lawsuits against a Texas district attorney for making comments that he would prosecute students that falsely declared the school as their place of residency. In 1979, the US Supreme Court ruled in favor of Prairie View A & M, upholding a student's right to vote.  | Los Angeles Sentinel |  |  |  |
|              | Utah         | 18-Jun-04 | congressional primary | An immigration-issues group is mounting a last-minute bid to challenge hundreds of foreign-born voters in Utah's Republican primary Tuesday. The effort is the work of ProjectUSA, based in Washington, D.C. The Utah voter challenge would require those singled out in the state's 3rd Congressional District by ProjectUSA to confirm at the polls that they are U.S. citizens and registered voters. State elections director Amy Naccarato is concerned ProjectUSA might scare off some legitimate voters.   | Deseret Morning News |  |  |  |
|              | Utah         | 6-Nov-04  | congressional         | The Republican candidate challenged the legal registration of 1,495 residents of the Holladay-area neighborhoods in the days before the election. 1,494 were Democrats, and one was from the American Party. The County Clerk determined the claims were groundless and said he could be subject to a charge of voter intimidation.   | Salt Lake Tribune    |  |  |  |

009477



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|      |            |           |               |  |                            |  |  |  |
|------|------------|-----------|---------------|--|----------------------------|--|--|--|
|      | Washington | 20-Dec-04 | gubernatorial | <p>Procedures for validating ballot signatures vary widely from county to county in Washington state, a fact that has become significant given the razor-thin margin of the governor's race.</p> <p>A survey by The Seattle Times showed that counties use different procedures for evaluating signatures, the newspaper reported Sunday. More than 3,400 absentee and provisional ballots in Washington were rejected in the November election because the signatures didn't match those on file with elections officials. The state Supreme Court last week rejected an argument by the Democratic Party that counties have disenfranchised voters by handling mismatched signatures so differently.</p>   | AP                         |  |  |  |
| King | Washington | 20-Dec-04 | gubernatorial | <p>King County election workers were told as early as May that if an absentee ballot came in without a matching signature on file they were required to make a concerted effort to verify that the vote was valid. Before a special election in May, King County election workers routinely violated state law by counting such ballots without making any attempt to verify the signatures. In this November's general election, the county's absentee-ballot staff still didn't make the effort to find matching signatures. But instead of counting the ballots automatically, they rejected them.</p>  | Seattle Times              |  |  |  |
|      | Washington | 31-Mar-05 |               | <p>A Soap Lake man is challenging the voting credentials of hundreds of Washington voters, saying he thinks they're illegal immigrants who registered and cast ballots illegally.</p> <p>But Martin Ringhofer may have a hard time proving the challenges he has filed in Spokane and 10 other Washington counties.</p> <p>For one thing, there's the methodology of his research. Ringhofer said he obtained a list of people who registered to vote when they obtained or renewed a driver's license, then culled the list for names "that appear to be from outside the United States," particularly those that appeared to be Hispanic or Asian. For another, there's the fact that many of the people on his list are citizens. In fact, The Spokesman-Review contacted a dozen of the 161 people on Ringhofer's Spokane County list, and all of them are citizens.</p> | Spokesman Review           |  |  |  |
| King | Washington | 5-Nov-05  | county        | <p>Elections officials said hundreds of angry voters called to complain about a Republican backed effort challenging their right to vote. Several voters said the GOP County Vice-Chair was wrong that their registrations did not have their legitimate address. Those voters challenged will have to either re-submit registration forms or when challenged, vote by provisional ballot. Democrats called it a voter intimidation and suppression effort.</p>  | Seattle Post-Intelligencer |  |  |  |

009478

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|           |               |           |              |   |                            |  |  |  |
|-----------|---------------|-----------|--------------|---|----------------------------|--|--|--|
| King      | Washington    | 10-Nov-05 | presidential | A county councilman asks the county prosecutor to investigate whether a Republican challenger committed perjury in filing some of the challenges without justification. The challenger was the head of the county GOP's Voter Registration Integrity Project* which challenged the registrations of 1,944 voters saying they were registered at private mailbox businesses and storage complexes. Many of the challenges turned out to be baseless. Others did not know it was illegal. Those voters had to file a challenge ballot. The validity of those ballots will be determined at a canvassing board hearing. County Democrats claim the challenges were an attempt to intimidate and disenfranchise voters. | Seattle Times              |  |  |  |
| Lincoln   | West Virginia | 31-May-05 | primary      | Defendants in a vote buying case allege that federal agents intimidated voters by videotaping and photographing voters as they visited the polls.   | AP                         |  |  |  |
| Milwaukee | Wisconsin     | 13-Oct-04 | presidential | Milwaukee County Executive Scott Walker, citing vote-fraud concerns, is publicly balking at a City of Milwaukee request for almost 260,000 additional ballots in anticipation of high turnout for the Nov. 2 presidential election. Mayor Tom Barrett blasted Walker's stance, and Common Council President Willie Hines Jr. immediately joined in, saying it was an attempt to suppress the central-city vote.   | Milwaukee Journal Sentinel |  |  |  |
| Milwaukee | Wisconsin     | 27-Oct-04 | presidential | Federation for American Immigration Reform sent Michigan residents to Wisconsin voter registration stations set up by an immigrant rights group to see whether an illegal immigrant was registering illegal voters. The group said it refused to register the Michigan voters and if they insisted they discarded their forms. Prosecutors will check to ensure the registrations were not mailed in.   | AP                         |  |  |  |
| Milwaukee | Wisconsin     | 29-Oct-04 | presidential | Although the Board of Elections refused a request by the state Republican Party to have 5,619 names and addresses removed from Milwaukee voting lists, the party plans to challenge anyone who tries to vote from those addresses at the polls. A Journal Sentinel review shows many of the names and addresses confirmed some of the problems cited by the GOP, as well as uncovered additional missing addresses. Some cited by the GOP may be explained by clerical errors, however.   | Milwaukee Journal Sentinel |  |  |  |

009479

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|           |           |           |              |   |                            |  |  |  |
|-----------|-----------|-----------|--------------|---|----------------------------|--|--|--|
|           |           |           |              | Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual - including thousands who might be missing an apartment number on their registration - at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm. |                            |  |  |  |
| Milwaukee | Wisconsin | 31-Oct-04 | presidential |   | Milwaukee Journal Sentinel |  |  |  |
| Milwaukee | Wisconsin | 2-Nov-04  | presidential | The tires of 30 vans Republicans had rented to help get out the vote were slashed.  | AP                         |  |  |  |
|           |           |           |              |   |                            |  |  |  |
|           |           |           |              |   |                            |  |  |  |

083600



009482

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Naxis Articles - Intimidation and Suppression

| Resolution of Incident /allegation | Source of Resolution 1 | Source of Resolution 2 |
|------------------------------------|------------------------|------------------------|
|                                    |                        |                        |
|                                    |                        |                        |
|                                    |                        |                        |
|                                    |                        |                        |
|                                    |                        |                        |

009483

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009784

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |                                     |  |
|--|-------------------------------------|--|
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |
| <p>In the Jacksonville area, Republicans say they have a list of 2,663 newly registered voters from mostly Democratic black communities whose registration could be fraudulent. Republicans have said that poll watchers will enforce a portion of Florida law allowing poll watchers to challenge a voter at the polls. The St. Petersburg Times on Thursday quoted Gov. Jeb Bush as saying he would not have a problem with Republican poll watchers challenging the eligibility of voters</p> | <p>The Ledger, October 31, 2004</p> |  |
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |

009485



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009486

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |

009487

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression**

|   |   |  |
|---|---|--|
|   |   |  |
|   |   |  |
| <p>A judge turned down a request Monday to block Republican poll challengers from observing Tuesday's election in predominantly black neighborhoods of the city.</p> <p>Jefferson County Circuit Judge Thomas Wine denied a restraining order sought by the American Civil Liberties Union of Kentucky, which claimed the poll watchers could intimidate minority voters or slow voting. The ACLU also filed suit in federal court seeking to bar the poll challengers, but there has been no hearing.</p>  | <p>AP, November 4, 2003</p>                               |  |
| <p>Precinct workers in western Louisville and Newburg reported no problems with Republican vote challengers and predicted a high voter turnout yesterday - in contrast to fears that the challengers would intimidate black voters and keep them from the polls. Even as the number of targeted precincts dropped to 18 because of staffing and training issues, the controversy drew national attention, with the Democratic National Committee and the National Association for the Advancement of Colored People sending personnel to help organize a get-out-the-vote effort. The NAACP also stationed volunteers outside polling places to ensure that voters were treated fairly.</p> | <p>The Courier Journal,<br/>         November 5, 2003</p> |  |
|   |   |  |

883600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

683600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|  |   |  |
|--|---|--|
|  |   |  |
|  |   |  |
|  |   |  |
| <p>A US District judge ordered all political parties to refrain from talking to voters at the polls. The ruling came in response to a suit filed by the Detroit NAACP which said it had received complaints from 19 polling places that state and national GOP poll monitors were harassing voters. Republicans disputed the claim. The suit charged GOP workers were harassing voters in violation of a state law that prohibits challengers from talking to voters. The suit also said the watchers challenged the eligibility of Detroit voters to cast ballots, prompting some to leave without voting. The Detroit NAACP president said it was an attempt to reduce the black vote in next years state and congressional elections.</p> | <p>November 9, 2003<br/>         Detroit Free Press</p> |  |
|  |   |  |

009490

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009491

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009492

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

0087800



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |                                       |  |
|--|---------------------------------------|--|
|  |                                       |  |
|  |                                       |  |
|  |                                       |  |
|  |                                       |  |
|  |                                       |  |
| After a court fight, scheduled hearings on the challenges were canceled, but voters still received mail notifying them they were being challenged. | January 7, 2005,<br>Columbus Dispatch |  |
|  |                                       |  |
|  |                                       |  |
|  |                                       |  |

009494

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |                                     |  |
|--|-------------------------------------|--|
|  |                                     |  |
| District court judges blocked the challenges because they could cause delays, confusion and intimidation. 6th Circuit overrules the lower court rulings. | Columbus Dispatch, November 2, 2004 |  |
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |
|  |                                     |  |

009495

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009499

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009497

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

867600

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Intimidation and Suppression

|   |   |  |
|---|---|--|
|   |   |  |
|   |   |  |
|   |   |  |
| <p>The Washington-based immigration issues group ProjectUSA has backed down on its plan to challenge blocs of Utah voters in areas with high immigrant populations.</p> <p>Craig Nelsen, president of ProjectUSA, had said he intended to challenge the voters in Utah's 3rd Congressional District based on concerns that illegal immi-grants would vote for Congressman Chris Cannon in Tuesday's primary.</p> <p>Nelsen said Friday that after analyzing voter registration rolls and U.S. Census Bureau data for Utah's 3rd Congressional District, his group "didn't find any (patterns) that would warrant a challenge." Election officials in Salt Lake and Utah counties echoed Naccarato's relief Friday afternoon that no challenge had been filed. Attomeys in both counties had been scrambling to review the legality of any such challenges.</p> <p>"Our biggest concern was the message it was sending to voters," said Utah County Clerk Jim Jackson. "It almost smacked of discrimination against a group. That's just not right."</p> | <p>Deseret Morning News,<br/>         June 19, 2004</p> |  |
|   |   |  |

00949966

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|   |  |  |
|---|--|--|
|   |  |  |
|   |  |  |
|   |  |  |
| The GOP withdrew 140 of 1500 claims, admitting they were faulty. Democrats charged that Republicans' real aim was to discourage voters from voting. Voters whose registrations were challenged will have to vote by paper and the Canvassing Board will conduct hearings on whether the votes should count. Challenged voters may make their case at the hearings, at which the burden of proof is on the Republican challengers. | Seattle Post-Intelligencer, November 8, 2005 |  |

009500

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression**

|   |   |   |
|---|---|---|
|   |   |   |
|   |   |   |
|   |   |   |
|   |   |   |
| <p>Amid a renewed push Friday by Republicans to get some 5,600 names removed from Milwaukee voting lists, prosecutors began examining 500 new registrants that a city review indicated are from non-existent addresses. The same review by the city attorney's office, however, raised doubts about the quality of the GOP's original list, finding that hundreds of the addresses that the Republicans claim are invalid and want removed do, in fact, exist. Some others, according to City Attorney Grant Langley, can be explained by data entry errors, not attempted fraud. Late Friday, Langley outlined the review situation in a letter to Lisa Artison, head of the city Election Commission.</p> <p>The letter said the review by his staff and the district attorney's office found cases where the database used by the GOP was corrupted, dropping digits on some homes so otherwise valid addresses showed up as non-existent. In other cases, a check of the original handwritten registration cards showed digits had been transposed by clerks, something that can be corrected at the polls. Langley's letter says the review casts "doubt</p> | <p>Milwaukee Journal Sentinel, October 30, 2004</p> | <p>Milwaukee Journal Sentinel, November 1, 2004</p> |

009501



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Intimidation and Suppression

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009503



EAC Voting Fraud-Voter Intimidation Preliminary Research

Nexis Articles - Noncitizen Voting

| City / County   | State          | Date      | Type of Election       | Alleged Instance of fraud  | Original Source          | Source1 | Source 2 | Source 3 |
|-----------------|----------------|-----------|------------------------|--|--------------------------|---------|----------|----------|
| Maricopa County | Arizona        | 5-Nov-05  |                        | 159 noncitizens were found on the voting rolls. The county recorder said all of the cases involved people who misunderstood voting requirements. The county attorney nonetheless has charged ten of the immigrants with felonies.  | LA Times                 |         |          |          |
| Compton         | California     | 12-Feb-02 | mayor and city council | After an election legal challenge, two incumbents who originally lost were reinstated. In her ruling, the judge said numerous noncitizens voted illegally.   | Los Angeles Times        |         |          |          |
| Pontiac         | Michigan       | 11-Dec-01 | mayor                  | Losing candidate claims there was "suspect" noncitizen voting  | Detroit Free Press       |         |          |          |
|                 | Minnesota      | 23-Feb-05 | presidential           | Secretary of State Kiffmeyer said that she has asked several county attorneys across Minnesota to investigate evidence her staff uncovered that suggests some noncitizens illegally registered to vote in the November election. "So far, at least, we have 32 people who have registered to vote and seem to be -- allegedly -- not U.S. citizens," Kiffmeyer said. Some of the 32 also voted in the election. Both registering and voting are illegal for noncitizens. Kiffmeyer said her staff discovered the possible criminal offenses by comparing voter registration cards to driver's license records, which now identify noncitizens visiting the United States on visas. | Saint Paul Pioneer Press |         |          |          |
|                 | North Carolina | 24-Oct-04 |                        | A Washington-based advocacy group for tougher immigration laws recently said that it believes illegal immigrants may be registered to vote in North Carolina because they were able to sign up when obtaining driver's licenses without Social Security numbers. State elections and Division of Motor Vehicles officials say they've run two checks - one in 2002 and again this year - of people who received driver's licenses without proof of citizenship and found only a handful who had registered to vote. Those cases are being investigated, they said.   | AP                       |         |          |          |
| Houston         | Texas          | 28-Jan-05 | state house            | Republican representative ousted narrowly by Democratic opponent alleges there was noncitizen voting in the election   | Dallas Morning News      |         |          |          |
|                 | Utah           | 30-Aug-05 |                        | The Attorney General will investigate allegations in a legislative audit that found evidence of fourteen people believed to be noncitizens who have voted in a past election. The auditors office has said that a follow up investigation found that 6 of the 14 were actually citizens, two were confirmed by immigration authorities as having prior deportation orders and the other 6 are still under review. Of the six that were citizens, three had their Social Security numbers mistyped in the database and three were naturalized citizens.   | Desert Morning News      |         |          |          |

009504

009505

009506

009507

009508



| Resolution of Incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |

009509

019600

009511

009512

009513

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

| City / County   | State     | Date      | Type of Election       | Alleged instance of fraud   | Original Source           | Source1 | Source 2 | Source 3 |
|-----------------|-----------|-----------|------------------------|---|---------------------------|---------|----------|----------|
| Phenix City     | Alabama   | 31-Aug    | municipal              | The Attorney General and DA are investigating allegations of buying of absentee ballot votes  | Columbus Ledger-Enquirer  |         |          |          |
| Pulaski         | Arkansas  | 29-Aug-02 | US House               | Candidate says opposing campaign's consultant was paying residents of black nursing homes to cast absentee ballots and trying to skew the vote of black voting precincts in some cases.   | Arkansas Democrat-Gazette |         |          |          |
| Washington Park | Illinois  | 17-May-01 | village                | Candidate alleges that one voter was paid not to vote after being paid to vote absentee and two other people, possibly noncitizens, were paid for absentee ballots.   | Belleville News-Democrat  |         |          |          |
| East St. Louis  | Illinois  | 30-Jun-05 | county                 | 5 convicted of consprng to buy votes with cash, cigarettes and liquor   | Chicago Sun Times         |         |          |          |
| Berrien County  | Indiana   | 16-Apr-05 | city commission        | A Berrien County judge Friday overturned the recall of Glenn Yarbrough in a civil trial against the city of Benton Harbor and Clerk Jean Nesbitt. In his ruling, Judge Paul Maloney said the true will of the people was violated by gross voter fraud in February's recall election. He cited bought votes, forged ballots, and jobs promised in return for "yes" votes, crimes allegedly committed by someone other than Yarbrough. | South Bend Tribune        |         |          |          |
| Clay            | Kentucky  | 24-Oct-02 | county                 | federal prosecutors are investigating absentee vote buying  | Courier Journal           |         |          |          |
|                 | Kentucky  | 6-Nov-02  | primary                | In Knott County, there were nearly a dozen complaints in the primary alleging vote-selling for drugs, said assistant commonwealth's attorney Lori Daniel, but no one has admitted it. She said the attorney general's office has a pending investigation in Knott County. Reports of vote-buying also were reported in Magoffin, Pike and Floyd counties during the primary.  | Courier Journal           |         |          |          |
| London          | Kentucky  | 16-Sep-04 | 2002 judicial          | Man found guilty of paying \$10 each to a group in a church parking lot after voting  | AP                        |         |          |          |
| Winnfield       | Louisiana | 12-Apr-02 | police chief and mayor | Losing candidate accuses opponent of paying ten people to vote  | Daily Town Talk           |         |          |          |
| Marksville      | Louisiana | 15-May-02 | mayoral                | Two men accused of buying votes for small amounts of money  | AP                        |         |          |          |
| Iberville       | Louisiana | 13-Dec-02 | primary                | Iberville Parish Councilman Howard Oubre Jr. and three other Plaquemine residents were arrested Thursday for allegedly paying people to vote absentee in a recent election. Oubre went into the community and solicited people to vote absentee in the Oct. 5 primary election. Oubre allegedly paid these people between \$3 and \$10  | The Advocate              |         |          |          |
| River Rouge     | Michigan  | 4-Apr-04  | mayoral                | State police are looking into allegations that the mayor's supporters offered payments o up to \$25 for absentee votes  | Yahoo News                |         |          |          |

009514

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

|                |                |           |              |  |                         |  |  |  |
|----------------|----------------|-----------|--------------|--|-------------------------|--|--|--|
| Ingham         | Michigan       | 6-Oct-04  | presidential | The Michigan Republican Party accused Michael Moore of bribing students to vote in the presidential election. The party sent letter to prosecutors in four counties. As part of his tour, Moore tossed out packets of low-priced instant noodles and 12-packs of Hanes briefs to students who promised they would vote.  | Lansing State Journal   |  |  |  |
| Detroit        | Michigan       | 15-Dec-05 | mayoral      | Detroit's top elections official said Wednesday she is concerned that people may have sold votes on the eve of the city's Nov. 8 election, and said she may ask the Wayne County prosecutor to investigate.<br>Gloria Williams, director of elections for City Clerk Jackie Currie, cited a Nov. 7 incident in which a Detroit man told police he thought he witnessed a scheme to pay people for votes as he stood in line to cast an absentee ballot.<br>Detroit police took a report from the man but closed the case without further contact with the suspects or witnesses. A woman cited in the police report said nothing improper happened - political activists were coordinating with poll workers. Williams said the question is whether the people were required to vote a certain way in exchange for jobs handing out literature and promoting candidates at voting places the next day. | Detroit Free Press      |  |  |  |
| Tippah         | Mississippi    | 27-Mar-04 | sheriff      | Seven people have been charged for buying people's votes on absentee ballots   | AP                      |  |  |  |
| East St. Louis | Missouri       | 2-Jun-05  | mayoral      | A precinct committeeman and four others are on trial, accused of using money from the County Democrats to buy votes  | St. Louis Post-Dispatch |  |  |  |
| Lenoir         | North Carolina | 9-Mar-03  | sheriff      | For \$ 10, \$ 20 or \$ 25, dozens of people -- perhaps more than 300 -- sold their votes in a race that saw a veteran Democratic sheriff turned out of office. The State Bureau of Investigation has been on the case for months, assigning as many as 10 agents to it. The U.S. Attorney's Office in Charlotte is also involved. So far, there have been no indictments.  | News and Observer       |  |  |  |

009515

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

|                            |               |           |                           |   |                              |  |  |  |
|----------------------------|---------------|-----------|---------------------------|---|------------------------------|--|--|--|
| Rosebud Indian Reservation | South Dakota  | 23-Dec-02 | US Senate                 | <p>Republicans investigating Election Day irregularities in South Dakota based allegations of vote buying on rumors discussed on the Rosebud Indian Reservation, says David Norcross, a New Jersey lawyer who presided over the search for fraud.</p> <p>Republicans collected statements on a wide range of events, including accusations of people offering multiple names to vote and improper use of polling places by Democratic workers. The most serious claims, however, were three affidavits signed by Native Americans from the Mission area who said they were offered \$10 to vote by the driver of a van with a Tim Johnson for Senate sign in the window.</p> <p>Attorney General Mark Barnett has said that two of those statements were false and the third was suspect, but not before the allegations became the basis of reports in several national media outlets.</p> | Argus Leader                 |  |  |  |
| Pine Ridge Reservation     | South Dakota  | 2-Nov-04  | presidential              | On the Pine Ridge Indian Reservation, investigators are looking into Republican allegations of vote-buying.   | AP                           |  |  |  |
| Gregg                      | Texas         | 9-Sep-03  | constitutional amendments | DA is investigating an employer for allegedly giving concert tickets to workers who cast early ballots  | Tyler Morning Telegraph      |  |  |  |
| McAllen                    | Texas         | 20-Aug-05 | mayoral                   | Grand jury is investigating whether "politiqueras" tried to buy absentee ballots  | The Monitor                  |  |  |  |
| Hidalgo                    | Texas         | 22-Dec-05 | mayoral                   | Ten people were indicted on allegations of telling people who to vote for and unlawful solicitation of ballots for money.   | AP                           |  |  |  |
| Falfurrias                 | Texas         | 11-Sep-04 | city                      | Candidate alleges the opposing campaign bribed some voters with money, beer and cigarettes in exchange for their votes, according to his lawsuit contesting the election  | Corpus Christie Caller Times |  |  |  |
| Appalachia                 | Virginia      | 11-May-05 | council                   | State police are looking at claims that supporters of a candidate offered food, cigarettes and liquor to residents in a public housing complex for letting the supporter fill out absentee ballots for them   | The Post                     |  |  |  |
| Logan                      | West Virginia | 19-Jul-04 | federal primaries         | County sheriff pleads guilty to conspiring to buy votes in elections he was running in  | AP                           |  |  |  |
| Lincoln                    | West Virginia | 31-May-05 | primary                   | 12 people are indicted for selling their votes for \$20 or \$40.  | AP                           |  |  |  |
| Logan                      | West Virginia | 29-Nov-05 | various                   | Logan County Clerk plans to plead guilty to conspiring to bribe voters between 1992 and 2002. Prosecutors already have guilty pleas from the county sheriff and the police chief.   | AP                           |  |  |  |
| Logan                      | West Virginia | 2-Dec-05  | House primary             | FBI operates a sting operation by putting up a phony candidate to catch a man engaging in buying votes. Man is being tried for conspiracy to buy votes  | Washington Post              |  |  |  |

009516



**EAC Voting Fraud-Voter Intimidation Preliminary Research**  
**Nexis Articles - Vote Buying**

|       |               |           |         |  |    |  |  |  |
|-------|---------------|-----------|---------|--|----|--|--|--|
|       |               |           |         | Thirteen people have been convicted of vote buying in the southern part of West Virginia over the last several years, including the 2004 primaries. However, the federal investigation is ongoing. In terms of cooperating witnesses, prosecutors may also continue to rely on Thomas Esposito. In an apparently unprecedented move, the FBI briefly planted the former longtime Logan mayor as a candidate in a 2004 legislative race. Evidence supplied by Esposito and his 75-day candidacy yielded December guilty pleas from two Logan County residents |    |  |  |  |
|       | West Virginia | 1-Jan-06  |         |  | AP |  |  |  |
| Hanna | Wyoming       | 27-Apr-01 | mayoral | State Division of Criminal Investigation said gratuities, such as alcoholic beverages, were allegedly offered in exchange for votes.   | AP |  |  |  |
|       |               |           |         |  |    |  |  |  |

009517

009518

009519

009520

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

| Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |

009521

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Vote Buying

|  |   |  |
|--|---|--|
|  |   |  |
|  |   |  |
|  |   |  |
| 5 Democratic operatives were convicted, four pled guilty | Belleville News Democrat (July 3, 2005) |  |
|  |   |  |

009522

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

|   |  |  |
|---|--|--|
| <p>Republican attorneys fanned out across the state on Election Day to gather affidavits to show vote buying. The State Attorney General (a Republican) says that of the 50 affidavits only three alleged criminal activity, and two of those proved to be false. One person is being investigated. Two of the affidavits were found to have been forged or perjurious. Each affidavit states that the person allegedly signing it calimed to have been picked up by a van driver, offered 10 to vote, taken to the polling place and home again and again offered the 10. Most of the allegations focused on the Rosebud Reservation</p> | <p>1/1/2003, Indian Country Today (Lakota Times)</p> |  |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |
| <p>A special prosecutor was named to oversee an investigation into al-legged vote buying and ballot theft in Appalachia</p>   | <p>Roanoke Times, September 24, 2004</p>             |  |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |

009523

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

|  |  |                            |
|--|--|----------------------------|
|  |  |                            |
|  |  |                            |
|  |  |                            |
| <p>1. August 2003 two acquitted of vote buying in the primary. In June 2003 another man in Lackey was found innocent of vote buying. Two indicted in Knott County pled guilty earlier in August 2003. 15 still under indictment 2. February 3, 2004: Knott County man sentenced to 20 months in prison for vote buying in the 1998 primary. The Knott County Judge-Executive and another man were convicted October 1 of vote buying</p> | <p>August 16, 2003,<br/>         Courier Journal</p> | <p>AP February 3, 2004</p> |

009524



009525





EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

| City/County  | State      | Date                       | Type of Election | Alleged Instance of Fraud   | Original Source                    | Source 1 | Source 2 | Source 3 |
|--------------|------------|----------------------------|------------------|---|------------------------------------|----------|----------|----------|
|              | Arkansas   | 23-Oct-02                  |                  | At least six dead people tried to register to vote, including one helped by a person also listed on campaign-spending reports as having received \$100 from the state Democratic party, said Marty Ryall, Republican Party chairman. Michael Cook, executive director of the Arkansas Democratic Party, said a former staffer had hired two teenagers to register voters and that they took names directly from the phone book. He said the incident happened seven months ago and that party officials are cooperating with the U.S. Attorney's Office.                                | Washington Times                   |          |          |          |
| 0            | California | 16-May-02                  |                  | A Lafayette man has been charged with voter fraud after registering his toy poodle, Barnabas, to vote, a move he says was meant to show lax registration oversight.<br>Donald Miller, 78, has been charged with misdemeanor voter fraud. The Contra Costa County district attorney's office found out about the stunt after reports about Barnabas being called for jury duty in March.   | AP                                 |          |          |          |
| 18th CD      | California | 3-Jun-02                   | congressional    | Several voters have said they were tricked into registering to vote as Republicans when they were told they were signing a petition to lower taxes or applying for a rebate from the power company or some other falsehood.   | Roll Call                          |          |          |          |
| Stockton     | California | 13-Jul-02                  | congressional    | A Stockton man hired to register Republican voters pleaded guilty to forging someone's name on a voter registration card. The conviction is the first arising from a Republican funded voter registration drive that Democrats allege involved fraud.   | Modesto Bee                        |          |          |          |
| Lynwood      | California | 16-Oct-03                  | city council     | Eight family members of a councilman are charged with registering at nonexistent addresses  | Los Angeles Times                  |          |          |          |
| Stockton     | California | 24-Mar-04                  | unclear          | paid worker pleads guilty to a misdemeanor charge of forging six registration cards in 2001   | Recordnet                          |          |          |          |
| Solano       | California | 20-Oct-04                  | presidential     | Solano County elections officers, suspecting fraud, have sent about 150 voter registration forms to the California Secretary of State's Office for examination.<br>Officials say the questionable forms are the products of intense efforts by both Democrats and Republicans to register voters for the upcoming presidential election. That zeal, further fueled by cash given to so-called "bounty hunters" who sign up voters, may lead to intentional errors on voter forms, officials said - a misspelled name, a fabricated street address, a rearranged Social Security number. | Tri-Valley Herald (Pleasanton, CA) |          |          |          |
| Hayward City | California | 1-Nov-05                   | school board     | Roger Treskunoff, 51, a former school board candidate and former Hayward City Councilman was charged with creating fictitious names and registering those names as voters with the Alameda County Registrar of Voters.  | Contra Costa Times                 |          |          |          |
| San Joaquin  | California | March 24, 200; 4/6/16/2005 | state senate     | County says it is examining 1500 voter registration cards for fraud because of similar looking signatures.  | Recordnet                          |          |          |          |

009528

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|        |          |           |              |   |                              |  |  |  |
|--------|----------|-----------|--------------|---|------------------------------|--|--|--|
| Denver | Colorado | 16-Oct-04 | presidential | A worker at the Election Commission found a registration form with her own name on it. When another form was cross-referenced with Vital Records, it was found to be from a dead person. Denver workers have forwarded 200 suspicious registrants to the DA. The voter outreach coordinator says the computer immediately flags names of voters who have registered more than once. Several other counties have found suspect voter registration forms.   | Rocky Mountain News          |  |  |  |
|        | Colorado | 17-Oct-04 | presidential | The Secretary of State accused the Attorney General of not doing enough to prosecute potential ballot crimes. The Secretary confirmed that 6,000 felons are registered to vote. A Denver woman told a TV station she had registered to vote 25 times and signed up several friends up to 40 times to help her boyfriend, a paid staffer for a community group registering voters  | Atlanta Journal Constitution |  |  |  |
|        | Colorado | 18-Oct-04 | presidential | With just two weeks before the Nov. 2 election, the state has been rocked by evidence that some voter-registration drives have submitted applications with forged signatures. In other cases, would-be voters have applied to vote as many as 40 times.<br>At the same time, some registration drives have collected applications and then failed to submit them by the Oct. 4 deadline, prompting Secretary of State Donetta Davidson to announce the use of provisional ballots last week.<br>At yesterday's meeting with county clerks and district attorneys, Mrs. Davidson announced procedures for accepting provisional ballots, which are issued to people who say they have registered but whose names fail to appear on the voter roll. Such ballots would be marked "VRD," for "Voter Registration Drive." The would-be voter would have to produce identification and tell when and where they registered. The ballot later would be checked against the state's voter data-bases. The clerks are referring cases that appear to be blatant fraud, such as forged signatures, to the county attorneys. Bill Ritter, the Denver district attorney, said he saw no pattern of a conspiracy to cheat.<br>But he said he saw no pattern of a conspiracy to cheat. | Washington Times             |  |  |  |
| Denver | Colorado | 28-Oct-04 | presidential | Denver prosecutors charged two people Wednesday with falsely filling out multiple voter forms to boost their pay in a paid registration drive. Criminal cases are pending against four people for questionable registrations in the metro area, and there may be more before investigations are completed.  | Rocky Mountain News          |  |  |  |
| Orange | Florida  | 31-Oct-02 | state senate | The State Attorney is investigating charges of illegal changes to party affiliations on voter registration cards for a primary. The scheme seems to have been targetted at Hispanics.   | Orlando Sentinel             |  |  |  |

009529

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|       |         |           |                          |   |                       |  |  |  |
|-------|---------|-----------|--------------------------|---|-----------------------|--|--|--|
|       | Florida | 23-Oct-04 | presidential             | Officials say that more than 4,200 students from many colleges and universities in the state had their party affiliation switched without them knowing and tricked into registering Republican when they were asked to sign an assortment of petitions and forms. Some students attributed the work to a company working for the Republican Party   | AP                    |  |  |  |
| Duval | Florida | 29-Oct-04 | presidential             | Elections officials asked prosecutors to investigate possible voter fraud involving 25 registration forms with apparently bogus addresses.  | Telegraph Herald (IA) |  |  |  |
|       | Florida | 31-Oct-04 | presidential             | Students at Florida State and Florida A&M universities, some of whom signed petitions to legalize medical marijuana or impose stiffer penalties for child molesters, unknowingly had their party registration switched to Republican and their addresses changed. Officials say students at the University of Florida in Alachua County have made similar complaints and that about 4,000 potential voters in all have been affected. Local papers have traced some of the problems to a group hired by the Florida Republican Party, which has denounced the shenanigans. Switching voters' party affiliations does not affect their ability to vote, but changing addresses does, because when voters shows up at their proper polling places, they will not be registered there. | Washington Post       |  |  |  |
|       | Florida | 15-Dec-05 | constitutional amendment | Fourteen months after a campaign to increase Florida's minimum wage drew allegations of voter fraud, a federal judge in South Florida has ruled at least some of those accusations against grass roots political group ACORN were so baseless they amount to defamation. Stuart alleged that ACORN improperly handled registration forms when it conducted voter registration drives, including not submitting Republican registrations to election officials. The judge upheld ACORN's counterclaim that Stuart's lack of evidence made his allegations libel and slander. An investigation by the Florida Department of Law Enforcement also found no evidence of criminal activity at ACORN, department officials confirmed Wednesday.   | St. Petersburg Times  |  |  |  |

009530

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                 |           |           |               |   |                            |  |  |  |
|-----------------|-----------|-----------|---------------|---|----------------------------|--|--|--|
| Fulton County   | Georgia   | 4-Nov-05  | presidential  | The U.S. attorney for Georgia's Northern District is investigating the circumstances surrounding more than 2,400 "entirely fraudulent" voter registration applications submitted to Fulton County prior to the November 2004 elections, county elections officials say. Most of those suspect applications were submitted to the Georgia Secretary of State in September 2004 by the Georgia Coalition for the Peoples' Agenda, according to Atlanta attorney Harry W. MacDougald, a member of the Fulton County Board of Registration and Elections. Details of the federal investigation surfaced as part of litigation that challenges as unconstitutional Georgia's new voter photo identification law. Common Cause v. Billups. No. 4:05CV201 (N.D. Ga.). MacDougald made the investigation public in an affidavit submitted on behalf of defendants in the case | Fulton County Daily Report |  |  |  |
| Chicago         | Illinois  | 12-Mar-04 | primary       | Chicago election officials say as many as 2,000 fraudulent voter registrations have turned up in advance of Tuesday's primary election. Two suspects are under investigation, the Chicago Tribune said, both of whom gathered registrations on behalf of the Puerto Rico Federal Affairs Administration.  | UPI                        |  |  |  |
| East St. Louis  | Illinois  | 30-Oct-04 | supreme court | Illinois Republicans on Friday urged officials to look into "potential instances of massive voter fraud" in East St. Louis, showing pictures of an East St. Louis Democratic precinct committeemen's home that dozens of people registered to vote have listed as their address. But it turns out that that address and another called into question aren't single-family homes but are boarding houses or apartments that may house dozens of people.  | St. Louis Post Dispatch    |  |  |  |
| Anderson        | Indiana   | 11-Mar-04 | unclear       | Voter registered under the address of his rental property in another town faces perjury charges   | WishTV                     |  |  |  |
| St. Martinville | Louisiana | 17-Jul-03 | city council  | 5 people are arraigned on charges of including false information on their voter registration cards  | Daily Advertiser           |  |  |  |
| St. Martinville | Louisiana | 17-Dec-03 | city council  | City Councilwoman indicted for submitting false information to register to vote during her re-election campaign and persuaded three people not in the district to fill out registration forms; the voters were charged as well  | 2 The Advocate             |  |  |  |
|                 | Maryland  | 17-Jun-01 |               | An 82-year-old woman signed her dog's name on a voter registration card to test the system. No charges were filed.  | Washington Post            |  |  |  |
| Lansing         | Michigan  | 28-Oct-04 | presidential  | Ingham County sheriff's detectives have turned over to prosecutors the findings of their investigation into hundreds of phony voter registration forms from a state advocacy group. It appeared that some PIRGIM workers went through a Lansing phone book and forged people's signatures on forms  | Lansing State Journal      |  |  |  |
| Coates          | Minnesota | 31-Oct-02 | all           | 94 voter registration forms had false addresses matching a strip club   | Washington Times           |  |  |  |

009531

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|             |           |           |  |   |                              |  |  |  |
|-------------|-----------|-----------|--|---|------------------------------|--|--|--|
| Minneapolis | Minnesota | 17-Oct-04 | presidential   | A former ACORN official arrested for running a stop sign had 300 voter registration forms, some of them months old, in his trunk. State law requires they be submitted to the secretary of state within 10 days.  | Atlanta Journal Constitution |  |  |  |
| St. Louis   | Missouri  | 7-Mar-01  | city   | St. Louis Prosecutor Jennifer Joyce convened a grand jury that is investigating 3,800 suspect voter registration cards, including several for dead aldermen. The cards were turned in Feb. 7, the deadline to register voters. Joyce said there have been no indictments.   | St. Louis Post-Dispatch      |  |  |  |
| St. Louis   | Missouri  | 17-Apr-01 | presidential<br>general election<br>and mayoral<br>primary | FBI subpoenas election board records on all people who registered to vote, cast ballots, was turned away at the polls, or whose voter registration was rejected from October 1 [2000] through March 6 [2001]; Senator Bond calls for further investigations because his office learned from state election officials that 24,000 registered voters in the city and 33,000 voters in the county were registered to vote somewhere else | St. Louis Post-Dispatch      |  |  |  |
| St. Louis   | Missouri  | 17-Dec-04 | mayoral  | Six plead guilty to dozens of crimes involving falsifying voter registration forms  | St. Louis Post Dispatch      |  |  |  |
|             | Nevada    | 17-Oct-04 | presidential   | Democrats said Voters Outreach of America, a Republican funded registration group run by Sprouls & Associates, destroyed Democratic voter registration forms. A former employee of the group told a Nevada TV station that registrations collected from Democrats had been destroyed instead of filed with the elections office. The head of the company denied the accusations   | Atlanta Journal Constitution |  |  |  |

009532



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                   |                |           |                |  |                      |  |  |  |
|-------------------|----------------|-----------|----------------|--|----------------------|--|--|--|
| Clark County      | Nevada         | 31-Oct-04 | presidential   | <p>Voting Registrar Lomax said he found that canvassers returned stacks of 1,000 completed registration forms that often contained 30 to 50 applications filled out in the same handwriting. Lomax had no total figure for such fraudulent registrations.</p> <p>He also found that canvassers registered the same individuals several times over the span of a week.</p> <p>Some legitimately registered voters called to ask why they were getting registration forms--with their party affiliation changed, Lomax said. Apparently some canvassers went through the phone book and reregistered people without their consent, listing their parties incorrectly, Lomax said. Though registration drive organizers told Lomax's office that canvassers were paid by the hour, many canvassers told his staff and even provided pay stubs that showed they were paid \$2 for every completed registration form they collected in malls, stores and neighborhoods, Lomax said. "They were on both sides. It wasn't just Democrats, it wasn't just Republicans," Lomax said. "The money was clearly the root of all evil here. They were paying people to register the voters."</p> | Chicago Tribune      |  |  |  |
|                   | New Mexico     | 10-Sep-04 |                | US Attorney forms a task force after finding two teenagers registered to vote  | Albuquerque Journal  |  |  |  |
| Bernalillo County | New Mexico     | 15-Sep-04 | presidential   | Three Republican candidates want to examine all voter registration forms sub-mitted by a woman who, while working for a group that signs up new voters, reg-istered a 13-year-old New Mexico boy.  | AP                   |  |  |  |
|                   | New York       | 19-Sep-02 | gubernatorial  | Dead voters were among the thousands of flawed voter registrations submitted by campaign workers of Governor Pataki during an enrollment drive, New York City officials determined   | Poughkeepsie Journal |  |  |  |
| Bronx             | New York       | 23-Jun-03 | gubernatorial  | Bronx DA and a grand jury investigate whether Rikers Island supervisors filled out registration cards in the names of inmates (such inmates are eligible to vote)  | Newsday              |  |  |  |
| Queens            | New York       | 15-Sep-04 | state assembly | About 100 people in the Flushing area gave commercial addresses on voter registration forms, raising suspicion at polling sites yesterday that may cast a shadow over the assembly race.   | Newsday              |  |  |  |
| Greensboro        | North Carolina | 6-Dec-01  |                | Imtiaz Ahmed Siddiqui pleaded guilty Thursday to voter fraud in a brief fed-eral court hearing that included no mention of the allegation that he may be ac-quainted with terrorists. Siddiqui, 31, answering questions in halting English, admitted he signed a voter registration form that identified him as a U.S. citizen when he got a driver's license in Durham in August. He is a citizen of Pakistan.  | AP                   |  |  |  |

009533

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                    |                |           |              |  |                     |  |  |  |
|--------------------|----------------|-----------|--------------|--|---------------------|--|--|--|
| Charlotte          | North Carolina | 24-Oct-04 | presidential | Officials are investigating ACORN because an ACORN organizer found that one of its workers had faked about 70 registrations. The worker was fired and the information turned over to the state board. A similar problem with a consumer interest group in Wake County has also been turned over to state officials   | Charlotte Observer  |  |  |  |
|                    | North Carolina | 24-Oct-04 |              | The Charlotte Observer found more than 60,000 people who appear to be registered in both Carolinas. Alamance County Sheriff says illegal immigrants are registering to vote using false documents at drivers license offices. North Carolina is investigating two groups that may have falsely registered new voters. Some are worried that noncitizens could vote because in North Carolina one can get a drivers license without a social security number. The Elections division and the DMV ran two checks of people who received drivers licenses without proof of citizenship and found only a handful who had registered to vote. | AP                  |  |  |  |
| Mecklenburg County | North Carolina | 28-Sep-05 |              | Mecklenburg County commissioner Bill James and Libertarian Lewis Guignard formally challenged the registration of more than 400 homeless voters Tuesday, saying they had improperly registered using commercial addresses. James and Guignard said the 464 voters challenged in their complaint incorrectly used the addresses of the Urban Ministries at 945 N. College St., the Charlotte Rescue Mission at 907 W. First St. or the Salvation Army at 534 Spratt St. to register, even though those are commercial addresses where the voters could not permanently live.  | Charlotte Observer  |  |  |  |
| Cincinnati         | Ohio           | 20-Aug-03 | city council | More than 70 people have claimed a Walnut Hills tailoring shop as their home address while registering to vote, leading the Hamilton County Board of Elections to subpoena the tailor, who is a candidate for Cincinnati City Council.   | Cincinnati Enquirer |  |  |  |
| Franklin           | Ohio           | 8-Sep-04  | presidential | A part-time worker for ACORN was indicted for falsely filling out and signing a voter registration card  | Columbus Dispatch   |  |  |  |
|                    | Ohio           | 15-Oct-04 | presidential | In Hamilton County, the Board of Elections has subpoenaed 19 registered voters who elections officials don't believe exist. The Summit County Board of Elections in Akron has asked Ohio Attorney General Jim Petro to investigate 803 allegedly fraudulent voter-registration cards, many of which appeared to be in the same handwriting. In Lake County, east of Cleveland, several voter-registration cards seem to have forged signatures, elections officials say.   | Cincinnati Enquirer |  |  |  |

009534

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|          |        |           |              |   |                              |  |  |  |
|----------|--------|-----------|--------------|---|------------------------------|--|--|--|
|          |        |           |              |   |                              |  |  |  |
|          | Ohio   | 20-Oct-04 | presidential | State GOP Chair says that the party tried to contact 231,834 new registrants in the five largest counties and had 5.7% returned as undeliverable.   | Columbus Dispatch            |  |  |  |
| Defiance | Ohio   | 31-Oct-04 | presidential | The sheriff arrested a man for submitting 130 phony registration forms with such names as Mary Poppins and Dick Tracy. Authorities say he confessed to being paid in crack cocaine by an NAACP volunteer.   | Dallas Morning News          |  |  |  |
| Parma    | Ohio   | 9-Jan-05  | presidential | Three police officers are being investigated on accusations that they listed police headquarters as their home addresses when registering for the Nov. 2 election, officials said.  | AP                           |  |  |  |
|          | Oregon | 17-Oct-04 | presidential | The Secretary of State announced an investigation into allegations that a paid canvasser with Sproul & Associates had been told to register only Republicans. The head of the organization denied the accusations.  | Atlanta Journal Constitution |  |  |  |
|          | Oregon | 30-Oct-04 | presidential | Chemeketa community colleges, Western Oregon University and the University of Oregon all told similar stories: They were approached on campus and asked to sign a petition, often urging lower auto-mobile insurance rates for students, and then asked to sign or initial a second document, which turned out to be a voter registration card. Many of the students were urged to mark Republican as their party affiliation; others were told to leave the party affiliation section blank but to put their initials next to Republican on that part of the form. Many of the students already were registered voters. Some students didn't realize they were registering to vote, or that their party affiliation was about to change. Nathan Sproul, whose company conducted the registration drive, did not respond to calls seeking comment. His firm has been accused of using similar tactics involving bogus petitions at colleges in Pennsylvania, according to the Pittsburgh Post-Gazette. In an earlier interview with The Oregonian, Sproul confirmed that his canvassers are paid a "bounty" | Newhouse News Service        |  |  |  |

009535

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                 |              |           |                   |  |                           |  |  |  |
|-----------------|--------------|-----------|-------------------|--|---------------------------|--|--|--|
|                 | Pennsylvania | 25-Oct-04 | presidential      | Republicans mailed letters to 130,000 people who had registered to vote in the last 6 months. 10,000 came back as undeliverable. The legal counsel to the state party said Republicans had looked at a sample of the letters and found 15 of 100 of the registrants were dead. The director of a nonpartisan organization says in a transient city many people may have moved over a six month period, and many letters might not have reached people living in shelters or substandard housing. | Philadelphia Inquirer     |  |  |  |
| Allegheny       | Pennsylvania | 28-Oct-04 | presidential      | County investigators have launched an investigation into a scam in which University of Pittsburgh and Community College of Allegheny County students believed they were signing petitions to legalize marijuana for medical use, only to find themselves registered as Republicans.  | Pittsburgh Tribune Review |  |  |  |
| East Providence | Rhode Island | 20-Aug-05 | town primary      | Four people charged with using business addresses to register to vote  | Pawtucket Times           |  |  |  |
| East Providence | Rhode Island | 2-Dec-05  | municipal         | Nine people are accused of registering at business addresses. Charges against two are dropped because they did not sign the registration cards. Three other defendants have been invited to apply to the adult diversion program. Arraignments were postponed for four others. October 30, 2004: As many as 287 people were originally suspected.  | Providence Journal        |  |  |  |
| Rapid City      | South Dakota | 19-Oct-02 | unclear           | forged registration applications by a worker being paid by the application   | Argus Leader              |  |  |  |
|                 | South Dakota | 21-Oct-02 | statewide         | Several counties, almost all of them adjoining an American Indian reservation, submit questionable registration forms to law enforcement   | Argus Leader              |  |  |  |
| Rapid City      | South Dakota | 12-Jul-03 | unclear           | Individual reaches plea agreement for falsifying registration cards  | Midwest News              |  |  |  |
| Codington       | South Dakota | 28-Jul-04 |                   | A Phoenix man accused of forging voter registration forms in Codington County has been sentenced to prison. Howard L. Brewer, 44, pleaded guilty last month to three counts of forgery. He was charged after the county auditor's office received an envelope in April that contained 20 voter registrations. Eight to 10 of the forms were suspicious.  | AP                        |  |  |  |
| Harris          | Texas        | 5-Feb-05  | state legislature | County Tax Assessor-Collector alleges 157 registered had false addresses. County officials are investigating   | Houston Chronicle         |  |  |  |
| Prince William  | Virginia     | 5-May-05  | state legislature | Candidate charged with lying on a registration card and voting in a district where he did not reside.  | Washington Times          |  |  |  |

009536

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|           |           |           |              |  |                            |  |  |  |
|-----------|-----------|-----------|--------------|--|----------------------------|--|--|--|
| Milwaukee | Wisconsin | 31-Oct-04 | presidential | Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual -- including thousands who might be missing an apartment number on their registration - at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm. | Milwaukee Journal Sentinel |  |  |  |
| Madison   | Wisconsin | 10-May-05 | presidential | The vast majority of voters alleged to have been phantoms because their verification forms were returned as undeliverable really exist and their cards were returned because of innocent mistakes in filling out voter registration forms. Of 1,194 verification cards returned, 16 are still be examined  | Wisconsin State Journal    |  |  |  |
| Milwaukee | Wisconsin | 11-May-05 | presidential | Arrest warrants issued and felony charges filed against two workers for Project Vote who admitted to filling out multiple registration cards using fictitious information to earn money  | Milwaukee Journal Sentinel |  |  |  |
| Milwaukee | Wisconsin | 6-Dec-05  | presidential | County DA charges two people affiliated with ACORN for filing false voter registrations  | AP                         |  |  |  |

009537

009538

009539

009540



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

| Resolution of Incident/Allegation  | Source of Resolution 1 | Source of Resolution 2 |
|--|------------------------|------------------------|
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
| June 2005: Paid worker charged with five felony counts of forging voter registration cards (none resulted in fraudulent votes) | Modesto Bee            |                        |

009541

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009543

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009524

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud**

|   |  |  |
|---|--|--|
|   |  |  |
| <p>Nine people are slated to be indicted today on charges of collecting or de-destroying 3,800 bogus voter registration cards that were submitted to the St. Louis Election Board on Feb. 7, 2001, the last day for registering to vote in the hotly contested mayoral primary in March. Nine people have been indicted for trying to register fraudulent voters and destroy the evidence. State registration forms now are numbered and a record is kept of which cards have gone to which groups for voter registration drives. The fake registrations are linked to four temporary workers who had been employed by ACORN.</p> | <p>11/7/2003, St. Louis Post Dispatch</p>      | <p>11/11/2003, St. Louis Post Dispatch</p> |
| <p>Three workers are charged with turning in fraudulent voter registration applications a few weeks before the mayoral primary.</p>   | <p>St. Louis Post-Dispatch (March 5, 2002)</p> |  |
| <p>Prosecutor says all the cards were caught and no one voted illegally.</p>  | <p>St. Louis Post-Dispatch</p>                 |  |
|   |  |  |

009525

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009546

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|   |           |                      |
|---|-----------|----------------------|
|   |           |                      |
|   |           |                      |
|   |           |                      |
|   |           |                      |
|   |           |                      |
|   |           |                      |
| <p>An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.</p> | 11/8/2005 | Akron Beacon Journal |

009547

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud**

|   |                  |                             |
|---|------------------|-----------------------------|
| <p>An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.</p> | <p>8-Nov-05</p>  | <p>Akron Beacon Journal</p> |
| <p>An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.</p> | <p>11/8/2005</p> | <p>Akron Beacon Journal</p> |
|   |                  |                             |
|   |                  |                             |
|   |                  |                             |

009548



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

|   |              |  |
|---|--------------|--|
|   |              |  |
|   |              |  |
|   |              |  |
|   |              |  |
| one indictment on five counts of forgery  | Argus Leader |  |
| Red Earth Villeda, a contractor for the Democratic Party, is investigated. SEE SOUTH DAKOTA SUMMARY | Argus Leader |  |
|   |              |  |
|   |              |  |
|   |              |  |
|   |              |  |

009549

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

009550



009552

009553

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case                                | Court   | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States Court of Appeals for the Eleventh Circuit | 408 F.3d 1349; 2005 U.S. App. LEXIS 8320 | May 12, 2005 | Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the | The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration | No                           | N/A         | No                                    |

009554

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | foundation. | forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the |                              |             |                                       |

009555

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court  | Citation | Date      | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|-----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |           |           | <p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p> |                              |             |                                       |
| McKay v.     | United | 226 F.3d | September | Plaintiff | The trial court   | No                           | N/A         | No                                    |

009556



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court   | Citation                        | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---------------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thompson     | States Court of Appeals for the Sixth Circuit | 752; 2000 U.S. App. LEXIS 23387 | 18, 2000 | challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it |                              |             |                                       |

009557

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p> |                              |             |                                       |

009558

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court  | Citation | Date    | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|---------------------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                     | immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. |                              |             |                                       |
| Nat'l        | United | 150 F.   | July 5, | Plaintiff, national | Defendants  | No                           | N/A         | No                                    |

009559

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case   | Court   | Citation                                 | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--|------|---|--|------------------------------|-------------|---------------------------------------|
| Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | States District Court for the Southern District of Maryland | Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | 2001 | organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not |                              |             |                                       |

009560

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p> |                              |             |                                       |

009561

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p> |                              |             |                                       |

009562

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case                               | Court  | Citation                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|----------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|  |  |                            |                   |   | <p>complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p> |                              |             |                                       |
| Cunningham v. Chi. Bd. of Election Comm'rs | United States District Court for the Northern District of Illinois | 2003 U.S. Dist. LEXIS 2528 | February 24, 2003 | Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed | Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were   | No                           | N/A         | No                                    |

009563

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p> | <p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p> |                              |             |                                       |

009564



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p> |                              |             |                                       |

009565

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |  | preliminary relief was denied.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental | No                           | N/A         | No                                    |

009566

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p> |                              |             |                                       |

009567

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p> |                              |             |                                       |

009568

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | prejudice granted.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA | No                           | N/A         | No                                    |

009569

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p> |                              |             |                                       |

009570

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for |                              |             |                                       |

009571

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                |   | summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.  |                              |             |                                       |
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause | The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place | No                           | N/A         | No                                    |

009572



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p> | <p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p> |                              |             |                                       |

009573

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p> |                              |             |                                       |

009574

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

009575

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case         | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Hileman v. McGinness | Court of Appeals of Illinois, Fifth District | 316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845 | October 25, 2000 | Appellant challenged the circuit court declaration that that the result of a primary election for county circuit clerk was void. | In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been segregated, apportionment was the | No                           | N/A         | No                                    |

009576

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a determination as to whether fraud was evident in</p> |                              |             |                                       |

009577

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case             | Court                     | Citation   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|---------------------------|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|                          |                           |  |              |  | the electoral process. The court reversed the declaration of the trial court, holding that a determination as to whether fraud was involved in the election was necessary to a determination of whether or not a new election was required. |                              |             |                                       |
| DeFabio v. Gummersheimer | Supreme Court of Illinois | 192 Ill. 2d 63; 733 N.E.2d 1241; 2000 Ill. LEXIS 993 | July 6, 2000 | Appellant challenged the judgment of the appellate court, which affirmed the trial court's decision granting appellee's summary judgment motion in action brought by | Appellee filed a petition for election contest, alleging that the official results of the Monroe County coroners election were invalid because none of the 524 ballots cast in  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellee to contest the results of the election for the position of county coroner in Monroe County.</p> | <p>Monroe County's second precinct were initialed by an election judge, in violation of Illinois law. The trial court granted appellee's motion for summary judgment, and the appellate court affirmed the judgment. The Illinois supreme court affirmed, noting that statutes requiring election judges to initial election ballots were mandatory, and uninitialed</p> |                              |             |                                       |

009579

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption. Thus, the supreme court held that the trial court properly invalidated all of the ballots cast in Monroe County's second precinct. The court reasoned that none of the ballots contained the requisite initialing, and neither party argued that any</p> |                              |             |                                       |

009580



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of the uninitialed ballots could have been distinguished or identified as absentee ballots. The supreme court affirmed the judgment because the Illinois statute requiring election judges to initial election ballots was mandatory, and uninitialed ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption.</p> |                              |             |                                       |

009581

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

| City/County              | State       | Date      | Type of Election                  | Alleged instance of fraud  | Original Source           | Source 1 | Source 2 | Source 3 | Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|--------------------------|-------------|-----------|-----------------------------------|--|---------------------------|----------|----------|----------|-------------------------------------|------------------------|------------------------|
| Phillips                 | Arkansas    | 2-Nov-02  | primary                           | The sanitation director for Helena, the Phillips County seat, admitted in court to illegally casting more than 25 absentee ballots in the Democratic primary in May.   | Arkansas Democrat-Gazette |          |          |          |                                     |                        |                        |
| South Gate               | California  | 28-Jan-03 | Treasurer and city council recall | Supporters of the recall, which is being led by the city's two police unions, say city employees have been illegally filling out absentee ballots against the recall.  | Los Angeles Times         |          |          |          |                                     |                        |                        |
| Bridgeport               | Connecticut | 6-Sep-02  |                                   | Election officials found an absentee ballot application for someone who is dead  | Connecticut Post          |          |          |          |                                     |                        |                        |
| Bridgeport and New Haven | Connecticut | 4-Nov-02  | probate judge                     | FBI is investigating potential absentee ballot fraud in Bridgeport Democratic primary and two men face absentee ballot charges involving 2 New Haven primaries   | Connecticut Post          |          |          |          |                                     |                        |                        |
| Hartford                 | Connecticut | 12-Aug    | state legislature                 | former state representative is charged with seven counts of absentee ballot fraud for absentee ballot coercion in a particular apartment complex   | Hartford Courant          |          |          |          |                                     |                        |                        |
| Bridgeport               | Connecticut | 3-Dec-03  | town committee                    | The elections commission wants four brothers to be charged with fraudulent voting for allegedly submitting illegal absentee ballots in the March 2002 Democratic Town Committee primary. The commission alleges that none of the brothers lived in Bridgeport when they voted in those city elections. | Connecticut Post          |          |          |          |                                     |                        |                        |
| Smyrna                   | Delaware    | 3-Aug-05  | town                              | A challenger to the mayor who lost by 2 votes is suing the mayor for personally delivering absentee ballots to minority residents, some of whom were not eligible to vote  | The News Journal          |          |          |          |                                     |                        |                        |
| Winter Garden            | Florida     | 5-Mar-02  | city commissioner                 | Four are charged with forging names on absentee ballots  | AP                        |          |          |          |                                     |                        |                        |
| Volusia                  | Florida     | 3-Oct-03  | city                              | Elections officials inquire into 43 absentee ballot request forms with the wrong date of birth and 3 requests with forged signatures   | Orlando Sentinel          |          |          |          |                                     |                        |                        |
| Winter Haven             | Florida     | 6-Jan-04  | town                              | criminal complaint filed against woman for voting by absentee ballot when she did not live in the district   | Polk Online               |          |          |          |                                     |                        |                        |

009582

Deliberative Process  
Privilege

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

|              |          |           |              |  |                        |  |  |  |  |  |                                    |                                    |
|--------------|----------|-----------|--------------|--|------------------------|--|--|--|--|--|------------------------------------|------------------------------------|
| Hialeah      | Florida  | 21-Mar-04 | city council | Miami-Dade public corruption detectives fanned across Hialeah on Friday, questioning employees of the city's public housing agency, as well as friends and relatives of politicians aligned with Mayor Raul Martinez. Sources close to the investigation say those interviewed were asked about their alleged handling of absentee ballots gathered from voters - many of them elderly - in the city's public housing units. | Miami Herald           |  |  |  |  | A special state prosecutor said he found no evidence of election fraud after a yearlong investigation of absentee voting at the Hialeah Housing Authority during that city's 2003 elections  | Miami Herald, May 11, 2005         |                                    |
| Orlando      | Florida  | 5-Mar-05  | mayoral      | A grand jury is investigating the possible mishandling of absentee ballots by a minority voting advocate who has worked for many campaigns   | Orlando Sentinel       |  |  |  |  | All charges are dropped. Democrats allege the whole case was politically motivated; Florida prosecutors dropped a case charging the mayor with paying a campaign worker to collect absentee ballots. Three others indicted on the same charge were also cleared. | April 21, 2005<br>Orlando Sentinel | April 21, 2005, The New York Times |
| Cook         | Illinois | 15-Mar-02 | state        | ACORN alleges that a man went to a senior citizen home and voted the seniors' absentee ballots   | Chicago Sun-Times      |  |  |  |  |  |                                    |                                    |
| Calumet City | Illinois | 3-Sep-03  | mayoral      | A county judge threw out and reversed an election because of absentee coercion of disabled voters  | Chicago Tribune        |  |  |  |  |  |                                    |                                    |
| Marion       | Indiana  | 1-Nov-02  | county       | The county prosecutor is investigating absentee ballots in which signatures don't match, voter's names were misspelled, and correction fluid was used to change te address   | Indianapolis Star      |  |  |  |  |  |                                    |                                    |
| Madison      | Indiana  | 29-Apr-03 | primary      | State police are investigating whether Democratic primary absentee ballots were delivered to nursing homes that traditionally vote Republican  | Herald Bulletin        |  |  |  |  |  |                                    |                                    |
| Lake         | Indiana  | 11-Jul-03 | town         | Allegations are made of absentee ballots from voters who moved and forged signatures by one person. Case will be heard by a county judge   | Northwest Indiana News |  |  |  |  |  |                                    |                                    |
| Porter       | Indiana  | 31-Mar-04 | town         | Elections board investigates allegations that two ineligible voters voted by bsentee ballots   | Northwest Indiana News |  |  |  |  |  |                                    |                                    |
| East Chicago | Indiana  | 23-Jun-04 | mayoral      | The Indiana Supreme Court is considering whether to order a special mayoral election. The losing candidate claims he would have won if not for hundreds of fraudulent absentee votes cast for his opponent, including some cast on behalf of dead voters   | AP                     |  |  |  |  |  |                                    |                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

|              |             |                                |                 |  |                        |  |  |   |   |  |   |
|--------------|-------------|--------------------------------|-----------------|--|------------------------|--|--|---|---|--|---|
| Anderson     | Indiana     | 11-Dec-04                      | mayoral         | The longtime Democratic Party chairman in Madison County is accused of illegally delivering absentee ballots cast by two Anderson residents. Another man is accused of 17 Class D felony charges for allegedly registering absentee voters, then telling them how to vote and picking up their ballots. A woman is accused of completing an absentee ballot in September 2003 that listed an address where she did not live. | Indianapolis Star      |  |  |   |   |  |   |
| East Chicago | Indiana     | August 6, 2003, August 8, 2003 | mayoral primary | It is alleged that city workers were asked to vote absentee, acquire absentee applications, and given paid election day positions for bringing in absentee votes   | Northwest Indiana News |  |  | four people indicted, one for receiving absentee ballots for people ineligible to vote, one for failing to appear before the grand jury, and two for voter fraud and lying to the grand jury; county judges tosses out 155 absentee ballots but this does not change the election outcome; DOJ begins investigating | WISH TV, November 18, 2003; Northwest Indiana Times, January 21, 2004     |  | Post Tribune, December 15, 2005: two Democratic precinct committeement and three people with ties to a city contractor were charged with pressuring acquaintances to fill out absentee ballots. This brings the total number of people charged to 22 (See East Chicago summary) |
|              | Maine       | 13-Feb-04                      | state house     | Police have begun investigating allegations that elderly voters were pressured into casting absentee ballots for a Green Independent candidate in Maine's special election. Chief Roger Beaupre said Thursday his department has received 10 complaints of voter intimidation from elderly voters who were told votes for candidates other than Green Independent candidate Dorothy Lafortune did not count.                 | AP                     |  |  |   |   |  |   |
| River Rouge  | Michigan    | 4-Apr-01                       | mayoral         | state police investigating absentee coercion in a senior apartment building  | Yahoo News             |  |  |   |   |  |   |
| Detroit      | Michigan    | 8-Nov-05                       | mayoral         | A lawsuit alleges the City Clerk's assistants have allowed voters to fill out ballots in group settings, didn't sign their names on ballot envelopes and advertised their services in nursing homes. She also sent 130,000 unsolicited absentee ballot applications defying a court order.   | Detroit Free Press     |  |  | County Circuit Court judge ruled the Clerk violated the law; There is an election contest and a federal investigation involving irregularities with absentee ballots.   | November 9, 2005 Detroit Free Press; November 24, 2005 Detroit Free Press |  |   |
| Houston      | Mississippi | 10-Nov-05                      | mayoral         | Candidate files a complaint alleging 59 absentee ballots are questionable. He produced a letter from two elderly absentee voters saying they were given plates of food in exchange for allowing his opponent to fill out their ballots.  | AP                     |  |  |   |   |  |   |

009584

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|                |            |           |                                    |  |                       |  |  |  |  |                                |  |  |
|----------------|------------|-----------|------------------------------------|--|-----------------------|--|--|--|--|--------------------------------|--|--|
|                | Missouri   | 19-Sep-04 | gubernatorial                      | The state Democratic Party accused Republicans of coercion when they asked county clerks to send the names of people who had requested absentee ballots  | AP                    |  |  |  |  |                                |  |  |
| East St. Louis | Missouri   | 5-Jan-05  | city                               | investigations by the state attorney and the FBI into unspecified absentee ballot fraud  | Post Dispatch         |  |  |  |  |                                |  |  |
| Tonopah        | Nevada     | 23-Oct-02 | local general and primary election | The FBI investigates questionable absentee ballot requests   | Pahrump Valley Times  |  |  |  |  |                                |  |  |
| Las Vegas      | Nevada     | 26-Apr-03 | assembly                           | Man is indicted because he voted other people's ballots using absentee voter forms for people who lived outside the district.  | AP                    |  |  |  |  |                                |  |  |
| Atlantic City  | New Jersey | 31-Oct-01 | Mayoral                            | Mayor Whelan's campaign has alleged that street operatives for the mayor's challenger, Councilman Lorenzo Langford, tricked voters into requesting absentee ballots and then went to their homes to bully them into filling the ballots out for Langford. The Whelan campaign has also alleged that Langford has stockpiled absentee ballots to fill out fraudulently. The Langford campaign yesterday denounced Whelan's actions as a means of suppressing voter rights and said it would file a federal civil-rights lawsuit this week.                          | Philadelphia Inquirer |  |  |  |  |                                |  |  |
| Palisades Park | New Jersey | 6-Nov-02  |                                    | The Deputy Attorney General said in a court filing that the prosecutor is investigating four types of irregularities: "1) improprieties in the manner in which voters requested absentee ballots; 2) instances where the voter has stated that they received assistance in voting but that fact is not noted on the voter certification; 3) instances where the absentee ballot was delivered to the Board of Elections by a person other than the one to whom the voter gave the ballot; 4) instances where the voter gave an unmarked ballot to another person." | The Record            |  |  |  | 276 absentee ballots from the 2002 election in Palisades Park are still impounded in the office of Patricia DiCostanzo, the Bergen County superintendent of elections. | October 4, 2004,<br>The Record |  |  |
| Atlantic City  | New Jersey | 9-Jul-03  | county primary                     | Board of elections requests an inquiry into alleged forged absentee ballots  | Atlantic County News  |  |  |  |  |                                |  |  |
| Passaic        | New Jersey | 22-Sep-04 | county                             | The FBI is investigating charges that voters targeted by a Democratic campaign had their signatures forged or had been pressured or misled into voting absentee  | Heral News (Passaic)  |  |  |  |  |                                |  |  |

009585

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|                    |                |           |                      |  |                             |  |  |  |  |  |  |  |
|--------------------|----------------|-----------|----------------------|--|-----------------------------|--|--|--|--|--|--|--|
|                    | New Jersey     | 4-Oct-04  |                      | In the city of Passaic, three dozen voters claimed they'd been victims of absentee ballot fraud in 2003.   | The Record                  |  |  |  |  |  |  |  |
| Albany County      | New York       | 8-Mar-04  | special primaries    | 131 absentee ballots were delivered by a ward leader, leading to vague allegations of coercion. All absentee ballots and machines impounded under a court order  | Albany Times Union          |  |  |  |  |  |  |  |
| Albany County      | New York       | 10-Mar-04 | county legislature   | One person filled in more than 140 signed absentee ballot applications, and there were other administrative errors in absentee ballot distribution and return. The candidates made a deal before the judge ruled on the case to have a special election; the absentee ballots are not counted  | Albany Times Union          |  |  |  |  |  |  |  |
| Haskell            | Oklahoma       | 7-Nov-02  | district attorney    | An absentee ballot scandal is being investigated in Haskell County, where one man allegedly admitted notarizing 42 absentee ballots without having the voters present while another man helped him, the District Attorney said.  | Dañy Oklahoman              |  |  |  |  |  |  |  |
| Providence         | Rhode Island   | 23-Aug-02 | mayoral              | Elderly woman says strangers coerced her into giving them her ballot   | Providence Journal-Bulletin |  |  |  |  |  |  |  |
| Senate District 30 | South Carolina | 27-Sep-04 | state senate primary | A person with connections to the Williams campaign nicknamed "The Voter Man" convinced elderly voters, some living in residential care facilities, to fill out absentee ballot registration forms. Some say they never received a ballot, even though records indicate a ballot was cast in their names.<br>* At least one staff member at a Mullins care facility said non-communicative Alzheimer's patients were coaxed into casting absentee ballots.<br>* Another person with ties to the Williams campaign turned in nearly 60 ab-sentee ballots to election officials, many from elderly voters. While not tech-nically illegal, the volume of absentee votes raised eyebrows within the Norwood campaign. As a result of suspected fraud the party ordered a new election and the cases are being criminally investigated. | The State                   |  |  |  |  |  |  |  |

009586

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

|             |              |           |                  |   |                          |  |  |  |  |   |  |  |
|-------------|--------------|-----------|------------------|---|--------------------------|--|--|--|--|---|--|--|
|             | South Dakota | 20-Oct-02 | statewide        | several counties forward questionable absentee ballot requests  | Angus Leader             |  |  |  | October 25, 2002: Red Earth Villeda, a former Democratic contractor is investigated; October 27, 2002: State and federal agents target 25 South Dakota counties; October 31, 2002: no illegally cast ballots are found (see South Dakota summary)  | Argus Leader                                |  |  |
| Shannon     | South Dakota | 30-Oct-04 | presidential     | The prosecutor in Fall River County says he will investigate possible multiple voting by absentee ballot. The multiple ballots were cast by fewer than 10 people  | AP                       |  |  |  |  |   |  |  |
| Sioux Falls | South Dakota | 2-Nov-04  | senatorial       | Three former Republican notary publics pled guilty to signing absentee ballots without witnessing the signatures. Three other former GOP workers are charged, as is one Daschle staff person accused of not being present for two notary applications. Officials say none of the incidents affected any votes | AP                       |  |  |  | A fourth former employee of the South Dakota Republican Party's get-out-the-vote operation has pleaded guilty to improperly notarizing absentee-ballot re-quests, and another who had pleaded not guilty will appear in court next week to change his plea. Six workers for the GOP Victory effort resigned last month after questions surfaced about some absentee-ballot applications collected at college campuses across the state. Charges were filed after officials said the workers notarized applications collected by other workers, violating a state law that requires notaries to witness documents being signed before they can give them their official seal. | November 4, 2004, Argus Leader              |  |  |
| Dallas      | Texas        | 10-May-01 | district council | Both candidates accuse the other manipulating the absentee ballot votes of senior citizens  | Dallas Observer          |  |  |  |  |   |  |  |
| Dallas      | Texas        | 16-May-01 | city council     | Several affidavits alleging mail-in voter fraud have been submitted to the Dallas County district attorney's office, according to election officials. But prosecutors have declined to comment about whether those allegations, or any others, would result in a criminal complaint.                          | Dallas Morning News      |  |  |  | A voter fraud investigation has resulted in the indictment of a Dallas woman who is accused of filling out a mail-in ballot in May without the voter's permission, a Dallas prosecutor said Tuesday.   | February 13, 2002, Fort-Worth Star Telegram |  |  |
| Dallas      | Texas        | 27-Jul-02 | district council | A candidate for the council alleged three campaign workers spent Friday reviewing mail-in ballots and applications for the ballots and found at least 69 that they believe might have forged signatures on either document.   | Fort Worth Star-Telegram |  |  |  |  |   |  |  |
| Dallas      | Texas        | 22-Apr-03 | city council     | A candidate submitted 12 absentee ballot applications with forged signatures. The DA is investigating.  | Dallas Morning News      |  |  |  |  |   |  |  |

009587

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|         |       |           |  |   |                          |  |  |  |   |                          |  |  |
|---------|-------|-----------|--|---|--------------------------|--|--|--|---|--------------------------|--|--|
| Hearne  | Texas | 18-Oct-03 | municipal                                    | Man fined and sentenced to five years probation for voting in the names of three dozen other people by absentee ballot. He is the fifth person to plead guilty to similar charges brought by a grand jury in August. 17 were indicted.  | Houston Chronicle        |  |  |  |   |                          |  |  |
| Hearne  | Texas | 28-Dec-03 | mayoral                                      | 30 people were indicted for forged absentee ballot applications and sending in multiple absentee ballots  | Star Telegram            |  |  |  |   |                          |  |  |
| El Paso | Texas | 12-Feb-04 | water board                                  | Several mail in ballot requests appeared to be filled out by the same person and a few were in the names of dead people. A precinct chairwoman was charged with four counts of tampering with government records  | Assoc Press              |  |  |  | Five people have been charged with sending in absentee ballot applications in the names of other people | 2/13/2004, El Paso Times |  |  |
| Hidalgo | Texas | 3-Mar-04  | miscellaneous, from congress to judge's race | Complaints were made to the Board of Elections against workers for several campaigns of irregularities concerning absentee ballots, including coercion of elderly voters, a complaint that someone requested an absentee ballot for a dead voter; four people said their ballots were already sealed when they received them, and a voter whose absentee ballot that was sent elsewhere   | The Monitor              |  |  |  |   |                          |  |  |
| Bexar   | Texas | 25-Mar-04 | congressional                                | The names of 42 deceased people, most of whom lived on the South Side, appeared on applications for mail-in ballots that were submitted to election officials for the primaries. A computer at the Bexar County elections office flagged the applications and the district attorney's office is investigating. No ballots appear to have been sent to a dead person as a result of the applications, election officials have said. However, the applications were cited by Henry Cuellar - a Democratic candidate for the District 28 congressional seat who lost by 145 votes - as one of several concerns that persuaded him to call for a recount this week. The list of applicants includes next-door neighbors, people who never voted when they were alive, and two who died in 1988. All but one bear the deceased's correct voter registration number. Each had the correct address and voting precinct, and all indicated the voter was older than 65, which is one of the reasons individuals may obtain a mail-in ballot. But whoever filled out many of the applications didn't alter his or her hand | San Antonio Express-News |  |  |  |   |                          |  |  |

009588



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|                   |       |                          |                 |  |                             |  |  |  |  |  |  |
|-------------------|-------|--------------------------|-----------------|--|-----------------------------|--|--|--|--|--|--|
| South San Antonio | Texas | 23-May-04                |                 | Elderly voters complain of "vote brokering" whereby "coyotes" pressure them into voting by absentee ballot. Investigators have looked into this in the past, and there has only been one conviction of someone pressuring others to vote absentee.   | San Antonio Express-News    |  |  |  |  |  |  |
| Robstown          | Texas | 27-May-04                | school district | The District Attorney requested a recount of ballots because of many complaints of people filing mail-in ballots sent to homes of people who have died. One of the candidates says that in one instance a wife mailed in the ballot of her husband who just died, and another was a son's vote being mistaken for the father's because they had the same name.   | Corpus Christi Caller-Times |  |  |  |  |  |  |
| Falfurrias        | Texas | 11-Sep-04                | city            | After a May 26 recount, Jaime received 501 votes and Martinez wound up with 500 votes. In June, Martinez filed an election contest in district court claiming that "numerous co-conspirators" obtained votes by instructing the voters to cast their ballots for particular candidates. But a criminal investigation into voting violations started before voters cast the final ballots, according to a police report. So far, the criminal investigation has resulted in five felony and one misdemeanor indictments: Santiago Vela was indicted on a bribery charge; Armando Gonzalez, Vanessa Kiser and Roel Mireles were indicted on illegal voting charges; Magdalena Saenz was indicted on an unlawful delivery of a voting certificate charge. One woman, Mirna Quintanilla, was indicted on a misdemeanor charge for allegedly filling out a mail-in ballot for a voter without permission. | Corpus Christi Caller-Times |  |  |  |  |  |  |
| Houston           | Texas | 11-Nov-05                | mayoral         | Candidate alleges that 64 of the 579 absentee ballots cast in the primary are questionable.  | AP                          |  |  |  |  |  |  |
| Hidalgo           | Texas | 2/26/2004, March 6, 2004 | primary         | Texas Rangers investigate tampering with mail ballots by "politiqueras"  | The Monitor                 |  |  |  |  |  |  |

009589

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|           |           |           |                     |   |                            |  |  |  |  |                          |  |  |
|-----------|-----------|-----------|---------------------|---|----------------------------|--|--|--|--|--------------------------|--|--|
| Gate City | Virginia  | 2-Aug-05  | mayor               | mayor is indicted on 37 felony counts of voter fraud for coercing choices on absentee ballots   | Roanoke Times              |  |  |  | The former mayor was arraigned in Scott County Circuit Court. He entered not guilty pleas to 18 charges of aiding and abetting in violating the absentee voting process, 17 charges of making a false statement on an absentee ballot application, and two charges of conspiracy. Authorities say he targeted elderly and unsophisticated voters, pressuring them to give false reasons for voting absentee and sometimes filling out their ballots himself. | 8/17/2005, Roanoke Times |  |  |
| Milwaukee | Wisconsin | 5-Mar-03  | county board recall | A police handwriting expert labeled signatures on 60 absentee ballot envelopes suspicious and elections officials and the DA questioned 36 more. The 96 are among 162 that were distributed to 5th District voters by the African American Coalition for Empowerment. The group had residents agree to ask the city to send absentee ballots to their offices rather than directly to the voters. The group then went to the homes, witnessed the votes and returned the ballots. | Milwaukee Journal Sentinel |  |  |  |  |                          |  |  |
| Milwaukee | Wisconsin | 15-Jan-04 | county recall       | A voting rights activist was convicted of three felony counts stemming from his management of an absentee ballot campaign. Although evidence suggested forgery and other mischief, the case turned on one voter registration card. The voter had his signature forged by his girlfriend, and the activist had signed the form as a deputy registrar.  | Milwaukee Journal Sentinel |  |  |  |  |                          |  |  |
| Milwaukee | Wisconsin | 20-Feb-04 | county recall       | One person is convicted for forging absentee ballots  | Milwaukee Journal Sentinel |  |  |  |  |                          |  |  |

009590





009593

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

| City / County  | State           | Date      | Type of Election                        | Alleged instance of fraud   | Original Source            | Source 1 | Source 2 | Source 3 |
|----------------|-----------------|-----------|---|---|----------------------------|----------|----------|----------|
| Apache         | Arizona         | 31-Aug-04 | 2002 general                            | County Attorney alleges some Navajo Nation voters cast multiple ballots. The Election Director dismisses many of the allegations and questioned why the county attorney had waited more than a year and a half to make them.  | Arizona Republic           |          |          |          |
| Eureka Springs | Arkansas        | 29-Jun-01 | county judge                            | A special judge rules prosecutors must show the mayor intended to vote twice -- he says he got confused when he voted early for a city bond election and the voting clerk offered him a primary ballot at the same time. He then voted in the primary at his precinct on election day.  | AP                         |          |          |          |
| La Puente      | California      | 3-Aug-02  | municipal                               | Four family members of a councilman were charged with voting twice because they voted absentee and on election day.   | Los Angeles Times          |          |          |          |
| San Francisco  | California      | 1-Mar-04  | mayoral run-off                         | One of the candidates alleged that 400 people who are dead cast votes. The allegation was based on a computer program that cross-referenced voters and the social security death index using first and last names and date of birth. When the Chronicle also used middle initials and other identifying indicators, the list was whittled to five cases. Some were by absentee but a couple were in person. | San Francisco Chronicle    |          |          |          |
|                | Colorado        | 25-Mar-05 |   | 58 of 64 counties responded to a request by the Secretary of State to report on fraud investigations. Only 13 counties have referred cases to prosecutors. Those cases included 41 instances of citizens voting twice. Denver County officials said they had 81 instances of double voting.   | Denver Post                |          |          |          |
|                | Connecticut     | 22-Oct-02 | all                                     | Secretary of State says that RNC allegations that 54 Connecticut voters cast ballots in 2 different states have been investigated and found to be false. 15 voted only in CT, 29 voted only in another state, four names were wrong because they had different birth dates, and three were referred to the FBI and US Attorney because information from the other state could not be obtained               | New Haven Register         |          |          |          |
| Bridgeport     | Connecticut     | 23-Sep-03 | mayoral primary                         | Losing candidate alleges some voters were able to vote twice  | News 12                    |          |          |          |
|                | DC and Maryland | 31-Oct-02 | state primary and presidential election | Records indicate that 24 voters cast ballots in both DC and Maryland in the September 2002 primary and 90 voters did so in the 2000 election. Voters denied they had done so and election officials said it was possible for precinct workers to make mistakes when recording who voted.  | Washington Post            |          |          |          |
| Palm Beach     | Florida         | 5-Dec-02  | 2002 general                            | The County State Attorney will be investigating about a dozen people accused of voting twice. Each cast an absentee ballot and voted on Election Day. The Secretary of State says they may have forgotten they voted absentee. They all had to vote by provisional ballots so none of the second votes were counted. This is the first time the Secretary's office has found people who voted twice.        | Sun-Sentinel               |          |          |          |
| Indian River   | Florida         | 2-Nov-04  | presidential                            | One voter returned two absentee ballots -- the first one was counted and the second discarded. A woman voted by absentee and then during early voting. Her absentee ballot will be thrown out.  | Press Journal (Vero Beach) |          |          |          |

009594

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|                 |          |           |                |  |                              |  |  |  |  |
|-----------------|----------|-----------|----------------|--|------------------------------|--|--|--|--|
| Palm Beach      | Florida  | 6-Nov-04  | presidential   | The Palm Beach Post reports that three voters cast absentee ballots and then filled out provisional ballots on Election Day. Local officials have asked the Attorney General to investigate. The Post reached two of the voters and they said they cast provisional ballots because when they tried to check on their absentee ballots they were unable to confirm they had been received.   | Florida Times Union          |  |  |  |  |
| Volusia         | Florida  | 6-Nov-04  | presidential   | Volusia officials said Friday they have identified 12 cases of suspected election fraud stemming from Tuesday's presidential election. All involved people trying to vote twice, said County Judge Steven deLaroche, a member of the county canvassing board. In one case, which occurred during early voting, a person was caught trying to feed an absentee ballot into a tabulating machine after casting a traditional ballot, deLaroche said. That person was stopped by a poll worker. In the other 11 cases, people who had voted by absentee ballot or at an early-voting site tried to vote a second time on Election Day, he said. In those cases, election workers discovered the attempts when computers showed those voters had already cast ballots. All the cases will be forwarded to the State Attorney's Office for prosecution. | Orlando Sentinel             |  |  |  |  |
| Duval           | Florida  | 31-Jul-05 | presidential   | Officials said in January that a review of records found more than 50 cases in which the same person had cast an absentee and in person ballot. An FBI investigation found that every one of those instances was due to a clerical error, such as someone signing the voter rolls before they were told they had to vote elsewhere.  | AP                           |  |  |  |  |
| Fulton          | Georgia  | 30-Sep-04 | primary        | A man who may be facing felony charges for voting twice says he voted during the early period and that when he went to his precinct on election day to make sure that vote had been recorded, he was told it was not. The poll worker told him he should vote again. Fulton County investigated and found no other advance voters had voted again on the day of the election. The registration chief acknowledged the county was late getting names of advance voters to the polls. The advance vote was tossed out after it was discovered.   | Atlanta Journal Constitution |  |  |  |  |
| Marshall        | Illinois | 13-Nov-04 | 2002 and 2004  | A man has been charged for voting twice, in both Kane County and Marshall County   | South Bend Tribune           |  |  |  |  |
| Lake County     | Indiana  | 16-May-04 | county primary | A newspaper analysis shows that five votes cast were attributed to people who were dead well before the election.  | AP                           |  |  |  |  |
| Prairie Village | Kansas   | 8-Jan-05  | 2002 general   | A woman who voted twice pled guilty -- she had voted from her business address and cast an absentee ballot from a different location in the same election.   | Kansas City Star             |  |  |  |  |

009595

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|             |            |                   |               |   |  |  |  |  |
|-------------|------------|-------------------|---------------|---|--|--|--|--|
| Hancock     | Louisiana  | 3-Nov-04          | presidential  | A woman called a radio talk show Tuesday and admitted casting fraudulent votes in Hancock County.<br>The woman said she voted once using her own name, but after realizing she was not required to show identification, she waited several hours and returned to the polls and used a friend's name.<br>The county clerks said the incident seems to be isolated and her office has not received evidence of other fraudulent votes elsewhere in the county.  | The Sun Herald                             |  |  |  |
| Duluth      | Minnesota  | 3-Nov-04          | presidential  | A voter claims someone forged his signature to vote under his name. He reported the incident to City Hall   | Duluth News-Tribune                        |  |  |  |
| Minneapolis | Minnesota  | 23-Feb-05         | presidential  | A felony charge filed Tuesday in Hennepin County District Court accuses Darin Randall Johnson, 34, of registering to vote and casting ballots in three different places in the November election.<br>The criminal complaint alleges he filled out same-day registration forms and voted once in Brooklyn Park and twice in Minneapolis.   | Saint Paul Pioneer Press                   |  |  |  |
| Kansas City | Missouri   | 28-Mar-05         | various       | Man pleads guilty to casting double votes in four elections by voting in both Kansas and Missouri   | Kansas City Star                           |  |  |  |
| Kansas City | Missouri   | September 6, 2004 | all           | Kansas City Star reports that their investigation shows there may be more than 300 voters voting twice in different counties. The exact number is impossible to determine because many counties have shredded their poll books and state computer files are rife with data errors. In fact, the number may be lower because the state computer files contain many errors that show people voting who did not actually vote. The study only flagged people registered in two places under exactly the same name and date of birth. | Kansas City Star, Belleville News-Democrat |  |  |  |
|             | New Jersey | 16-Sep-05         | presidential  | Republican Party claims 4,755 people who have died voted in the election and 4,397 people registered to vote in more than one county voted twice  | New York Times                             |  |  |  |
| Sandoval    | New Mexico | 9-Nov-02          | state house   | A comparison of names on absentee-ballot-request rosters and affidavits for the absentee-in-lieu-of-ballots made it appear that 5 people had voted twice absentee by mail and absentee-in-lieu-of at the polls.   | Albuquerque Journal                        |  |  |  |
| Sandoval    | New Mexico | 24-Nov-04         | presidential  | Bureau of Elections employees found a woman who voted on a provisional ballot at one precinct also had voted at the regular precinct where she is registered. The signatures at both precincts appeared to be the same, so elections officials sent the case to the district attorney.  | AP   |  |  |  |
| New York    | New York   | 23-Oct-02         | 2000 and 2001 | Former conservative party candidate for lieutenant governor is arraigned on an indictment for voting twice, from two different Manhattan addresses. He denies the charge  | Newsday                                    |  |  |  |

009596



## **TOVA WANG ON THE EAC GAG ORDER**

I have just received this press release via email:

Contact James Joseph, Arnold & Porter -- (202) 942-5355, james\_joseph@aporter.com

Tova Andrea Wang, Co-Author of the Voter Fraud and Voter Intimidation Report for the Election Assistance Commission, Calls for an End to the Censorship

Over the last few weeks, there has been a developing controversy in the press and in the Congress over a report on voter fraud and voter intimidation I co-authored for the Election Assistance Commission ("EAC"). It has been my desire to participate in this discussion and share my experience as a researcher, expert and co-author of the report. Unfortunately, the EAC has barred me from speaking. Early last week, through my attorney, I sent a letter to the Commission requesting that they release me from this gag order. Despite repeated follow-up, the EAC has failed to respond to this simple request. In the meantime, not only can I not speak to the press or public -- it is unclear under the terms of my contract with the

009597

EAC whether I can even answer questions from members of Congress.

My co-author and I submitted our report in July 2006; the EAC finally released its version of the report in December 2006. As numerous press reports indicate, the conclusions that we found in our research and included in our report were revised by the EAC, without explanation or discussion with me, my co-author or the general public. From the beginning of the project to this moment, my co-author and I have been bound in our contracts with the EAC to silence regarding our work, subject to law suits and civil liability if we violate the EAC-imposed gag order. Moreover, from July to December, no member of the EAC Commission or staff contacted me or my co-author to raise any concerns about the substance of our research. Indeed, after I learned that the EAC was revising our report before its public release, I contacted the EAC, and they refused to discuss with me the revisions, or the reasons such revisions were necessary.

Stifling discussion and debate over this report and the critical issues it addresses is contrary to the mission and

goals of the EAC and to the goal of ensuring honest and fair elections in this country. Commissioner Hillman stated in her defense of the EAC's actions that the EAC seeks to "ensure improvements in the administration of federal elections so that all eligible voters will be able to vote and have that vote recorded and counted accurately." I share this aspiration. But I believe that the best way to achieve that end is not by suppressing or stifling debate and discussion, but by engaging in a thoughtful process of research and dialogue that ultimately arrives at the truth about the problems our voting system currently confronts.

I'm ready to wear my "Free Tova Wang" t-shirt. **UPDATE:**

More from Dan Tokaji [here](#).

Posted by Rick Hasen at [08:46 AM](#)

## **Defining Election Fraud**

## **Deliberative Process Privilege**

Election fraud is any intentional action, or intentional failure to act when there is a duty to do so, that corrupts the election process in a manner that can impact on election outcomes. This includes interfering in the process by which persons register to vote; the way in which ballots are obtained, marked, or tabulated; and the process by which election results are canvassed and certified.

Examples include the following:

- falsifying voter registration information pertinent to eligibility to cast a vote, (e.g. residence, criminal status, etc);
- altering completed voter registration applications by entering false information;
- knowingly destroying completed voter registration applications (other than spoiled applications) before they can be submitted to the proper election authority;
- knowingly removing eligible voters from voter registration lists, in violation of HAVA, NVRA, or state election laws;
- intentional destruction by election officials of voter registration records or balloting records, in violation of records retention laws, to remove evidence of election fraud;
- vote buying;
- voting in the name of another;
- voting more than once;
- coercing a voter's choice on an absentee ballot;
- using a false name and/or signature on an absentee ballot;
- destroying or misappropriating an absentee ballot;
- felons, or in some states ex-felons, who vote when they know they are ineligible to do so;
- misleading an ex-felon about his or her right to vote;
- voting by non-citizens who know they are ineligible to do so;
- intimidating practices aimed at vote suppression or deterrence, including the abuse of challenge laws;
- deceiving voters with false information (e.g.; deliberately directing voters to the wrong polling place or providing false information on polling hours and dates);
- knowingly failing to accept voter registration applications, to provide ballots, or to accept and count voted ballots in accordance with the Uniformed and Overseas Citizens Absentee Voting Act;
- intentional miscounting of ballots by election officials;
- intentional misrepresentation of vote tallies by election officials;

- acting in any other manner with the intention of suppressing voter registration or voting, or interfering with vote counting and the certification of the vote.

Voting fraud does not include mistakes made in the course of voter registration, balloting, or tabulating ballots and certifying results. For purposes of the EAC study, it also does not include violations of campaign finance laws.

DRAFT

## **Deliberative Process Privilege**

Voter fraud is any intentional action or any omission to act when there is a duty to do so that corrupts the process by which ballots are obtained, marked, or tabulated; the process by which election results are canvassed and certified; or the process by which voters are registered. This includes: (1) coercing a voter's choice on an absentee ballot; (2) using a false name and signature on an absentee ballot; (3) destroying or misappropriating of an absentee ballot; (4) voting by felons or in some states ex-felons; (5) misleading an ex-felon about his or her right to vote; (6) voting more than once; (7) voting by non-citizens; (8) intimidating practices aimed at vote suppression; (9) deceiving voters with false information (10) mishandling of ballots by election officials; (11) miscounting of ballots by election officials; (12) misrepresenting vote tallies by election officials; (13) adding of ballots by election officials; (14) destroying ballots by election officials; (15) removing of eligible voters from voter registration lists; (16) falsifying voter registration information; (17) destroying completed voter registration forms; (18) buying of votes; (19) failing to follow the requirements of the Voting Rights Act and other voting rights laws, such as the National Voter Registration Act; (20) failing to enforce required state election laws; (21) abusing voter challenges; (22) purging of voter rolls in violation of HAVA; (23) failing to follow the requirements of the Uniformed and Overseas Citizens Absentee Voting Act; (24) acting in any other manner with the intention of suppressing voter registration, voting, or the corrupting of the voting process.

**Deliberative Process  
Privilege**

Voter fraud is any intentional action or any omission to act when there is a duty to do so that corrupts the process in a way that has an actual impact on election outcomes. This can include the way in which ballots are obtained, marked, or tabulated; the process by which election results are canvassed and certified; or the process by which voters register to vote. Examples include the following: (1) coercing a voter's choice on an absentee ballot; (2) using a false name and/or signature on an absentee ballot; (3) destroying or misappropriating of an absentee ballot; (4) felons or in some states ex-felons who vote when they know they are ineligible to do so; (5) misleading an ex-felon about his or her right to vote; (6) voting more than once; (7) intentional voting by non-citizens who know they are ineligible to do so; (8) intimidating practices aimed at vote suppression or deterrence; (9) deceiving voters with false information (10) intentional mishandling of ballots by election officials; (11) intentional miscounting of ballots by election officials; (12) intentional misrepresenting vote tallies by election officials; (13) adding of ballots by election officials; (14) destroying ballots by election officials; (15) removing of eligible voters from voter registration lists; (16) knowingly falsifying voter registration information pertinent to eligibility to cast a vote, e.g. residence, criminal status, etc.; (17) destroying completed voter registration forms; (18) buying of votes; (19) failing to follow the requirements of the Voting Rights Act and other voting rights laws, such as the National Voter Registration Act; (20) failing to enforce required state election laws; (21) abusing voter challenge laws; (22) purging of voter rolls in violation of HAVA and NVRA; (23) failing to follow the requirements of the Uniformed and Overseas Citizens Absentee Voting Act; (24) acting in any other manner with the intention of suppressing voter registration, voting, or vote counting.

**Formatted:** Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

**Deleted:** by

**Deleted:** are registered

**Deleted:** This

**Deleted:** s

**Deleted:** voting by

**Deleted:** s

**Deleted:** the corrupting of the voting process.

**Deliberative Process  
Privilege**

Voter fraud means intentional misrepresentation, trickery, deceit, or deception, arising out of or in connection with voter registration or voting



### **Case Summaries**

After reviewing over 40,000 cases, the majority of which came from appeals courts, I have found comparatively very few which are applicable to this study. Of those that are applicable, no apparent thematic pattern emerges. However, it seems that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility. But because so few cases provided a picture of these current problems, I suggest that case research for the second phase of this project concentrate on state trial-level decisions.

| Name of Case      | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
| Powers v. Donahue | Supreme Court of New York, Appellate Division, First Department | 276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644 | December 5, 2000 | Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names. | When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted. | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p> |                              |             |                                       |

| Name of Case            | Court                    | Citation         | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--------------------------|------------------|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                         |                          |                  |                   |  | local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed. |                              |             |                                       |
| Goodwin v. St. Thomas-- | Territorial Court of the | 43 V.I. 89; 2000 | December 13, 2000 | Plaintiff political candidate alleged that certain general | Plaintiff alleged that defendants   | No                           | N/A         | No                                    |

| Name of Case              | Court          | Citation      | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|----------------|---------------|------|---|--|------------------------------|-------------|---------------------------------------|
| St. John Bd. of Elections | Virgin Islands | V.I. LEXIS 15 |      | election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots. | counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot</p> |                              |             |                                       |

| Name of Case         | Court                    | Citation  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------|-----------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                      |                          |           |                  |   | <p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p> |                              |             |                                       |
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. | December 9, 2005 | The circuit court overturned the results of a mayoral | The voters and the incumbent all  | No                           | N/A         | No                                    |

| Name of Case | Court | Citation     | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>214 |      | election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of its judgment pending resolution of the appeal. | challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with |                              |             |                                       |



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to</p> |                              |             |                                       |

| Name of Case                            | Court   | Citation                                   | Date            | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-----------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |  |                 |  | count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed. |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Supreme Court of New York, Appellate Division, Third Department | 10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. | August 23, 2004 | Appellant candidates appealed from a judgment entered by the supreme court, which partially granted the candidates' petition challenging the method used by respondent | The candidates argued that the Board violated a federal court order regarding the election. The appellate court  | No                           | N/A         | No                                    |

| Name of Case | Court | Citation              | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|-----------------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | App. Div. LEXIS 10360 |      | Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts. | held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p> |                              |             |                                       |

009615

| Name of Case           | Court                      | Citation                             | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|----------------------------|--------------------------------------|----------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |                            |                                      |                |  | properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.  |                              |             |                                       |
| Erlandson v. Kiffmeyer | Supreme Court of Minnesota | 659 N.W.2d 724; 2003 Minn. LEXIS 196 | April 17, 2003 | Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican | The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts                                    | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Party. The instant court granted review. | nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were |                              |             |                                       |

009617

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p> |                              |             |                                       |

009618

| Name of Case        | Court   | Citation  | Date         | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---|---|--------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |   |   |              |   | mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot. |                              |             |                                       |
| People v. Deganutti | Appellate Court of Illinois, First District, Third Division | 348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. | May 12, 2004 | Defendant appealed from a judgment of the circuit court, which convicted defendant on charges of unlawful observation of voting and on charges of | Defendant went to the voters' homes and obtained their signatures on absentee ballot   | No                           | N/A         | No                                    |

009619



| Name of Case | Court | Citation             | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | App.<br>LEXIS<br>518 |      | absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters. | request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re-- punch a number that had not |                              |             |                                       |

009620

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p> |                              |             |                                       |

009621

| Name of Case                             | Court         | Citation                             | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---------------|--------------------------------------|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |               |                                      |                   |  | and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed. |                              |             |                                       |
| Jacobs v. Seminole County Canvassing Bd. | Supreme Court | 773 So. 2d 519; 2000 Fla. LEXIS 2404 | December 12, 2000 | In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in | Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.   | No                           | N/A         | No                                    |

009622

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Seminole County in the 2000 presidential election. | Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the |                              |             |                                       |

009623

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the</p> |                              |             |                                       |

| Name of Case                            | Court                        | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                              |  |                  |  | other party's forms. Affirmed.  |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Court of Appeals of New York | 3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412 | October 14, 2004 | Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters. | Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be | No                           | N/A         | No                                    |

009625

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p> |                              |             |                                       |

009626

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.</p> |                              |             |                                       |

009627



| Name of Case  | Court                         | Citation                                       | Date          | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-------------------------------|--|---------------|--|--|------------------------------|-------------|---------------------------------------|
| In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election | Supreme Court of Pennsylvania | 577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431 | March 8, 2004 | A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain candidates and voters. | The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and | No                           | N/A         | No                                    |

009628

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non-disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third-person hand-delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in-person delivery</p> |                              |             |                                       |

009629

| Name of Case     | Court                 | Citation      | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-----------------------|---------------|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                  |                       |               |                   |  | <p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p> |                              |             |                                       |
| In re Canvass of | Commonwealth Court of | 839 A.2d 451; | December 22, 2003 | The Allegheny County Elections Board did not | On appeal, the issue was whether  | No                           | N/A         | No                                    |

009600

| Name of Case                         | Court        | Citation                  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--------------|---------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Absentee Ballots of November 4, 2003 | Pennsylvania | 2003 Pa. Commw. LEXIS 963 |      | allow 74 challenged third-party hand-delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order. | non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory |                              |             |                                       |

009631

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p> |                              |             |                                       |

009632

| Name of Case                  | Court  | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |  |                             |                  |  | <p>Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.</p> |                              |             |                                       |
| United States v. Pennsylvania | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21167 | October 20, 2004 | Plaintiff United States sued defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas | The testimony of the two witnesses offered by the United States did not support its   | No                           | N/A         | No                                    |

009533

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.</p> | <p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p> |                              |             |                                       |

009634

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had</p> |                              |             |                                       |

009635



| Name of Case                              | Court  | Citation                             | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--------------------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |  |                                      |                  |  | <p>adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied.</p> |                              |             |                                       |
| Hoblock v. Albany County Bd. of Elections | United States District Court for the Northern District of New York | 341 F. Supp. 2d 169; 2004 U.S. Dist. | October 25, 2004 | Plaintiffs, candidates and voters, sued defendant, the Albany County, New York, Board of Elections, under § 1983, claiming that the Board violated plaintiffs' | An election for members of the Albany County Legislature had been enjoined, and special  | No                           | N/A         | No                                    |

009636

| Name of Case | Court | Citation       | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>21326 |      | Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction. | primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots |                              |             |                                       |

009637

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p> |                              |             |                                       |

009638

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p> |                              |             |                                       |

009639

| Name of Case      | Court  | Citation                                  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                   |  |   |                  |   | Board from certifying winners of the election was granted.  |                              |             |                                       |
| Griffin v. Roupas | United States Court of Appeals for the Seventh Circuit | 385 F.3d 1128; 2004 U.S. App. LEXIS 21476 | October 15, 2004 | In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim. | The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the | No                           | N/A         | No                                    |

009640

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p> |                              |             |                                       |

009641

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p> |                              |             |                                       |

009642

| Name of Case     | Court  | Citation                    | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |  |                             |                  |   | applied to everyone.<br>Affirmed.  |                              |             |                                       |
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval. | The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee | No                           | N/A         | No                                    |

009643



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against</p> |                              |             |                                       |

009644

| Name of Case                               | Court   | Citation  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |   | the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.  |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 | December 8, 2000 | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted. | Plaintiff presidential and vise--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed | No                           | N/A         | No                                    |

009645

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p> |                              |             |                                       |

979600

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p> |                              |             |                                       |

009647

| Name of Case | Court         | Citation | Date      | Facts               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|-----------|---------------------|--|------------------------------|-------------|---------------------------------------|
|              |               |          |           |                     | <p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write-in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p> |                              |             |                                       |
| Kolb v.      | Supreme Court | 270      | March 17, | Both petitioner and | Both petitioner  | No                           | N/A         | No                                    |

879600

| Name of Case | Court  | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|--|------|---|---|------------------------------|-------------|---------------------------------------|
| Casella      | of New York, Appellate Division, Fourth Department | A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483 | 2000 | respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election. | and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter |                              |             |                                       |

679600

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration card signature---and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee</p> |                              |             |                                       |

009650

| Name of Case    | Court                        | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|------------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                              |   |               |   | ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.                            |                              |             |                                       |
| People v. Woods | Court of Appeals of Michigan | 241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156 | June 27, 2000 | Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to pursue the interlocutory appeal, in a criminal action alleging violations of election laws. | Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election | No                           | N/A         | No                                    |

009651



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary</p> |                              |             |                                       |

009652

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p> |                              |             |                                       |

009653

| Name of Case                                  | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                  |   | violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense. |                              |             |                                       |
| Harris v. Florida Elections Canvassing Comm'n | United States District Court for the Northern District of Florida | 122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875 | December 9, 2000 | Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida law. | The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did  | No                           | N/A         | No                                    |

009654

| Name of Case                                    | Court   | Citation                    | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |                             |                  |   | not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. |                              |             |                                       |
| Weldon v. Berks County Dep't of Election Servs. | United States District Court for the Eastern District of Pennsylvania | 2004 U.S. Dist. LEXIS 21948 | November 1, 2004 | Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county | The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to   | No                           | N/A         | No                                    |

009655

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p> | <p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p> |                              |             |                                       |

009656

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p><b>OVERVIEW:</b><br/> The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p> |                              |             |                                       |

009657

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p> |                              |             |                                       |

009658

| Name of Case           | Court  | Citation                                 | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |                   |   | concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction. |                              |             |                                       |
| Qualkinbush v. Skubisz | Court of Appeals of Illinois, First District | 822 N.E.2d 38; 2004 Ill. App. LEXIS 1546 | December 28, 2004 | Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court declared petitioner mayor. | Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and   | No                           | N/A         | No                                    |

009659



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that</p> |                              |             |                                       |

009630

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters.</p> <p>Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots.</p> <p>The Election Code did not violate equal protection principles, as the burden placed</p> |                              |             |                                       |

009661

| Name of Case        | Court  | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |  |   |                  |   | upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.                                |                              |             |                                       |
| Panio v. Sunderland | Supreme Court of New York, Appellate Division, Second Department | 14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433 | January 25, 2005 | In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent | The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by: | No                           | N/A         | No                                    |

009662

| Name of Case | Court | Citation | Date | Facts                                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---------------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Democratic candidate cross--appealed. | (1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count |                              |             |                                       |

009663

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p> |                              |             |                                       |

009667

| Name of Case                                | Court   | Citation   | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|   |   |  |                   |  | equivalent of an application for a special ballot. Order modified and judgment affirmed.  |                              |             |                                       |
| Pierce v. Allegheny County Bd. of Elections | United States District Court for the Western District of Pennsylvania | 324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569 | November 13, 2003 | Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction. | Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear | No                           | N/A         | No                                    |

009665

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>regarding whether the absentee ballot provision requiring hand-delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.</p> |                              |             |                                       |

009665

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p> |                              |             |                                       |

009667



| Name of Case       | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                    |   |   |                  |  | court by virtue of the state court's concurrent jurisdiction.  |                              |             |                                       |
| Friedman v. Snipes | United States District Court for the Southern District of Florida | 345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739 | November 9, 2004 | Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction. | The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of § | No                           | N/A         | No                                    |

009668

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p> |                              |             |                                       |

009669

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p> |                              |             |                                       |

009670

| Name of Case | Court | Citation | Date | Facts | Holding                        | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--------------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Preliminary injunction denied. |                              |             |                                       |

| Name of Case    | Court   | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. | No                           | N/A         | No                                    |

009672

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p> |                              |             |                                       |

009673

| Name of Case       | Court   | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |  | <p>minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.</p> |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights  | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | of the Voting Rights Act. The parties filed cross-motions for summary judgment. | schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of |                              |             |                                       |



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p> |                              |             |                                       |

009676

| Name of Case            | Court  | Citation                                  | Date          | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |  |   |               |  | constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Farrakhan v. Washington | United States Court of Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.   | No                           | N/A         | No                                    |

009677

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p> | <p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p> |                              |             |                                       |

009678

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p> |                              |             |                                       |

009679

| Name of Case       | Court   | Citation                                | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |   |   |                |   | less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim. |                              |             |                                       |
| Muntaqim v. Coombe | United States Court of Appeals for the Second Circuit | 366 F.3d 102; 2004 U.S. App. LEXIS 8077 | April 23, 2004 | Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation | At issue was whether the VRA could be applied to N.Y. Elec. Law § 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the  | No                           | N/A         | No                                    |

009630

| Name of Case | Court | Citation | Date | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | of § 2 of the Voting Rights Act of 1965. | New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in |                              |             |                                       |

009681

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p> |                              |             |                                       |

009682

| Name of Case                | Court   | Citation                                  | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|---|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                             |   |   |                   |   | district court's judgment was affirmed.   |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 353 F.3d 1287; 2003 U.S. App. LEXIS 25859 | December 19, 2003 | Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws. | The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a | No                           | N/A         | No                                    |

009683



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p> |                              |             |                                       |

009687

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p> |                              |             |                                       |

009685

| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | violation of federal voting laws and remanded the matter to the district court for further proceedings.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p> |                              |             |                                       |

009687

| Name of Case           | Court                  | Citation       | Date           | Facts                                | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------|----------------|----------------|--------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                        |                        |                |                |                                      | <p>authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.</p> |                              |             |                                       |
| Johnson v. Governor of | United States Court of | 405 F.3d 1214; | April 12, 2005 | Plaintiff individuals sued defendant | The individuals argued that the   | No                           | N/A         | No                                    |

009688

| Name of Case | Court                            | Citation                  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|---------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Fla.         | Appeals for the Eleventh Circuit | 2005 U.S. App. LEXIS 5945 |      | members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted. | racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial |                              |             |                                       |

009689

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p> |                              |             |                                       |

009690

| Name of Case          | Court                              | Citation                      | Date               | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|-------------------------------|--------------------|--|---|------------------------------|-------------|---------------------------------------|
|                       |                                    |                               |                    |  | <p>permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.</p> |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief as | Petitioner convicted felons were presently or had formerly been confined in state   | No                           | N/A         | No                                    |

009691



| Name of Case | Court | Citation     | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>534 |      | to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' |                              |             |                                       |

009692

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised.</p> <p>However, petitioner elector had no standing and the court overruled objection as to deprivation of ex-felon voting rights. The court sustained respondents' objection since</p> |                              |             |                                       |

009693

| Name of Case        | Court  | Citation                    | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|-----------------------------|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                     |  |                             |                   |  | incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them. |                              |             |                                       |
| Rosello v. Calderon | United States District Court for the District of Puerto Rico | 2004 U.S. Dist. LEXIS 27216 | November 30, 2004 | Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the invalidity of | The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the  | No                           | N/A         | No                                    |

009694

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | absentee and split ballots in a gubernatorial election. | same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal |                              |             |                                       |

009695

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>constitutions. The court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law</p> |                              |             |                                       |

009696

| Name of Case        | Court  | Citation                                      | Date            | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 |   | pursuant to federal guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.   |                              |             |                                       |
| Woodruff v. Wyoming | United States Court of Appeals for the Tenth Circuit | 49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060 | October 7, 2002 | Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10--106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon | The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing | No                           | N/A         | No                                    |

009697

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>which relief could be granted and as frivolous.</p> | <p>fee or filed a motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who</p> |                              |             |                                       |

009698

| Name of Case                      | Court  | Citation  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                                   |  |   |                  |   | heard their cases. The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed. |                              |             |                                       |
| N.J. State Conf.--NAACP v. Harvey | Superior Court of New Jersey, Appellate Division | 381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316 | November 2, 2005 | The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it | The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey  | No                           | N/A         | No                                    |

009699



| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>denied African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p> | <p>discriminated against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting.</p> |                              |             |                                       |

009700

| Name of Case           | Court  | Citation                   | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |   | Moreover, those convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed. |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the   | No                           | N/A         | No                                    |

009701

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned.</p> | <p>ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because</p> |                              |             |                                       |

009702

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not</p> |                              |             |                                       |

009703

| Name of Case  | Court   | Citation  | Date            | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|-----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |   |                 |   | violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.  |                              |             |                                       |
| Southwest Voter Registration Educ. Project v. Shelley | United States District Court for the Central District of California | 278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413 | August 15, 2003 | Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be | Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch-card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the | No                           | N/A         | No                                    |

009704

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | conducted without use of punch--card machines. | votes on the basis of race, in violation of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if |                              |             |                                       |

009705

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>plaintiffs could show disparate treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with</p> |                              |             |                                       |

009706

| Name of Case                         | Court  | Citation                                 | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--|--|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                                      |  |  |                |   | plaintiffs' ex parte application for temporary restraining order) was denied.  |                              |             |                                       |
| Igartua--de la Rosa v. United States | United States Court of Appeals for the First Circuit | 417 F.3d 145; 2005 U.S. App. LEXIS 15944 | August 3, 2005 | Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States. | The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were | No                           | N/A         | No                                    |

009707



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not, but were voting for electors. Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p> |                              |             |                                       |

009708

| Name of Case                            | District | Case Number   | Date             | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|---------------|------------------|--|------------------------------|-------------|---------------------------------------|
| United States v. Rogelio Mejorada-Lopez | Alaska   | 05-CR-074     | December 5, 2005 | Mejorada-Lopez, a Mexican citizen, completed several voter registration applications to register to vote in Alaska and voted in the 2000, 2002, and 2004 general elections. He was charged with three counts of voting by a non-citizen in violation of 18 U.S.C. section 611 and pled guilty. Mejorada-Lopez was sentenced to probation for one year. | No                           | N/A         | No                                    |
| United States v. Shah                   | Colorado | 1:04-CR-00458 | March 1, 2005    | Shah was indicted on two counts of providing false   | No                           | N/A         | No                                    |

009709

| Name of Case                | District         | Case Number   | Date             | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further             |
|-----------------------------|------------------|---------------|------------------|---|------------------------------|-------------|---|
|                             |                  |               |                  | information concerning United States citizenship in order to register to vote in violation of 18 U.S.C. section 911 and 1015(f). Shah was convicted on both counts. |                              |             |   |
| United States v. Mohsin Ali | Northern Florida | 4:05-CR-47    | January 17, 2006 | A misdemeanor was filed against Ali charging him with voting by a non-citizen of 18 U.S.C. section 611. Trial was set for January 17, 2006                          | No                           | N/A         | Yes-need information on the outcome of the trial. |
| United States v. Chaudhary  | Northern Florida | 4:04-CR-00059 | May 18, 2005     | Chaudhary was indicted for misuse of a social security number in violation of 42 U.S.C. section   | No                           | N/A         | No  |

009710

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>408 and for making a false claim of United States citizenship on a 2002 driver's license application in violation of 18 U.S.C. section 911. A superceding indictment was returned, charging Chaudhary with falsely claiming United States citizenship on a driver's license application and on the accompanying voter registration application. He was convicted of the false citizenship claim on his voter</p> |                              |             |                                       |

009711

| Name of Case               | District         | Case Number   | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|------------------|---------------|-------------------|--|------------------------------|-------------|---------------------------------------|
|                            |                  |               |                   | registration application.  |                              |             |                                       |
| United States v. Velasquez | Southern Florida | 1:03-CR-20233 | September 9, 2003 | Velasquez, a former 1996 and 1998 candidate for the Florida legislature, was indicted on charges of misrepresenting United States citizenship in connection with voting and for making false statements to the Immigration and Naturalization Service, in violation of 18 U.S.C. section 911, 1015(f) and 1001. Velasquez was convicted on two counts of making false statements on his naturalization | No                           | N/A         | No                                    |

009712

| Name of Case  | District         | Case Number   | Date          | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---|---------------|---|------------------------------|-------------|---------------------------------------|
|   |                  |   |               | application to the INS concerning his voting history.   |                              |             |                                       |
| United States v. McKenzie;<br>United States v. Francois;<br>United States v. Exavier; United States v. Lloyd Palmer; United States v. Velrine Palmer; United states v. Shivdayal;<br>United States v. Rickman;<br>United States v. Knight; United States v. Sweeting;<br>United States v. Lubin; United States v. Bennett;<br>United States v. O'Neil; United | Southern Florida | 0:04-CR-60160;<br>1:04-CR-20488;<br>0:04-CR-60161;<br>0:04-CR-60159;<br>0:04-CR-60162;<br>0:04-CR-60164;<br>1:04-CR-20491;<br>1:04-CR-20490;<br>1:04-CR-20489;<br>0:04-CR-60163;<br>1:04-CR-14048;<br>0:04-CR-60165;<br>2:04-CR-14046;<br>9:04-CR-80103;<br>2:04-CR-14047 | July 15, 2004 | Fifteen non-citizens were charged with voting in various elections beginning in 1998 in violation of 18 U.S.C. section 611. Four of the defendants were also charged with making false citizenship claims in violation of 18 U.S.C. sections 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four | No                           | N/A         | No                                    |

009713

| Name of Case   | District          | Case Number   | Date              | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------|---|-------------------|---|------------------------------|-------------|---------------------------------------|
| States v. Torres-Perez; United States v. Phillip; United States v. Bain Knight |                   |   |                   | defendants were dismissed upon motion of the government.  |                              |             |                                       |
| United States v. Brooks  | Southern Illinois | 3:03-CR-30201   | February 12, 2004 | East St. Louis election official Leander Brooks was indicted for submitting fraudulent ballots in the 2002 general election in violation of 42 U.S.C. section 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. sections 241 and 371. Brooks pled guilty to all charges. | No                           | N/A         | No                                    |
| United States v. Scott; United States v. Nichols; United States v.             | Southern Illinois | 3:05-CR-30040;<br>3:05-CR-30041;<br>3:05-CR-30042;<br>3:05-CR-30043;<br>3:05-CR-30044 | June 29, 2005     | Four Democrat precinct committeemen in East St. Louis were charged  | No                           | N/A         | No                                    |

009714

| Name of Case   | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
| Terrance Stith;<br>United States v.<br>Sandra Stith;<br>United States v.<br>Powell, et al. |          |             |      | with vote buying on the 2004 general election in violation of 42 U.S.C. section 1973i(c). All four pled guilty. Also indicted were four additional Democrat committeemen, Charles Powell, Jr., Jesse Lewis, Sheila Thomas, Kelvin Ellis, and one precinct worker, Yvette Johnson, on conspiracy and vote buying charges in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). All five defendants were convicted. |                              |             |                                       |

009715



| Name of Case              | District | Case Number   | Date              | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|----------|---------------|-------------------|---|------------------------------|-------------|---------------------------------------|
|                           |          |               |                   | Kelvin Ellis also pled guilty to one count of 18 U.S.C. section 1512(c)(2) relative to a scheme to kill one of the trial witnesses and two counts of 18 U.S.C. section 1503 relative to directing two other witnesses to refuse to testify before the grand jury. |                              |             |                                       |
| United States v. McIntosh | Kansas   | 2:04-CR-20142 | December 20, 2004 | A felony information was filed against lawyer Leslie McIntosh for voting in both Wyandotte County, Kansas and Jackson County, Missouri, in the  | No                           | N/A         | No                                    |

009716

| Name of Case  | District         | Case Number   | Date                              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---|-----------------------------------|--|------------------------------|-------------|---------------------------------------|
|   |                  |   |                                   | general elections of 2000 and 2002 in violation of 42 U.S.C. section 1973i(e). A superseding misdemeanor information was filed, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. section 242, to which the defendant pled guilty. |                              |             |                                       |
| United States v. Conley; United States v. Slone; United States v. Madden; United States v. Slone et al.; United States v. Calhoun; United | Eastern Kentucky | 7:03-CR-00013;<br>7:03-CR-00014;<br>7:03-CR-00015;<br>7:03-CR-00016;<br>7:03-CR-00017;<br>7:03-CR-00018;<br>7:03-CR-00019 | March 28, 2003 and April 24, 2003 | Ten people were indicted on vote buying charges in connection with the 1998 primary election in Knott County, Kentucky, in violation of 42   | No                           | N/A         | No                                    |

009717

| Name of Case  | District         | Case Number   | Date          | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---------------|---------------|---|------------------------------|-------------|---------------------------------------|
| States v. Johnson; United States v. Newsome, et al. |                  |               |               | U.S.C. section 1973i(c). Five of the defendants pled guilty, two were convicted, and three were acquitted.  |                              |             |                                       |
| United States v. Hays, et al.                       | Eastern Kentucky | 7:03-CR-00011 | March 7, 2003 | Ten defendants were indicted for conspiracy and vote buying for a local judge in Pike County, Kentucky, in the 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed | No                           | N/A         | No                                    |

009718

| Name of Case                    | District         | Case Number   | Date        | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------|---------------|-------------|---|------------------------------|-------------|---------------------------------------|
|                                 |                  |               |             | upon motion of the government.  |                              |             |                                       |
| United States v. Turner, et al. | Eastern Kentucky | 3:05-CR-00002 | May 5, 2005 | Three defendants were indicted for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties, Kentucky, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 341. | No                           | N/A         | Yes-need update on case status.       |
| United States v. Braud          | Middle Louisiana | 3:03-CR-00019 | May 2, 2003 | Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of   | No                           | N/A         | No                                    |

009719

| Name of Case                | District          | Case Number                      | Date                   | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|-------------------|----------------------------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                             |                   |                                  |                        | eleven voter registration applications, in violation of 18 U.S.C. section 1623. Braud pled guilty on all counts.  |                              |             |                                       |
| United States v. Thibodeaux | Western Louisiana | 6:03-CR-60055                    | April 12, 2005         | St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on two counts of conspiring to submit false voter registration information, in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). She pled guilty to both charges. | No                           | N/A         | No                                    |
| United States v. Scherzer;  | Western Missouri  | 4:04-CR-00401;<br>4:04-CR-00402; | January 7, 2005; March | Two misdemeanor   | No                           | N/A         | No                                    |

009720

| Name of Case  | District | Case Number                     | Date  | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|---------------------------------|---|--|------------------------------|-------------|---------------------------------------|
| United States v. Goodrich;<br>United States v. Jones; United States v. Martin |          | 4:05-CR-00257;<br>4:05-CR-00258 | 28, 2005;<br>September 8, 2005;<br>October 13, 2005 | informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2000 and 2002 general elections on both Johnson County, Kansas and in Kansas City, Missouri. The informations charged deprivation of a constitutional right by causing spurious ballots, in violation of 18 U.S.C. sections 242 and 2. Both pled guilty. Additionally, similar misdemeanor informations |                              |             |                                       |

009721

| Name of Case   | District             | Case Number  | Date                     | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------|--|--------------------------|--|------------------------------|-------------|---------------------------------------|
|  |                      |  |                          | <p>were filed against Tammy J. Martin, who voted in both Independence and Kansas City, Missouri in the 2004 general election and Brandon E. Jones, who voted both in Raytown and Kansas City, Missouri in the 2004 general election. Both pled guilty.</p> |                              |             |                                       |
| <p>United States v. Raymond;<br/> United States v. McGee; United States v. Tobin;<br/> United States v. Hansen</p> | <p>New Hampshire</p> | <p>04-CR-00141;<br/> 04-CR-00146;<br/> 04-CR-00216;<br/> 04-CR-00054</p> | <p>December 15, 2005</p> | <p>Two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and</p>  | <p>No</p>                    | <p>N/A</p>  | <p>No</p>                             |

009722

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Charles McGee, former executive director of the New Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Both pled guilty.</p> |                              |             |                                       |

009723



| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. An information was filed charging Shaun Hansen, the principal of an Idaho telemarketing firm called</p> |                              |             |                                       |

009724

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment, in violation of 18 U.S.C. section 371 and 2 and 47 U.S.C. section 223. The information against Hansen was dismissed upon motion of the government. A superseding indictment was returned against Tobin charging conspiracy to impede the constitutional right to vote for federal</p> |                              |             |                                       |

009725

| Name of Case             | District               | Case Number   | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|------------------------|---------------|---------------|--|------------------------------|-------------|---------------------------------------|
|                          |                        |               |               | <p>candidates, in violation of 18 U.S.C. section 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. section 223. Tobin was convicted of one count of conspiracy to commit telephone harassment and one count of aiding and abetting of telephone harassment.</p> |                              |             |                                       |
| United States v. Workman | Western North Carolina | 1:03-CR-00038 | June 30, 2003 | <p>A ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and</p>  | No                           | N/A         | No                                    |

009726

| Name of Case                     | District               | Case Number   | Date         | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|------------------------|---------------|--------------|--|------------------------------|-------------|---------------------------------------|
|                                  |                        |               |              | <p>related offenses in the 200 and 2002 primary and general elections in Avery County, North Carolina, in violation of 18 U.S.C. sections 611, 911, 1001, and 1015(f). Workman pled guilty to providing false information to election officials and to a federal agency.</p> |                              |             |                                       |
| United States v. Shatley, et al. | Western North Carolina | 5:03-CR-00035 | May 14, 2004 | <p>A nine-count indictment was returned charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner</p>  | No                           | N/A         | No                                    |

009727

| Name of Case            | District      | Case Number  | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---------------|--------------|-------------------|--|------------------------------|-------------|---------------------------------------|
|                         |               |              |                   | with conspiracy and vote buying in the Caldwell County 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Anita and Valerie Moore pled guilty. Shatley, Hood, and Banner were all convicted. |                              |             |                                       |
| United States v. Vargas | South Dakota  | 05-CR-50085  | December 22, 2005 | An indictment was filed against Rudolph Vargas, for voting more than once at Pine Ridge in the 2002 general election in violation of 42 U.S.C. section 1973i(e). Vargas pled guilty.   | No                           | N/A         | No                                    |
| United States v.        | Southern West | 02-CR-00234; | July 22,          | Danny Ray  | No                           | N/A         | No                                    |

009728

| Name of Case   | District | Case Number   | Date  | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------|---|---|--|------------------------------|-------------|---------------------------------------|
| Wells; United States v. Mendez; United States v. Porter; United States v. Hrutkay; United States v. Porter; United States v. Stapleton; United States v. Thomas E. Esposito; United States v. Nagy; United States v. Adkins; United States v. Harvey | Virginia | 2:04-CR-00101;<br>2:04-CR-00145;<br>2:04-CR-00149;<br>2:04-CR-00173;<br>2:05-CR-00002;<br>05-CR-00019;<br>05-CR-00148;<br>05-CR-00161 | 2003; July 19, 2004;<br>December 7, 2004;<br>January 7, 2005; March 21, 2005;<br>October 11, 2005;<br>December 13, 2005 | Wells, Logan County, West Virginia, magistrate, was indicted and charged with violating 18 U.S.C. section 1962. Wells was found guilty. A felony indictment was filed against Logan County sheriff Johnny Mendez for conspiracy to defraud the United States in violation 18 U.S.C section 371. Mendez pled guilty. An information was filed charging former Logan County police chief Alvin Ray Porter, Jr., with |                              |             |                                       |

009729

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>making expenditures to influence voting in violation of 18 U.S.C. section 597. Porter pled guilty. Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. section 1341. Hrutkay pled guilty. Earnest Stapleton, commander of the local VFW, was charged by information with mail fraud. He pled guilty. An information was filed charging Thomas E.</p> |                              |             |                                       |

009730

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Esposito, a former mayor of the City of Logan, with concealing the commission of a felony, in violation of 18 U.S.C. section 4. Esposito pled guilty. John Wesley Nagy, Logan County Court marshall, pled guilty to making false statements to a federal agent, a violation of 18 U.S.C. section 1001. An information charging Glen Dale Adkins, county clerk of Logan County, with accepting payment for</p> |                              |             |                                       |

009731



| Name of Case                    | District               | Case Number   | Date                   | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------------|---------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                                 |                        |               |                        | voting, in violation of 18 U.S.C. section 1973i(c). Adkins pled guilty. Perry French Harvey, Jr., a retired UMW official, pled guilty to involvement in a conspiracy to buy votes.  |                              |             |                                       |
| United States v. Adkins, et al. | Southern West Virginia | 2:04-CR-00162 | December 28 & 30, 2005 | Jackie Adkins was indicted for vote buying in Lincoln County, West Virginia, in violation of 42 U.S.C. section 1973i(c). A superceding indictment added Wandell "Rocky" Adkins to the indictment and charged both defendants with conspiracy to | No                           | N/A         | No                                    |

009732

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>buy votes in violation of 18 U.S.C. section 371 and vote buying. A second superseding indictment was returned which added three additional defendants, Gegory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment. Charges were later dismissed against Jackie Adkins. A third superseding indictment was returned adding</p> |                              |             |                                       |

009733

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>two additional defendants, Jerry Allen Weaver and Ralph Dale Adkins. A superseding information was filed charging Vance with expenditures to influence voting, in violation of 18 U.S.C. section 597. Vance pled guilty.</p> <p>Superseding informations were filed against Stowers and Dingess for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty. Weaver also pled guilty.</p> |                              |             |                                       |

009734

| Name of Case   | District          | Case Number   | Date  | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further   |
|--|-------------------|---|---|---|------------------------------|-------------|---|
|  |                   |   |   | Superseding informations were filed against Ralph and Wandell Adkins for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty.  |                              |             |   |
| United States v. Davis; United States v. Byas; United States v. Ocasio; United States v. Prude; United States v. Sanders; United States v. Alicea; United States v. Brooks; United States v. Hamilton; United States v. Little; United | Eastern Wisconsin | 2:05-MJ-00454;<br>2:05-MJ-00455;<br>2:05-CR-00161;<br>2:05-CR-00162;<br>2:05-CR-00163;<br>2:05-CR-00168;<br>2:05-CR-00170;<br>2:05-CR-00171;<br>2:05-CR-00172;<br>2:05-CR-00177;<br>2:05-CR-00207;<br>2:05-CR-00209;<br>2:05-CR-00211;<br>2:05-CR-00212 | September 16, 2005;<br>September 21, 2005;<br>October 5, 2005;<br>October 26, 2005;<br>October 31, 2005,<br>November 10, 2005 | Criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them with double voting, in violation of 42 U.S.C. section 1973i(e). Indictments were filed against convicted felons Milo R. Ocasio | No                           | N/A         | Need updated status on Gooden and the Anderson, Cox, Edwards, and Little cases. |

009735

| Name of Case   | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
| States v. Swift;<br>United States v. Anderson;<br>United States v. Cox; United States v. Edwards;<br>United States v. Gooden |          |             |      | and Kimberly Prude, charging them with falsely certifying that they were eligible to vote, in violation of 42 U.S.C. section 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting, in violation of 42 U.S.C. section 1973i(e). Five more indictments were later returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. section 1973i(e) and convicted felons |                              |             |                                       |

009736

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote in violation of 42 U.S.C. section 1973gg-10(2)(B). Indictments were filed against Davis and Byas charging them with double voting. Four more indictments were returned charging convicted felons Ethel M. Anderson, Jiyto L. Cox, Correan F. Edwards, and Joseph J. Gooden</p> |                              |             |                                       |

009737

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>with falsely certifying that they were eligible to vote. Ocasio and Hamilton pled guilty. Prude was found guilty. A mistrial was declared in the Sanders case. Brooks was acquitted. Byas signed a plea agreement agreeing to plead to a misdemeanor 18 U.S.C. section 242 charge. Swift moved to change his plea. Davis was found incompetent to stand trial so the government dismissed the case. Gooden is a</p> |                              |             |                                       |

009738

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | fugitive. Alicea was acquitted. Four cases are pending --- Anderson, Cox, Edwards, and Little. |                              |             |                                       |

009739



| Name of Case    | Court   | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p> |                              |             |                                       |

009741

| Name of Case       | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |  | minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice. |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights   | No                           | N/A         | No                                    |

009742

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | of the Voting Rights Act. The parties filed cross-motions for summary judgment. | schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of |                              |             |                                       |

009743

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p> |                              |             |                                       |

009744

| Name of Case            | Court  | Citation                                  | Date          | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |  |   |               |  | constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Farrakhan v. Washington | United States Court of Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.   | No                           | N/A         | No                                    |

009745

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p> | <p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p> |                              |             |                                       |

009746

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p> |                              |             |                                       |

009747



| Name of Case       | Court   | Citation                                | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |   |   |                |   | less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim. |                              |             |                                       |
| Muntaqim v. Coombe | United States Court of Appeals for the Second Circuit | 366 F.3d 102; 2004 U.S. App. LEXIS 8077 | April 23, 2004 | Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation | At issue was whether the VRA could be applied to N.Y. Elec. Law§ 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the   | No                           | N/A         | No                                    |

009748

| Name of Case | Court | Citation | Date | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | of § 2 of the Voting Rights Act of 1965. | New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in |                              |             |                                       |

009749

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p> |                              |             |                                       |

009750

| Name of Case                | Court   | Citation                                  | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|---|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                             |   |   |                   |   | district court's judgment was affirmed.   |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 353 F.3d 1287; 2003 U.S. App. LEXIS 25859 | December 19, 2003 | Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws. | The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a | No                           | N/A         | No                                    |

009751

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p> |                              |             |                                       |

009752

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p> |                              |             |                                       |

009753

| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | violation of federal voting laws and remanded the matter to the district court for further proceedings.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court | No                           | N/A         | No                                    |

009754

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p> |                              |             |                                       |

009755



| Name of Case           | Court                  | Citation       | Date           | Facts                                | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------|----------------|----------------|--------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                        |                        |                |                |                                      | <p>authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.</p> |                              |             |                                       |
| Johnson v. Governor of | United States Court of | 405 F.3d 1214; | April 12, 2005 | Plaintiff individuals sued defendant | The individuals argued that the   | No                           | N/A         | No                                    |

009756

| Name of Case | Court                            | Citation                  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|---------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Fla.         | Appeals for the Eleventh Circuit | 2005 U.S. App. LEXIS 5945 |      | members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted. | racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial |                              |             |                                       |

009757

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p> |                              |             |                                       |

009758

| Name of Case          | Court                              | Citation                      | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|-------------------------------|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                       |                                    |                               |                    |  | permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted. |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief as | Petitioner convicted felons were presently or had formerly been confined in state  | No                           | N/A         | No                                    |

009759

| Name of Case | Court | Citation     | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>534 |      | to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' |                              |             |                                       |

009760

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex-felon voting rights. The court sustained respondents' objection since</p> |                              |             |                                       |

009761

| Name of Case        | Court  | Citation                    | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|-----------------------------|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                     |  |                             |                   |  | incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them. |                              |             |                                       |
| Rosello v. Calderon | United States District Court for the District of Puerto Rico | 2004 U.S. Dist. LEXIS 27216 | November 30, 2004 | Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the invalidity of | The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the  | No                           | N/A         | No                                    |

009762

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | absentee and split ballots in a gubernatorial election. | same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal |                              |             |                                       |

009763  
009763



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>constitutions. The court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law</p> |                              |             |                                       |

009764

| Name of Case        | Court  | Citation                                      | Date            | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 |   | pursuant to federal guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.   |                              |             |                                       |
| Woodruff v. Wyoming | United States Court of Appeals for the Tenth Circuit | 49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060 | October 7, 2002 | Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10--106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon | The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing | No                           | N/A         | No                                    |

009765

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>which relief could be granted and as frivolous.</p> | <p>fee or filed a motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who</p> |                              |             |                                       |

009766

| Name of Case                      | Court  | Citation  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                                   |  |   |                  |   | heard their cases. The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed. |                              |             |                                       |
| N.J. State Conf.--NAACP v. Harvey | Superior Court of New Jersey, Appellate Division | 381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316 | November 2, 2005 | The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it | The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey  | No                           | N/A         | No                                    |

009767

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>denied African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p> | <p>discriminated against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting.</p> |                              |             |                                       |

009768

| Name of Case           | Court  | Citation                   | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |   | Moreover, those convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed. |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the   | No                           | N/A         | No                                    |

009769

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned.</p> | <p>ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because</p> |                              |             |                                       |

009770

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not</p> |                              |             |                                       |

009771



| Name of Case  | Court   | Citation  | Date            | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|-----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |   |                 |   | violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.  |                              |             |                                       |
| Southwest Voter Registration Educ. Project v. Shelley | United States District Court for the Central District of California | 278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413 | August 15, 2003 | Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be | Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch-card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the | No                           | N/A         | No                                    |

009772

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>conducted without use of punch-card machines.</p> | <p>votes on the basis of race, in violation of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if</p> |                              |             |                                       |

009773

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>plaintiffs could show disparate treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with</p> |                              |             |                                       |

009774

| Name of Case                         | Court  | Citation                                 | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--|--|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                                      |  |  |                |   | plaintiffs' ex parte application for temporary restraining order) was denied.  |                              |             |                                       |
| Igartua--de la Rosa v. United States | United States Court of Appeals for the First Circuit | 417 F.3d 145; 2005 U.S. App. LEXIS 15944 | August 3, 2005 | Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States. | The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were | No                           | N/A         | No                                    |

009775

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not, but were voting for electors. Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p> |                              |             |                                       |

009776

| Name of Case                            | District | Case Number   | Date             | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|---------------|------------------|--|------------------------------|-------------|---------------------------------------|
| United States v. Rogelio Mejorada-Lopez | Alaska   | 05-CR-074     | December 5, 2005 | Mejorada-Lopez, a Mexican citizen, completed several voter registration applications to register to vote in Alaska and voted in the 2000, 2002, and 2004 general elections. He was charged with three counts of voting by a non-citizen in violation of 18 U.S.C. section 611 and pled guilty. Mejorada-Lopez was sentenced to probation for one year. | No                           | N/A         | No                                    |
| United States v. Shah                   | Colorado | 1:04-CR-00458 | March 1, 2005    | Shah was indicted on two counts of providing false   | No                           | N/A         | No                                    |

009777

| Name of Case                | District         | Case Number   | Date             | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further             |
|-----------------------------|------------------|---------------|------------------|---|------------------------------|-------------|---|
|                             |                  |               |                  | information concerning United States citizenship in order to register to vote in violation of 18 U.S.C. section 911 and 1015(f). Shah was convicted on both counts. |                              |             |   |
| United States v. Mohsin Ali | Northern Florida | 4:05-CR-47    | January 17, 2006 | A misdemeanor was filed against Ali charging him with voting by a non-citizen of 18 U.S.C. section 611. Trial was set for January 17, 2006                          | No                           | N/A         | Yes-need information on the outcome of the trial. |
| United States v. Chaudhary  | Northern Florida | 4:04-CR-00059 | May 18, 2005     | Chaudhary was indicted for misuse of a social security number in violation of 42 U.S.C. section   | No                           | N/A         | No  |

009778

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>408 and for making a false claim of United States citizenship on a 2002 driver's license application in violation of 18 U.S.C. section 911. A superceding indictment was returned, charging Chaudhary with falsely claiming United States citizenship on a driver's license application and on the accompanying voter registration application. He was convicted of the false citizenship claim on his voter</p> |                              |             |                                       |

009779



| Name of Case               | District         | Case Number   | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|------------------|---------------|-------------------|--|------------------------------|-------------|---------------------------------------|
|                            |                  |               |                   | registration application.  |                              |             |                                       |
| United States v. Velasquez | Southern Florida | 1:03-CR-20233 | September 9, 2003 | Velasquez, a former 1996 and 1998 candidate for the Florida legislature, was indicted on charges of misrepresenting United States citizenship in connection with voting and for making false statements to the Immigration and Naturalization Service, in violation of 18 U.S.C. section 911, 1015(f) and 1001. Velasquez was convicted on two counts of making false statements on his naturalization | No                           | N/A         | No                                    |

009780

| Name of Case  | District         | Case Number   | Date          | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---|---------------|---|------------------------------|-------------|---------------------------------------|
|   |                  |   |               | application to the INS concerning his voting history.   |                              |             |                                       |
| United States v. McKenzie;<br>United States v. Francois;<br>United States v. Exavier; United States v. Lloyd Palmer; United States v. Velrine Palmer; United states v. Shivdayal;<br>United States v. Rickman;<br>United States v. Knight; United States v. Sweeting;<br>United States v. Lubin; United States v. Bennett;<br>United States v. O'Neil; United | Southern Florida | 0:04-CR-60160;<br>1:04-CR-20488;<br>0:04-CR-60161;<br>0:04-CR-60159;<br>0:04-CR-60162;<br>0:04-CR-60164;<br>1:04-CR-20491;<br>1:04-CR-20490;<br>1:04-CR-20489;<br>0:04-CR-60163;<br>1:04-CR-14048;<br>0:04-CR-60165;<br>2:04-CR-14046;<br>9:04-CR-80103;<br>2:04-CR-14047 | July 15, 2004 | Fifteen non-citizens were charged with voting in various elections beginning in 1998 in violation of 18 U.S.C. section 611. Four of the defendants were also charged with making false citizenship claims in violation of 18 U.S.C. sections 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four | No                           | N/A         | No                                    |

009781

| Name of Case   | District          | Case Number   | Date              | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------|---|-------------------|---|------------------------------|-------------|---------------------------------------|
| States v. Torres-Perez; United States v. Phillip; United States v. Bain Knight |                   |   |                   | defendants were dismissed upon motion of the government.  |                              |             |                                       |
| United States v. Brooks  | Southern Illinois | 3:03-CR-30201   | February 12, 2004 | East St. Louis election official Leander Brooks was indicted for submitting fraudulent ballots in the 2002 general election in violation of 42 U.S.C. section 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. sections 241 and 371. Brooks pled guilty to all charges. | No                           | N/A         | No                                    |
| United States v. Scott; United States v. Nichols; United States v.             | Southern Illinois | 3:05-CR-30040;<br>3:05-CR-30041;<br>3:05-CR-30042;<br>3:05-CR-30043;<br>3:05-CR-30044 | June 29, 2005     | Four Democrat precinct committeemen in East St. Louis were charged  | No                           | N/A         | No                                    |

009782

| Name of Case   | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
| Terrance Stith;<br>United States v.<br>Sandra Stith;<br>United States v.<br>Powell, et al. |          |             |      | with vote buying on the 2004 general election in violation of 42 U.S.C. section 1973i(c). All four pled guilty. Also indicted were four additional Democrat committeemen, Charles Powell, Jr., Jesse Lewis, Sheila Thomas, Kelvin Ellis, and one precinct worker, Yvette Johnson, on conspiracy and vote buying charges in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). All five defendants were convicted. |                              |             |                                       |

009789

| Name of Case              | District | Case Number   | Date              | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|----------|---------------|-------------------|---|------------------------------|-------------|---------------------------------------|
|                           |          |               |                   | Kelvin Ellis also pled guilty to one count of 18 U.S.C. section 1512(c)(2) relative to a scheme to kill one of the trial witnesses and two counts of 18 U.S.C. section 1503 relative to directing two other witnesses to refuse to testify before the grand jury. |                              |             |                                       |
| United States v. McIntosh | Kansas   | 2:04-CR-20142 | December 20, 2004 | A felony information was filed against lawyer Leslie McIntosh for voting in both Wyandotte County, Kansas and Jackson County, Missouri, in the  | No                           | N/A         | No                                    |

009784

| Name of Case   | District                | Case Number  | Date                                     | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------------|--|--|---|------------------------------|-------------|---------------------------------------|
|  |                         |  |  | <p>general elections of 2000 and 2002 in violation of 42 U.S.C. section 1973i(e). A superseding misdemeanor information was filed, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. section 242, to which the defendant pled guilty.</p> |                              |             |                                       |
| <p>United States v. Conley; United States v. Slone; United States v. Madden; United States v. Slone et al.; United States v. Calhoun; United</p> | <p>Eastern Kentucky</p> | <p>7:03-CR-00013;<br/>7:03-CR-00014;<br/>7:03-CR-00015;<br/>7:03-CR-00016;<br/>7:03-CR-00017;<br/>7:03-CR-00018;<br/>7:03-CR-00019</p> | <p>March 28, 2003 and April 24, 2003</p> | <p>Ten people were indicted on vote buying charges in connection with the 1998 primary election in Knott County, Kentucky, in violation of 42</p>   | <p>No</p>                    | <p>N/A</p>  | <p>No</p>                             |

009785

| Name of Case  | District         | Case Number   | Date          | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---------------|---------------|---|------------------------------|-------------|---------------------------------------|
| States v. Johnson; United States v. Newsome, et al. |                  |               |               | U.S.C. section 1973i(c). Five of the defendants pled guilty, two were convicted, and three were acquitted.  |                              |             |                                       |
| United States v. Hays, et al.                       | Eastern Kentucky | 7:03-CR-00011 | March 7, 2003 | Ten defendants were indicted for conspiracy and vote buying for a local judge in Pike County, Kentucky, in the 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed | No                           | N/A         | No                                    |

009786

| Name of Case                    | District         | Case Number   | Date        | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------|---------------|-------------|---|------------------------------|-------------|---------------------------------------|
|                                 |                  |               |             | upon motion of the government.  |                              |             |                                       |
| United States v. Turner, et al. | Eastern Kentucky | 3:05-CR-00002 | May 5, 2005 | Three defendants were indicted for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties, Kentucky, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 341. | No                           | N/A         | Yes-need update on case status.       |
| United States v. Braud          | Middle Louisiana | 3:03-CR-00019 | May 2, 2003 | Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of   | No                           | N/A         | No                                    |

009787



| Name of Case                | District          | Case Number                      | Date                   | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|-------------------|----------------------------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                             |                   |                                  |                        | eleven voter registration applications, in violation of 18 U.S.C. section 1623. Braud pled guilty on all counts.  |                              |             |                                       |
| United States v. Thibodeaux | Western Louisiana | 6:03-CR-60055                    | April 12, 2005         | St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on two counts of conspiring to submit false voter registration information, in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). She pled guilty to both charges. | No                           | N/A         | No                                    |
| United States v. Scherzer;  | Western Missouri  | 4:04-CR-00401;<br>4:04-CR-00402; | January 7, 2005; March | Two misdemeanor   | No                           | N/A         | No                                    |

009788

| Name of Case  | District | Case Number                     | Date  | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|---------------------------------|---|--|------------------------------|-------------|---------------------------------------|
| United States v. Goodrich;<br>United States v. Jones; United States v. Martin |          | 4:05-CR-00257;<br>4:05-CR-00258 | 28, 2005;<br>September 8, 2005;<br>October 13, 2005 | informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2000 and 2002 general elections on both Johnson County, Kansas and in Kansas City, Missouri. The informations charged deprivation of a constitutional right by causing spurious ballots, in violation of 18 U.S.C. sections 242 and 2. Both pled guilty. Additionally, similar misdemeanor informations |                              |             |                                       |

009789

| Name of Case   | District             | Case Number  | Date                     | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------|--|--------------------------|--|------------------------------|-------------|---------------------------------------|
|  |                      |  |                          | <p>were filed against Tammy J. Martin, who voted in both Independence and Kansas City, Missouri in the 2004 general election and Brandon E. Jones, who voted both in Raytown and Kansas City, Missouri in the 2004 general election. Both pled guilty.</p> |                              |             |                                       |
| <p>United States v. Raymond;<br/> United States v. McGee; United States v. Tobin;<br/> United States v. Hansen</p> | <p>New Hampshire</p> | <p>04-CR-00141;<br/> 04-CR-00146;<br/> 04-CR-00216;<br/> 04-CR-00054</p> | <p>December 15, 2005</p> | <p>Two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and</p>  | <p>No</p>                    | <p>N/A</p>  | <p>No</p>                             |

009790

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Charles McGee, former executive director of the New Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Both pled guilty.</p> |                              |             |                                       |

009791

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. An information was filed charging Shaun Hansen, the principal of an Idaho telemarketing firm called</p> |                              |             |                                       |

009792

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment, in violation of 18 U.S.C. section 371 and 2 and 47 U.S.C. section 223. The information against Hansen was dismissed upon motion of the government. A superseding indictment was returned against Tobin charging conspiracy to impede the constitutional right to vote for federal</p> |                              |             |                                       |

009793

| Name of Case             | District               | Case Number   | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|------------------------|---------------|---------------|--|------------------------------|-------------|---------------------------------------|
|                          |                        |               |               | <p>candidates, in violation of 18 U.S.C. section 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. section 223. Tobin was convicted of one count of conspiracy to commit telephone harassment and one count of aiding and abetting of telephone harassment.</p> |                              |             |                                       |
| United States v. Workman | Western North Carolina | 1:03-CR-00038 | June 30, 2003 | <p>A ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and</p>  | No                           | N/A         | No                                    |

009794

| Name of Case                     | District               | Case Number   | Date         | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|------------------------|---------------|--------------|--|------------------------------|-------------|---------------------------------------|
|                                  |                        |               |              | <p>related offenses in the 200 and 2002 primary and general elections in Avery County, North Carolina, in violation of 18 U.S.C. sections 611, 911, 1001, and 1015(f). Workman pled guilty to providing false information to election officials and to a federal agency.</p> |                              |             |                                       |
| United States v. Shatley, et al. | Western North Carolina | 5:03-CR-00035 | May 14, 2004 | <p>A nine-count indictment was returned charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner</p>  | No                           | N/A         | No                                    |

009795



| Name of Case            | District      | Case Number  | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---------------|--------------|-------------------|--|------------------------------|-------------|---------------------------------------|
|                         |               |              |                   | with conspiracy and vote buying in the Caldwell County 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Anita and Valerie Moore pled guilty. Shatley, Hood, and Banner were all convicted. |                              |             |                                       |
| United States v. Vargas | South Dakota  | 05-CR-50085  | December 22, 2005 | An indictment was filed against Rudolph Vargas, for voting more than once at Pine Ridge in the 2002 general election in violation of 42 U.S.C. section 1973i(e). Vargas pled guilty.   | No                           | N/A         | No                                    |
| United States v.        | Southern West | 02-CR-00234; | July 22,          | Danny Ray  | No                           | N/A         | No                                    |

009796

| Name of Case   | District | Case Number   | Date  | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------|---|---|--|------------------------------|-------------|---------------------------------------|
| Wells; United States v. Mendez; United States v. Porter; United States v. Hrutkay; United States v. Porter; United States v. Stapleton; United States v. Thomas E. Esposito; United States v. Nagy; United States v. Adkins; United States v. Harvey | Virginia | 2:04-CR-00101;<br>2:04-CR-00145;<br>2:04-CR-00149;<br>2:04-CR-00173;<br>2:05-CR-00002;<br>05-CR-00019;<br>05-CR-00148;<br>05-CR-00161 | 2003; July 19, 2004;<br>December 7, 2004;<br>January 7, 2005; March 21, 2005;<br>October 11, 2005;<br>December 13, 2005 | Wells, Logan County, West Virginia, magistrate, was indicted and charged with violating 18 U.S.C. section 1962. Wells was found guilty. A felony indictment was filed against Logan County sheriff Johnny Mendez for conspiracy to defraud the United States in violation 18 U.S.C section 371. Mendez pled guilty. An information was filed charging former Logan County police chief Alvin Ray Porter, Jr., with |                              |             |                                       |

009797

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>making expenditures to influence voting in violation of 18 U.S.C. section 597. Porter pled guilty. Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. section 1341. Hrutkay pled guilty. Earnest Stapleton, commander of the local VFW, was charged by information with mail fraud. He pled guilty. An information was filed charging Thomas E.</p> |                              |             |                                       |

009798

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Esposito, a former mayor of the City of Logan, with concealing the commission of a felony, in violation of 18 U.S.C. section 4. Esposito pled guilty. John Wesley Nagy, Logan County Court marshall, pled guilty to making false statements to a federal agent, a violation of 18 U.S.C. section 1001. An information charging Glen Dale Adkins, county clerk of Logan County, with accepting payment for</p> |                              |             |                                       |

009799

008800

| Name of Case                    | District               | Case Number   | Date                   | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------------|---------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                                 |                        |               |                        | voting, in violation of 18 U.S.C. section 1973i(c). Adkins pled guilty. Perry French Harvey, Jr., a retired UMW official, pled guilty to involvement in a conspiracy to buy votes.  |                              |             |                                       |
| United States v. Adkins, et al. | Southern West Virginia | 2:04-CR-00162 | December 28 & 30, 2005 | Jackie Adkins was indicted for vote buying in Lincoln County, West Virginia, in violation of 42 U.S.C. section 1973i(c). A superceding indictment added Wandell "Rocky" Adkins to the indictment and charged both defendants with conspiracy to | No                           | N/A         | No                                    |

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>buy votes in violation of 18 U.S.C. section 371 and vote buying. A second superseding indictment was returned which added three additional defendants, Gegory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment. Charges were later dismissed against Jackie Adkins. A third superseding indictment was returned adding</p> |                              |             |                                       |

009801

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>two additional defendants, Jerry Allen Weaver and Ralph Dale Adkins. A superseding information was filed charging Vance with expenditures to influence voting, in violation of 18 U.S.C. section 597. Vance pled guilty. Superseding informations were filed against Stowers and Dingess for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty. Weaver also pled guilty.</p> |                              |             |                                       |

009802

| Name of Case   | District          | Case Number   | Date  | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further   |
|--|-------------------|---|---|---|------------------------------|-------------|---|
|  |                   |   |   | Superseding informations were filed against Ralph and Wandell Adkins for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty.  |                              |             |   |
| United States v. Davis; United States v. Byas; United States v. Ocasio; United States v. Prude; United States v. Sanders; United States v. Alicea; United States v. Brooks; United States v. Hamilton; United States v. Little; United | Eastern Wisconsin | 2:05-MJ-00454;<br>2:05-MJ-00455;<br>2:05-CR-00161;<br>2:05-CR-00162;<br>2:05-CR-00163;<br>2:05-CR-00168;<br>2:05-CR-00170;<br>2:05-CR-00171;<br>2:05-CR-00172;<br>2:05-CR-00177;<br>2:05-CR-00207;<br>2:05-CR-00209;<br>2:05-CR-00211;<br>2:05-CR-00212 | September 16, 2005;<br>September 21, 2005;<br>October 5, 2005;<br>October 26, 2005;<br>October 31, 2005,<br>November 10, 2005 | Criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them with double voting, in violation of 42 U.S.C. section 1973i(e). Indictments were filed against convicted felons Milo R. Ocasio | No                           | N/A         | Need updated status on Gooden and the Anderson, Cox, Edwards, and Little cases. |

009803



| Name of Case   | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
| States v. Swift;<br>United States v. Anderson;<br>United States v. Cox; United States v. Edwards;<br>United States v. Gooden |          |             |      | and Kimberly Prude, charging them with falsely certifying that they were eligible to vote, in violation of 42 U.S.C. section 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting, in violation of 42 U.S.C. section 1973i(e). Five more indictments were later returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. section 1973i(e) and convicted felons |                              |             |                                       |

009804

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote in violation of 42 U.S.C. section 1973gg-10(2)(B). Indictments were filed against Davis and Byas charging them with double voting. Four more indictments were returned charging convicted felons Ethel M. Anderson, Jiyto L. Cox, Correan F. Edwards, and Joseph J. Gooden</p> |                              |             |                                       |

009805

908600

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | with falsely certifying that they were eligible to vote. Ocasio and Hamilton pled guilty. Prude was found guilty. A mistrial was declared in the Sanders case. Brooks was acquitted. Byas signed a plea agreement agreeing to plead to a misdemeanor 18 U.S.C. section 242 charge. Swift moved to change his plea. Davis was found incompetent to stand trial so the government dismissed the case. Gooden is a |                              |             |                                       |

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | fugitive. Alicea was acquitted. Four cases are pending --- Anderson, Cox, Edwards, and Little. |                              |             |                                       |

009807

| Name of Case                                     | Court   | Citation  | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|--------------|--|---|------------------------------|-------------|---------------------------------------|
| Am. Ass'n of People with Disabilities v. Shelley | United States District Court for the Central District of California | 324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587 | July 6, 2004 | Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in | The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be | No                           | N/A         | No                                    |

808600

| Name of Case. | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|               |       |          |      | the alternative, a preliminary injunction. | deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. |                              |             |                                       |

608600

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p> |                              |             |                                       |

009810

| Name of Case                                  | Court   | Citation   | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|----------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |  |                |   | showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Hood | United States District Court for the Middle District of Florida | 310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615 | March 24, 2004 | Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida | The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired   | No                           | N/A         | No                                    |

009811



| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p> | <p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p> |                              |             |                                       |

009812

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--</p> |                              |             |                                       |

009813

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>disabled voters. Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting</p> |                              |             |                                       |

009814

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>system would have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the</p> |                              |             |                                       |

009815

| Name of Case      | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                   |   |                             |                  |  | voters.   |                              |             |                                       |
| Troiano v. Lepore | United States District Court for the Southern District of Florida | 2003 U.S. Dist. LEXIS 25850 | November 3, 2003 | Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary | The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow | No                           | N/A         | No                                    |

009816

| Name of Case | Court | Citation | Date | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | judgment. | <p>things down too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also</p> |                              |             |                                       |

009817

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>failed to state an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have</p> |                              |             |                                       |

009818

| Name of Case                       | Court   | Citation                                  | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------------|---|---|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                    |   |   |                   |  | audio components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.                       |                              |             |                                       |
| Troiano v. Supervisor of Elections | United States Court of Appeals for the Eleventh Circuit | 382 F.3d 1276; 2004 U.S. App. LEXIS 18497 | September 1, 2004 | Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in | The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The | No                           | N/A         | No                                    |

009819



| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>voting booths to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p> | <p>appellate court agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio</p> |                              |             |                                       |

009820

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>components prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the</p> |                              |             |                                       |

009821

| Name of Case                                   | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |  | accessible voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Smith | United States District Court for the Middle District of Florida | 227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373 | October 16, 2002 | Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state | Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In  | No                           | N/A         | No                                    |

009822

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>and local election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p> | <p>order to vote, the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined</p> |                              |             |                                       |

009823

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>with the federal claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the</p> |                              |             |                                       |

009824

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court could not say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs</p> |                              |             |                                       |

009825

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>asserted that they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p> |                              |             |                                       |

009826

| Name of Case                                     | Court   | Citation  | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|--------------|--|---|------------------------------|-------------|---------------------------------------|
| Am. Ass'n of People with Disabilities v. Shelley | United States District Court for the Central District of California | 324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587 | July 6, 2004 | Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in | The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be | No                           | N/A         | No                                    |

009827



| Name of Case | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | the alternative, a preliminary injunction. | deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p> |                              |             |                                       |

009829

| Name of Case                                  | Court   | Citation   | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|----------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |  |                |   | showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Hood | United States District Court for the Middle District of Florida | 310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615 | March 24, 2004 | Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida | The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired   | No                           | N/A         | No                                    |

009830

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p> | <p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p> |                              |             |                                       |

009831

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--</p> |                              |             |                                       |

009832

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>disabled voters. Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting</p> |                              |             |                                       |

009833

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>system would have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the</p> |                              |             |                                       |

| Name of Case      | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                   |   |                             |                  |  | voters.   |                              |             |                                       |
| Troiano v. Lepore | United States District Court for the Southern District of Florida | 2003 U.S. Dist. LEXIS 25850 | November 3, 2003 | Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary | The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow | No                           | N/A         | No                                    |

009835



| Name of Case | Court | Citation | Date | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | judgment. | <p>things down too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also</p> |                              |             |                                       |

009836

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>failed to state an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have</p> |                              |             |                                       |

009837

| Name of Case                       | Court   | Citation                                  | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------------|---|---|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                    |   |   |                   |  | audio components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.                       |                              |             |                                       |
| Troiano v. Supervisor of Elections | United States Court of Appeals for the Eleventh Circuit | 382 F.3d 1276; 2004 U.S. App. LEXIS 18497 | September 1, 2004 | Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in | The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The | No                           | N/A         | No                                    |

Deliberative Process  
Privilege

009838

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>voting booths to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p> | <p>appellate court agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio</p> |                              |             |                                       |

009839

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>components prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the</p> |                              |             |                                       |

009840

| Name of Case                                   | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |  | accessible voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Smith | United States District Court for the Middle District of Florida | 227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373 | October 16, 2002 | Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state | Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In  | No                           | N/A         | No                                    |

009841

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>and local election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p> | <p>order to vote, the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined</p> |                              |             |                                       |

009842

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>with the federal claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the</p> |                              |             |                                       |

009873



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court could not say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims.</p> <p>Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs</p> |                              |             |                                       |

009847

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>asserted that they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p> |                              |             |                                       |

009875

| Name of Case                 | Court  | Citation                                 | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|--|-----------------|---|--|------------------------------|-------------|---------------------------------------|
| Jenkins v. Williamson-Butler | Court of Appeal of Louisiana, Fourth Circuit | 883 So. 2d 537; 2004 La. App. LEXIS 2433 | October 8, 2004 | Petitioner, a candidate for a parish juvenile court judgeship, failed to qualify for a runoff election. She filed suit against defendant, the clerk of criminal court for the parish seeking a new election, based on grounds of substantial irregularities. The district court ruled in favor of the candidate | The trial court found that the voting machines were not put into service until two, four, and, in many instances, eight hours after the statutorily mandated starting hour which constituted serious irregularities so as to deprive voters from freely expressing their will. It was impossible to determine the number of voters that were affected by the | No                           | N/A         | No                                    |

| Name of Case        | Court  | Citation                                  | Date            | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|--|---|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 | and ordered the holding of a restricted citywide election. The clerk appealed. | late start up or late arrival of voting machines, making it impossible to determine the result. The appellate court agreed that the irregularities were so serious that the trial court's voiding the election and calling a new election was the proper remedy. Judgment affirmed. |                              |             |                                       |
| Hester v. McKeithen | Court of Appeal of Louisiana, Fourth Circuit | 882 So. 2d 1291; 2004 La. App. LEXIS 2429 | October 8, 2004 | Petitioner, school board candidate, filed suit against defendants, Louisiana   | The candidate argued that the trial court erred in not setting aside the election, even after   | No                           | N/A         | No                                    |

009847

| Name of Case  | Court                 | Citation   | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------|--|----------------|--|--|------------------------------|-------------|---------------------------------------|
|   |                       |  |                | Secretary of State and district court clerk, contesting the school board election results. The trial court rendered judgment against the candidate, finding no basis for the election to be declared void. The candidate appealed. | acknowledging in its reasons for judgment numerous irregularities with the election process. The appellate court ruled that had the irregularities not occurred the outcome would have been exactly the same. Judgment affirmed. |                              |             |                                       |
| In re Election Contest of Democratic Primary Election | Supreme Court of Ohio | 88 Ohio St. 3d 258; 2000 Ohio 325; 725 N.E.2d 271; 2000 Ohio | March 29, 2000 | Appellant sought review of the judgment of the court of common   | Appellant contended that an election irregularity occurred when the board failed   | No                           | N/A         | No                                    |

878600

| Name of Case     | Court | Citation  | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-------|-----------|------|--|---|------------------------------|-------------|---------------------------------------|
| Held May 4, 1999 |       | LEXIS 607 |      | pleas denying his election contest challenging an opponent's nomination for election irregularity. | to meet and act by majority vote on another candidate's withdrawal, instead permitting its employees to make decisions. Appellant had to prove by clear and convincing evidence that one or more election irregularities occurred and it affected enough votes to change or make uncertain the result of the election. Judgment affirmed. The appellant did |                              |             |                                       |

678600

| Name of Case   | Court                         | Citation                                       | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------------------|--|--------------|---|---|------------------------------|-------------|---------------------------------------|
|  |                               |  |              |   | not establish election irregularity by the board's actions on the candidate's withdrawal, the board acted diligently and exercised its discretion in keeping the candidate's name on the ballot and notifying electors of his withdrawal. |                              |             |                                       |
| In re Election Contest As to Watertown Special Referendum Election | Supreme Court of South Dakota | 2001 SD 62; 628 N.W.2d 336; 2001 S.D. LEXIS 66 | May 23, 2001 | Appellant sought review of the judgment of the circuit court declaring a local election valid and | The burden was on appellants to show not only that voting irregularities occurred, but also show that those irregularities  | No                           | N/A         | No                                    |

009850

| Name of Case    | Court                    | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                          |   |               | declining to order a new election.  | were so egregious that the will of the voters was suppressed. Appellants did not meet their burden, as mere inconvenience or delay in voting was not enough to overturn the election. Judgment affirmed. |                              |             |                                       |
| Jones v. Jessup | Supreme Court of Georgia | 279 Ga. 531; 615 S.E.2d 529; 2005 Ga. LEXIS 447 | June 30, 2005 | Defendant incumbent appealed a judgment by the trial court that invalidated an election for the position of sheriff and | After the candidate lost the sheriff's election to the incumbent, he contested the election, asserting that there were sufficient irregularities to  | No                           | N/A         | No                                    |

009851



| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>ordered that a new election be held based on plaintiff candidate's election contest.</p> | <p>place in doubt the election results. The state supreme court held that the candidate failed to prove substantial error in the votes cast by the witnesses adduced at the hearing who voted at the election. Although the candidate's evidence reflected the presence of some irregularities, not every irregularity invalidated the vote. The absentee ballots</p> |                              |             |                                       |

009852

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were only to be rejected where the electors failed to furnish required information. Because the ballots cast by the witnesses substantially complied with all of the essential requirements of the form, the trial court erred by finding that they should not have been considered. The candidate failed to establish substantial error in the votes. Judgment reversed.</p> |                              |             |                                       |

009853

| Name of Case        | Court                     | Citation                                      | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---------------------------|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
| Toliver v. Thompson | Supreme Court of Oklahoma | 2000 OK 98; 17 P.3d 464; 2000 Okla. LEXIS 101 | December 21, 2000 | Petitioner challenged an order of the district court denying his motion to compel a recount of votes from an election. | The court held a recount of votes cast in an election could occur when the ballots had been preserved in the manner prescribed by statute. The trial court noted when the ballots had not been preserved in such a manner, no recount would be conducted. The court further noted a petition alleging irregularities in an election could be based upon an allegation that | No                           | N/A         | No                                    |

009854

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>it was impossible to determine with mathematical certainty which candidate was entitled to be issued a certificate of election. The Oklahoma supreme court held petitioner failed to show that the actual votes counted in the election were tainted with irregularity, and similarly failed to show a statutory right to a new election based upon a failure to preserve the</p> |                              |             |                                       |

009855

| Name of Case       | Court                      | Citation                           | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|----------------------------|------------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |                            |                                    |                   |   | ballots.<br>Judgment affirmed.   |                              |             |                                       |
| Adkins v. Huckabay | Supreme Court of Louisiana | 755 So. 2d 206; 2000 La. LEXIS 504 | February 25, 2000 | Plaintiff candidate challenged judgment of court of appeal, second circuit, which reversed the lower court's judgment and declared defendant candidate winner of a runoff election for sheriff. | The issue presented for the appellate court's determination was whether the absentee voting irregularities plaintiff candidate complained of rendered it impossible to determine the outcome of the election for sheriff. The Louisiana supreme court concluded that the lower court had applied the correct | No                           | N/A         | No                                    |

009856

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>standard, substantial compliance, to the election irregularities, but had erred in its application by concluding that the contested absentee ballots substantially complied with the statutory requirements. The supreme court found that in applying substantial compliance to five of the ballot irregularities, the trial court correctly vacated the general election</p> |                              |             |                                       |

009857

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>and set it aside because those absentee ballots should have been disqualified. Because of the constitutional guarantee to secrecy of the ballot and the fact that the margin of victory in the runoff election was three votes, it was impossible to determine the result of the runoff election. Thus, the supreme court ordered a new general election. Judgment of the</p> |                              |             |                                       |

009858

| Name of Case           | Court                             | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|-----------------------------------|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |                                   |  |                  |  | court of appeals reversed.  |                              |             |                                       |
| In re Gray--<br>Sadler | Supreme<br>Court of<br>New Jersey | 164 N.J.<br>468; 753<br>A.2d 1101;<br>2000 N.J.<br>LEXIS 668 | June 30,<br>2000 | Appellants,<br>write--in<br>candidates<br>for the<br>offices of<br>mayor and<br>borough<br>council,<br>appealed the<br>judgment of<br>the superior<br>court,<br>appellate<br>division<br>reversing the<br>trial court's<br>decision to<br>set aside the<br>election<br>results for<br>those offices<br>due to<br>irregularities<br>related to the<br>write--in | The New Jersey<br>supreme court<br>held that the<br>votes that were<br>rejected by<br>election<br>officials did not<br>result from the<br>voters' own<br>errors, but from<br>the election<br>officials'<br>noncompliance<br>with statutory<br>requirements.<br>In other words,<br>the voters were<br>provided with<br>patently<br>inadequate<br>instructions and<br>defective<br>voting<br>machines.<br>Moreover, | No                           | N/A         | No                                    |

009859



| Name of Case                                    | Court                                   | Citation                       | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |                                |                   | instructions and defective voting machines.                         | appellants met the statutory requirement for successfully contesting the election results by showing that enough qualified voters were denied the right to cast write--in votes as to affect the outcome of the election. Judgment reversed and the state trial court's decision reinstated. |                              |             |                                       |
| Goodwin v. St. Thomas-St. John Bd. of Elections | Territorial Court of the Virgin Islands | 43 V.I. 89; 2000 V.I. LEXIS 15 | December 13, 2000 | Plaintiff political candidate alleged that certain general election | Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks,   | No                           | N/A         | No                                    |

009360

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the</p> | <p>were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The territorial court held that plaintiff was not entitled to relief since he failed to</p> |                              |             |                                       |

009861

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | election results tabulated without such ballots. | establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly |                              |             |                                       |

009862

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were</p> |                              |             |                                       |

009863

| Name of Case             | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Johnson v. Lopez--Torres | Supreme Court of New York, Appellate Division, Second Department | 2005 NY Slip Op 7825; 2005 N.Y. App. Div. LEXIS 11276 | October 21, 2005 | In a proceeding for a re-- canvass of certain affidavit ballots cast in the Democratic Party primary election for the public office of surrogate, the supreme court denied appellant candidate's petition requesting the same and declared appellee opponent the winner of | proper.<br>Finding that the candidate had waived her right to challenge the affidavit ballots and had not sufficiently established her claim of irregularities to warrant a hearing, the trial court denied her petition and declared the opponent the winner of the primary. However, on appeal, the appellate division held that no waiver occurred. |                              |             |                                       |

009867

| Name of Case | Court | Citation | Date | Facts          | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | that election. | Moreover, because hundreds of apparently otherwise eligible voters failed to fill in their party enrollment and/or prior address, it could be reasonably inferred that these voters were misled thereby into omitting the required information. Finally, the candidate failed to make a sufficient showing of voting irregularities in |                              |             |                                       |

009865

| Name of Case   | Court                    | Citation                            | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|-------------------------------------|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                          |                                     |                 |   | the machine vote to require a hearing on that issue. Judgment reversed.  |                              |             |                                       |
| Ex parte Avery | Supreme Court of Alabama | 843 So. 2d 137; 2002 Ala. LEXIS 239 | August 23, 2002 | Petitioner probate judge moved for a writ of mandamus directing a circuit judge to vacate his order requiring the probate judge to transfer all election materials to the circuit clerk and holding him in contempt for failing to do so. The | The issuance of a writ of mandamus was appropriate. The district attorney had a right to the election materials because he was conducting a criminal investigation of the last election. Furthermore, the circuit judge had no jurisdiction or authority to issue an order | No                           | N/A         | No                                    |

009866

| Name of Case                                    | Court                        | Citation                             | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--------------------------------------|----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |                              |                                      |                | probate judge also requested that said material be turned over to the district attorney, pursuant to an outstanding subpoena.     | directing that the election materials be given to the clerk. The district attorney received several claims of irregularities in the election, some of which could constitute voter fraud. Petition granted and writ issued. |                              |             |                                       |
| Harpole v. Kemper County Democratic Exec. Comm. | Supreme Court of Mississippi | 908 So. 2d 129; 2005 Miss. LEXIS 463 | August 4, 2005 | After his loss in a primary election for the office of sheriff, appellant candidate sued appellees, a political party's executive | The candidate alleged the sheriff had his deputies transport prisoners to the polls, felons voted, and the absentee voter law was breached. The committee   | No                           | N/A         | No                                    |

009867



| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>committee and the incumbent sheriff, alleging irregularities in the election. The circuit court dismissed the candidate's petition for judicial review with prejudice. He appealed.</p> | <p>agreed with the last contention and threw out the absentee ballots (seven percent of votes cast); after a recount, the sheriff still prevailed. The trial court dismissed the case due to alleged defects in the petition; in the alternative, it held that the candidate failed to sufficiently allege violations and irregularities in the election. The supreme court held that the petition was</p> |                              |             |                                       |

009868

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not defective. Disqualification of seven percent of the total votes was not substantial enough so as to cause the will of the voters to be impossible to discern and to warrant a special election, and there were not enough illegal votes cast for the sheriff to change the outcome. A blanket allegation implying that the sheriff had deputies transport prisoners to the</p> |                              |             |                                       |

009869

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | polls was not supported by credible evidence. Judgment affirmed. |                              |             |                                       |

009870

| Name of Case            | Court  | Citation                                | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
| United States v. Madden | United States Court of Appeals for the Sixth Circuit | 403 F.3d 347; 2005 U.S. App. LEXIS 5326 | April 4, 2005 | Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role enhancement and increased defendant's base offense level by | Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not violated by his conduct. In the alternative, he | No                           | N/A         | No                                    |

009871

| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | two levels. | <p>stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to establish a vote--buying offense. That argument also failed. Defendant next</p> |                              |             |                                       |

009872

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>argued that the district court erred by applying the vulnerable--victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's</p> |                              |             |                                       |

009873

| Name of Case           | Court  | Citation                                 | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |              |  | appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.   |                              |             |                                       |
| United States v. Slone | United States Court of Appeals for the Sixth Circuit | 411 F.3d 643; 2005 U.S. App. LEXIS 10137 | June 3, 2005 | Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could | Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was | No                           | N/A         | No                                    |

009874

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p> | <p>unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant</p> |                              |             |                                       |

009875



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in</p> |                              |             |                                       |

009876

| Name of Case           | Court  | Citation                                       | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |               |   | the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and sentence were affirmed.  |                              |             |                                       |
| United States v. Smith | United States Court of Appeals for the Sixth Circuit | 139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855 | July 18, 2005 | Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed. | One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced | No                           | N/A         | No                                    |

009877

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that two witnesses had been threatened. The appellate court found that defendants failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness</p> |                              |             |                                       |

009878

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>testified that he or she was approached by a member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3 A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated</p> |                              |             |                                       |

009879

| Name of Case     | Court  | Citation                                 | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|--|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |  |  |                |   | defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker. |                              |             |                                       |
| Nugent v. Phelps | Court of Appeal of Louisiana, Second Circuit | 816 So. 2d 349; 2002 La. App. LEXIS 1138 | April 23, 2002 | Plaintiff incumbent police chief sued defendant challenger, the | The incumbent argued that: (1) the number of persons who were bribed for their  | No                           | N/A         | No                                    |

009880

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's case, the district court for the dismissed his suit. The incumbent appealed.</p> | <p>votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters should have been counted because they were incarcerated for the sole purpose of keeping them</p> |                              |             |                                       |

009881

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial</p> |                              |             |                                       |

009882

| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed. |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of circuit court convicting him of one count of | Defendant was helping with his cousin's campaign in a run-off election for county supervisor.  | No                           | N/A         | No                                    |

009833



| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>conspiracy to commit voter fraud and eight counts of voter fraud.</p> | <p>Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it</p> |                              |             |                                       |

009884

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was precluded from reviewing the entire context in which the argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Furthermore, the trial judge did not abuse his</p> |                              |             |                                       |

009885

| Name of Case            | Court   | Citation                    | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---|-----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                         |   |                             |                   |   | discretion when he did not allow defendant to ask the individual whether she wanted to see defendant go to prison because the individual's potential bias was shown by the individual's testimony that she expected the prosecution to recommend her sentence. The court affirmed defendant's conviction. |                              |             |                                       |
| United States v. Turner | United States District Court for the Eastern District of Kentucky | 2005 U.S. Dist. LEXIS 31709 | November 30, 2005 | Defendants were charged with committing mail fraud and conspiracy to commit mail fraud and vote-- | Defendants argued that recusal was mandated by 28 U.S.C.S. § 455(a) and (b)(1). The court found no  | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>buying. First defendant filed a motion to recuse. Second defendant's motion to join the motion to recuse was granted. First defendant moved to compel the Government to grant testimonial use immunity to second defendant and moved to sever defendants.</p> | <p>merit in defendants' arguments. The fact that the judge's husband was the commissioner of the Kentucky Department of Environmental Protection, a position to which he was appointed by the Republican Governor, was not relevant. The judge's husband was neither a party nor a witness. The court further concluded that no reasonable person could find that the judge's spouse had any direct interest in the instant action.</p> |                              |             |                                       |

009387

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>As for issue of money donated by the judge's husband to Republican opponents of first defendant, the court could not discern any reason why such facts warranted recusal. First defendant asserted that second defendant should have been granted use immunity based on a belief that second defendant would testify that first defendant did not agree to, possess knowledge of, engage in, or otherwise participate in any</p> |                              |             |                                       |

009888

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of the illegal activity alleged in the indictment. The court found the summary of expected testimony to be too general to grant immunity. In addition, it was far from clear whether the court had the power to grant testimonial use immunity to second defendant. Defendants' motion to recuse was denied. First defendant's motions to compel and to sever were denied.</p> |                              |             |                                       |

009889

| Name of Case    | Court                     | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---------------------------|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Ways v. Shively | Supreme Court of Nebraska | 264 Neb. 250; 646 N.W.2d 621; 2002 Neb. LEXIS 158 | July 5, 2002 | Appellant felon filed a writ of mandamus, which sought to compel appellee Election Commissioner of Lancaster County, Nebraska, to permit him to register to vote. The District Court for Lancaster County denied the felon's petition for writ of mandamus and dismissed the petition. The felon appealed. | The felon was discharged from the Nebraska State Penitentiary in June 1998 after completing his sentences for the crimes of pandering, carrying a concealed weapon and attempting to possess a controlled substance. The commissioner asserted that as a result of the felon's conviction, the sentence for which had neither been reversed nor annulled, he had lost his right to vote. The commissioner contended that the | No                           | N/A         | No                                    |

008800

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>only method by which the felon's right to vote could be restored was through a warrant of discharge issued by the Nebraska Board of Pardons--<br/> -a warrant of discharge had not been issued. The supreme court ruled that the certificate of discharge issued to the felon upon his release did not restore his right to vote. The supreme court ruled that as a matter of law, the specific right to vote was not restored to the felon upon his discharge from incarceration at the</p> |                              |             |                                       |

009891



| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | completion of his sentences. The judgment was affirmed.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court declared the disenfranchisement | No                           | N/A         | No                                    |

009892

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the authority under</p> |                              |             |                                       |

009893

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative</p> |                              |             |                                       |

009894

| Name of Case          | Court                              | Citation                                | Date               | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|---|--------------------|---|---|------------------------------|-------------|---------------------------------------|
|                       |                                    |   |                    |   | authority.  |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. LEXIS 534 | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | Petitioner convicted felons were presently or had formerly been confined in state prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released | No                           | N/A         | No                                    |

009895

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing</p> |                              |             |                                       |

009396

| Name of Case       | Court                        | Citation  | Date            | Facts                              | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|-----------|-----------------|------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                    |                              |           |                 |                                    | <p>and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector. had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.</p> |                              |             |                                       |
| NAACP Philadelphia | United States District Court | 2000 U.S. | August 14, 2000 | Plaintiffs moved for a preliminary | Plaintiffs, ex--felon,  | No                           | N/A         | No                                    |

009897

| Name of Case    | Court                                    | Citation          | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|-------------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Branch v. Ridge | for the Eastern District of Pennsylvania | Dist. LEXIS 11520 |      | injunction, which the parties agreed to consolidate with the merits determination for a permanent injunction, in plaintiffs' civil rights suit contending that the Pennsylvania Voter Registration Act, offended the Equal Protection Clause of U.S. Const. amend. XIV. | unincorporated association, and others, filed a civil rights suit against defendant state and local officials, contending that the Pennsylvania Voter Registration Act, violated the Equal Protection Clause by prohibiting some ex--felons from voting during the five year period following their release from prison, while permitting other ex--felons to vote. Plaintiffs conceded that one plaintiff lacked standing, and the court assumed the remaining |                              |             |                                       |

009898

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>plaintiffs had standing. The court found that all that all three of the special circumstances necessary to invoke the Pullman doctrine were present in the case, but found that abstention was not appropriate under the circumstances since it did not agree with plaintiffs' contention that the time constraints caused by the upcoming election meant that the option of pursuing their claims in state court did not offer plaintiffs an</p> |                              |             |                                       |

668600



| Name of Case       | Court   | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |  | adequate remedy. Plaintiff's motion for permanent injunction denied; the court abstained from deciding merits of plaintiffs' claims under the Pullman doctrine because all three of the special circumstances necessary to invoke the doctrine were present in the case; all further proceedings stayed until further order. |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations of the Voting Rights Act. The parties filed cross-- | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights schemes, premised upon Wash. Const. art. VI § 3,   | No                           | N/A         | No                                    |

009900

| Name of Case | Court | Citation | Date | Facts                                | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--------------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>motions for summary judgment.</p> | <p>resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of minorities; as a result, minorities</p> |                              |             |                                       |

009901

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new constitutional problem, allowing</p> |                              |             |                                       |

| Name of Case    | Court   | Citation  | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |   |   |               |   | disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that   | No                           | N/A         | No                                    |

009903

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to</p> |                              |             |                                       |

009904

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth</p> |                              |             |                                       |

009905

| Name of Case           | Court  | Citation                   | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |   | qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.   |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned. | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him | No                           | N/A         | No                                    |

906600

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt</p> |                              |             |                                       |

009907



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional rights. The court found the statute at issue to be</p> |                              |             |                                       |

806600

| Name of Case     | Court  | Citation                    | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |  |                             |               |   | constitutional and denied the inmate's motion for summary judgment.   |                              |             |                                       |
| Hayden v. Pataki | United States District Court for the Southern District of New York | 2004 U.S. Dist. LEXIS 10863 | June 14, 2004 | In a 42 U.S.C.S. § 1983 action filed by plaintiffs, black and latino convicted felons, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) were unconstitutional, defendants, New York's governor and the chairperson of the board of elections, moved for judgment on the pleadings under Fed. R. Civ. P. 12(c). | The felons sued defendants, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) unlawfully denied suffrage to incarcerated and paroled felons on account of their race. The court granted defendants' motion for judgment on the pleadings on the felons' claims under U.S. Const. amend. XIV, XV because their factual allegations were insufficient | No                           | N/A         | No                                    |

606600

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>from which to draw an inference that the challenged provisions or their predecessors were enacted with discriminatory intent, and because denying suffrage to those who received more severe punishments, such as a term of incarceration, and not to those who received a lesser punishment, such as probation, was not arbitrary. The felons' claims under 42 U.S.C.S. § 1973 were dismissed because § 1973 could not be used to challenge the</p> |                              |             |                                       |

009910

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>legality of N.Y. Elec. Law § 5--106. Defendants' motion was granted as to the felons' claims under 42 U.S.C.S. § 1971 because § 1971 did not provide for a private right of action, and because the felons were not "otherwise qualified to vote." The court also granted defendants' motion on the felons' U.S. Const. amend. I claim because it did not guarantee a felon the right to vote. Defendants' motion for judgment on the</p> |                              |             |                                       |

009911

| Name of Case            | Court   | Citation                                  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                         |   |   |               |   | pleadings was granted in the felons' § 1983 action.  |                              |             |                                       |
| Farrakhan v. Washington | United States Court for Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed. | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised. The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation | No                           | N/A         | No                                    |

009912

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included</p> |                              |             |                                       |

009913

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for</p> |                              |             |                                       |

009914

| Name of Case   | Court                     | Citation                                      | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                |                           |   |                  |  | further proceedings to the bias in the criminal justice system claim.  |                              |             |                                       |
| In re Phillips | Supreme Court of Virginia | 265 Va. 81; 574 S.E.2d 270; 2003 Va. LEXIS 10 | January 10, 2003 | The circuit court, entered a judgment in which it declined to consider petitioner former felon's petition for approval of her request to seek restoration of her eligibility to register to vote. The former felon appealed. | More than five years earlier, the former felon was convicted of the felony of making a false written statement incident to a firearm purchase. She then petitioned the trial court asking it to approve her request to seek restoration of her eligibility to register to vote. Her request was based on Va. Code Ann. § 53.1--231.2, allowing persons convicted of non--violent | No                           | N/A         | No                                    |

009915



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>felonies to petition a trial court for approval of a request to seek restoration of voting rights. The trial court declined. It found that Va. Code Ann. § 53.1--231.2 violated constitutional separation of powers principles since it gave the trial court powers belonging to the governor. It also found that even if the statute was constitutional, it was fundamentally flawed for not providing notice to respondent Commonwealth regarding a</p> |                              |             |                                       |

009916

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>petition. After the petition was denied, the state supreme court found the separation of powers principles were not violated since the statute only allowed the trial court to determine if an applicant met the requirements to have voting eligibility restored. It also found the statute was not fundamentally flawed since the Commonwealth was not an interested party entitled to notice. OUTCOME: The judgment was reversed and the</p> |                              |             |                                       |

009917

| Name of Case      | Court   | Citation                  | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|---------------------------|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                   |   |                           |                   |  | case was remanded for further proceedings.  |                              |             |                                       |
| Howard v. Gilmore | United States Court of Appeals for the Fourth Circuit | 2000 U.S. App. LEXIS 2680 | February 23, 2000 | Appellant challenged the United States District Court for the Eastern District of Virginia's order summarily dismissing his complaint, related to his inability to vote as a convicted felon, for failure to state a claim upon which relief can be granted. | Appellant was disenfranchised by the Commonwealth of Virginia following his felony conviction. He challenged that decision by suing the Commonwealth under the U.S. Const. amends. I, XIV, XV, XIX, and XXIV, and under the Voting Rights Act of 1965. The lower court summarily dismissed his complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. | No                           | N/A         | No                                    |

009918

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Appellant challenged. The court found U.S. Const. amend. I created no private right of action for seeking reinstatement of previously canceled voting rights, U.S. Const. amends. XIV, XV, XIX, and the VRA required either gender or race discrimination, neither of which appellant asserted, and the U.S. Const. amend. XXIV, while prohibiting the imposition of poll taxes, did not prohibit the imposition of a \$10 fee for</p> |                              |             |                                       |

009919

| Name of Case | Court         | Citation | Date     | Facts                 | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|----------|-----------------------|--|------------------------------|-------------|---------------------------------------|
|              |               |          |          |                       | reinstatement of appellant's civil rights, including the right to vote. Consequently, appellant failed to state a claim. The court affirmed, finding that none of the constitutional provisions appellant relied on were properly pled because appellant failed to assert that either his race or gender were involved in the decisions to deny him the vote. Conditioning reestablishment of his civil rights on a \$10 fee was not unconstitutional. |                              |             |                                       |
| Johnson v.   | United States | 353 F.3d | December | Plaintiffs, ex--felon | The citizens   | No                           | N/A         | No                                    |

009920

| Name of Case     | Court                                     | Citation                         | Date     | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|----------------------------------|----------|---|--|------------------------------|-------------|---------------------------------------|
| Governor of Fla. | Court of Appeals for the Eleventh Circuit | 1287; 2003 U.S. App. LEXIS 25859 | 19, 2003 | citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws. | alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a discriminatory animus. The citizens had met their initial burden of showing that |                              |             |                                       |

009921

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court found that the claim under the Voting Rights Act, also needed to be remanded for further proceedings. Under a totality of the circumstances,</p> |                              |             |                                       |

009922

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions, in violation of the Voting Rights Act. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for violation of federal voting laws and remanded the</p> |                              |             |                                       |

009923



| Name of Case   | Court                         | Citation                  | Date               | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|-------------------------------|---------------------------|--------------------|--|---|------------------------------|-------------|---------------------------------------|
|                |                               |                           |                    |  | matter to the district court for further proceedings.   |                              |             |                                       |
| State v. Black | Court of Appeals of Tennessee | 2002 Tenn. App. LEXIS 696 | September 26, 2002 | In 1997, petitioner was convicted of forgery and sentenced to the penitentiary for two years, but was immediately placed on probation. He subsequently petitioned the circuit court for restoration of citizenship. The trial court restored his citizenship rights. The State appealed. The appellate court issued its opinion, but granted the State's motions to supplement the record and to | The appellate court's original opinion found that petitioner had not lost his right to hold public office because Tennessee law removed that right only from convicted felons who were "sentenced to the penitentiary." The trial court's amended judgment made it clear that petitioner was in fact sentenced to the penitentiary. Based upon this correction to the record, the appellate court | No                           | N/A         | No                                    |

009924

| Name of Case | Court | Citation | Date | Facts                | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | rehear its decision. | found that petitioner's sentence to the penitentiary resulted in the forfeiture of his right to seek and hold public office by operation of Tenn. Code Ann. § 40-20--114. However, the appellate court concluded that this new information did not requires a different outcome on the merits of the issue of restoration of his citizenship rights, including the right to seek and hold public office. The appellate court adhered to its conclusion that the |                              |             |                                       |

009925

| Name of Case                | Court   | Citation                 | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|--------------------------|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                             |   |                          |                |   | <p>statutory presumption in favor of the restoration was not overcome by a showing, by a preponderance of the evidence, of good cause to deny the petition for restoration of citizenship rights. The appellate court affirmed the restoration of petitioner's right to vote and reversed the denial of his right to seek and hold public office. His full rights of citizenship were restored.</p> |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh | 405 F.3d 1214; 2005 U.S. | April 12, 2005 | Plaintiff individuals sued defendant members of Florida | The individuals argued that the racial animus motivating the  | No                           | N/A         | No                                    |

009926

| Name of Case | Court   | Citation              | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------|-----------------------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Circuit | App.<br>LEXIS<br>5945 |      | Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and 42 U.S.C.S. § 1973. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted. | adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial discrimination at |                              |             |                                       |

009927

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that 42 U.S.C.S. § 1973 applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment permitted the state</p> |                              |             |                                       |

009928

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.</p> |                              |             |                                       |

009929

| Name of Case         | Court                                       | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Hileman v. McGinness | Appellate Court of Illinois, Fifth District | 316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845 | October 25, 2000 | Appellant challenged the circuit court's declaration that that the result of a primary election for county circuit clerk was void. | In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been | No                           | N/A         | No                                    |

009930

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>segregated, apportionment was the appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a</p> |                              |             |                                       |

009931



| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | determination as to whether fraud was evident in the electoral process. Judgment reversed and remanded.  |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of the circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud. | Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant | No                           | N/A         | No                                    |

009932

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the</p> |                              |             |                                       |

009933

| Name of Case | Court    | Citation | Date   | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|----------|--------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |          |          |        |           | <p>argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Judgment affirmed.</p> |                              |             |                                       |
| Wilson v.    | Court of | 2000 Va. | May 2, | Defendant | At trial, the   | No                           | N/A         | No                                    |

009934

| Name of Case | Court               | Citation       | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------|----------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Commonwealth | Appeals of Virginia | App. LEXIS 322 | 2000 | appealed the judgment of the circuit court which convicted her of election fraud. | Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from |                              |             |                                       |

009935

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the Department of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. Judgment affirmed.</p> |                              |             |                                       |
|              |       |          |      |       |   |                              |             |                                       |
|              |       |          |      |       |   |                              |             |                                       |
|              |       |          |      |       |   |                              |             |                                       |

009936

| Name of Case | Court | Citation | Date | Facts | Holding | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |

009937

| Name of Case         | Court                    | Citation            | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------|---------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. LEXIS 214 | December 9, 2005 | The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of | The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that | No                           | N/A         | No                                    |

009938

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | its judgment pending resolution of the appeal. | at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those |                              |             |                                       |

009939



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply</p> |                              |             |                                       |

009940

| Name of Case     | Court         | Citation        | Date             | Facts                  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                        | with the absentee--voting requirements. The judgment declaring the incumbent's opponent the winner was affirmed. The judgment counting the challenged votes in the final tally of votes was reversed, and said votes were subtracted from the incumbents total, and the stay was vacated. All other arguments were rendered moot as a result. |                              |             |                                       |
| ACLU of Minn. v. | United States | 2004 U.S. Dist. | October 29, 2004 | Plaintiffs, voters and | Plaintiffs argued that Minn. Stat.  | No                           | N/A         | No                                    |

009941

| Name of Case | Court  | Citation    | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Kiffmeyer    | District Court for the District of Minnesota | LEXIS 22996 |      | associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the |                              |             |                                       |

009942

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth</p> |                              |             |                                       |

009943

009944

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100, |                              |             |                                       |

| Name of Case                        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |   | violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional | No                           | N/A         | No                                    |

009925

| Name of Case | Court | Citation | Date | Facts    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | dismiss. | ballot, a first--time voter could identify himself by providing his driver's license number or the last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable |                              |             |                                       |

976600

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the</p> |                              |             |                                       |

009947



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, even if the cost, in terms of uncounted ballots, was regrettable. The court granted the Secretary's motion to dismiss. |                              |             |                                       |

| Name of Case               | Court  | Citation                                      | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| New York v. County of Del. | United States District Court for the Northern District of New York | 82 F. Supp. 2d 12; 2000 U.S. Dist. LEXIS 1398 | February 8, 2000 | Plaintiffs brought a claim in the district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued. | In their complaint plaintiffs alleged that defendants violated the ADA by making the voting locations inaccessible to disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct parties, because | No                           | N/A         | No                                    |

676600

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>pursuant to New York election law defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, due to the alleged</p> |                              |             |                                       |

009950

| Name of Case                    | Court                  | Citation                | Date             | Facts                             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------------|-------------------------|------------------|-----------------------------------|---|------------------------------|-------------|---------------------------------------|
|                                 |                        |                         |                  |                                   | facts, the court found plaintiffs would likely succeed on the merits. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction and granted plaintiffs' motion for leave to amend their complaint. |                              |             |                                       |
| New York v. County of Schoharie | United States District | 82 F. Supp. 2d 19; 2000 | February 8, 2000 | Plaintiffs brought a claim in the | In their complaint, plaintiffs  | No                           | N/A         | No                                    |

009951

| Name of Case | Court                                       | Citation              | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|-----------------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | Court for the Northern District of New York | U.S. Dist. LEXIS 1399 |      | district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and a motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued. | alleged defendants violated the ADA by allowing voting locations to be inaccessible for disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct party, because pursuant to New York election law, |                              |             |                                       |

009952

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, the court found that plaintiffs would likely succeed on the</p> |                              |             |                                       |

009958

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>merits of their case. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction because plaintiffs showed irreparable harm and proved likely success on the merits and granted plaintiff's motion for leave to amend the complaint.</p> |                              |             |                                       |

009954

| Name of Case  | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Westchester Disabled on the Move, Inc. v. County of Westchester | United States District Court for the Southern District of New York | 346 F. Supp. 2d 473; 2004 U.S. Dist. LEXIS 24203 | October 22, 2004 | Plaintiffs sued defendant county, county board of elections, and election officials pursuant to 42 U.S.C.S. §§ 12131--12134, N.Y. Exec. Law § 296, and N.Y. Elec. Law § 4--1--4. Plaintiffs moved for a preliminary injunction, requesting (among other things) that the court order defendants to modify the polling places in the county so that they | The inability to vote at assigned locations on election day constituted irreparable harm. However, plaintiffs could not show a likelihood of success on the merits because the currently named defendants could not provide complete relief sought by plaintiffs. Although the county board of elections was empowered to | No                           | N/A         | No                                    |

000955



| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>were accessible to disabled voters on election day. Defendants moved to dismiss.</p> | <p>select an alternative polling place should it determine that a polling place designated by a municipality was "unsuitable or unsafe," it was entirely unclear that its power to merely designate suitable polling places would be adequate to ensure that all polling places used in the upcoming election actually conformed</p> |                              |             |                                       |

009956

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>with the Americans with Disabilities Act. Substantial changes and modifications to existing facilities would have to be made, and such changes would be difficult, if not impossible, to make without the cooperation of municipalities. Further, the court could order defendants to approve voting machines that conformed to</p> |                              |             |                                       |

009957

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the ADA were they to be purchased and submitted for county approval, but the court could not order them to purchase them for the voting districts in the county. A judgment issued in the absence of the municipalities would be inadequate. Plaintiffs' motion for preliminary injunction was denied, and defendants' motion to dismiss was granted.</p> |                              |             |                                       |

009958

| Name of Case                            | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Nat'l Org. on Disability v. Tartaglione | United States District Court for the Eastern District of Pennsylvania | 2001 U.S. Dist. LEXIS 16731 | October 11, 2001 | Plaintiffs, disabled voters and special interest organizations, sued defendants, city commissioners, under the Americans with Disabilities Act and § 504 of the Rehabilitation Act of 1973, and regulations under both statutes, regarding election practices. The commissioners moved to dismiss for failure (1) to | The voters were visually impaired or wheelchair bound. They challenged the commissioners' failure to provide talking voting machines and wheelchair accessible voting places. They claimed discrimination in the process of voting because they were not afforded the same opportunity to participate in the voting process as non-disabled | No                           | N/A         | Yes-see if the case was refiled       |

009959

009960

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | state a cause of action and (2) to join an indispensable party. | voters, and assisted voting and voting by alternative ballot were substantially different from, more burdensome than, and more intrusive than the voting process utilized by non--disabled voters. The court found that the complaint stated causes of actions under the ADA, the Rehabilitation Act, and 28 C.F.R. §§ 35.151 and |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>35.130. The court found that the voters and organizations had standing to raise their claims. The organizations had standing through the voters' standing or because they used significant resources challenging the commissioners' conduct. The plaintiffs failed to join the state official who would need to approve any talking voting machine as a</p> |                              |             |                                       |

009961

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>party. As the court could not afford complete relief to the visually impaired voters in that party's absence, it granted the motion to dismiss under Fed. R. Civ. P. 12(b)(7) without prejudice. The court granted the commissioners' motion to dismiss in part, and denied it in part. The court granted the motion to dismiss the claims of the</p> |                              |             |                                       |

009962

| Name of Case                                | Court                       | Citation   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------------|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                             |  |              |  | visually impaired voters for failure to join an indispensable party, without prejudice, and with leave to amend the complaint.  |                              |             |                                       |
| TENNESSEE, Petitioner v. GEORGE LANE et al. | United States Supreme Court | 541 U.S. 509; 124 S. Ct. 1978; 158 L. Ed. 2d 820; 2004 U.S. LEXIS 3386 | May 17, 2004 | Respondent paraplegics sued petitioner State of Tennessee, alleging that the State failed to provide reasonable access to court facilities in violation of Title II of the Americans with Disabilities Act | The state contended that the abrogation of state sovereign immunity in Title II of the ADA exceeded congressional authority under U.S. Const. amend XIV, § 5, to enforce substantive constitutional guarantees. | No                           | N/A         | No                                    |

009963



| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of 1990. Upon the grant of a writ of certiorari, the State appealed the judgment of the United States Court of Appeals for the Sixth Circuit which denied the State's claim of sovereign immunity.</p> | <p>The United States Supreme Court held, however, that Title II, as it applied to the class of cases implicating the fundamental right of access to the courts, constituted a valid exercise of Congress's authority. Title II was responsive to evidence of pervasive unequal treatment of persons with disabilities in the administration of state</p> |                              |             |                                       |

009964

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>services and programs, and such disability discrimination was thus an appropriate subject for prophylactic legislation. Regardless of whether the State could be subjected to liability for failing to provide access to other facilities or services, the fundamental right of access to the courts warranted the limited requirement that the State reasonably</p> |                              |             |                                       |

009965

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>accommodate disabled persons to provide such access. Title II was thus a reasonable prophylactic measure, reasonably targeted to a legitimate end. The judgment denying the State's claim of sovereign immunity was affirmed.</p> |                              |             |                                       |

009966

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed. | The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence----violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in | No                           | N/A         | No                                    |

009967

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable</p> |                              |             |                                       |

896600

| Name of Case           | Court                        | Citation                | Date        | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------------|-------------------------|-------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |                              |                         |             |   | presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.   |                              |             |                                       |
| Wilson v. Commonwealth | Court of Appeals of Virginia | 2000 Va. App. LEXIS 322 | May 2, 2000 | Defendant appealed the judgment of the circuit court which convicted her of election fraud. | On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>required by Title 24.2. At trial, the Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department of Motor Vehicles and school records. Thus, the evidence</p> |                              |             |                                       |

019970

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the</p> |                              |             |                                       |

009971



| Name of Case               | Court  | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|--|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                            |  |                             |                  |  | voter registration card required to be filed in order for her to be a candidate for office in the primary in question.  |                              |             |                                       |
| ACLU of Minn. v. Kiffmeyer | United States District Court for the District of Minnesota | 2004 U.S. Dist. LEXIS 22996 | October 29, 2004 | Plaintiffs, voters and associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | Plaintiffs argued that Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the | No                           | N/A         | No                                    |

009972

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic</p> |                              |             |                                       |

009973

| Name of Case                 | Court  | Citation  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                              |  |   |                   |  | tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered. |                              |             |                                       |
| Kalsson v. United States FEC | United States District Court for the Southern District of New York | 356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279 | February 16, 2005 | Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's | The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held  | No                           | N/A         | No                                    |

009974

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>action, which sought a declaration that the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p> | <p>that the individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and even if such an injury in other circumstances might have sufficed for standing, any</p> |                              |             |                                       |

009975

| Name of Case                     | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                                  |  |  |                  |   | dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.                                 |                              |             |                                       |
| Peace & Freedom Party v. Shelley | California Court of Appeal, Third Appellate District | 114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | January 15, 2004 | Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in | The trial court ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and | No                           | N/A         | No                                    |

009976

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p> | <p>importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file.</p> |                              |             |                                       |

009977

| Name of Case      | Court  | Citation                                 | Date               | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|--|--------------------|---|---|------------------------------|-------------|---------------------------------------|
|                   |  |  |                    |   | Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and vote. Affirmed. |                              |             |                                       |
| McKay v. Thompson | United States Court of Appeals for the Sixth Circuit | 226 F.3d 752; 2000 U.S. App. LEXIS 23387 | September 18, 2000 | Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials | The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required  | No                           | N/A         | No                                    |

009978

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision |                              |             |                                       |

009979



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>regarding such use. Plaintiff could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under 28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that</p> |                              |             |                                       |

009980

| Name of Case                               | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |  |  |                  |  | voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. |                              |             |                                       |
| Lucas County Democratic Party v. Blackwell | United States District Court for the Northern District of Ohio | 341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416 | October 21, 2004 | Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. | The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their   | No                           | N/A         | No                                    |

009981

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>The organizations claimed that the memorandum contravened provisions of the Help America Vote Act and the National Voter Registration Act. The organizations moved for a preliminary injunction.</p> | <p>Social Security number. In his memorandum, the Secretary informed all Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations were likely to succeed on the merits of their claim. Denying the</p> |                              |             |                                       |

009982

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re--open in--person registration until election day. The public interest would have been ill-</p> |                              |             |                                       |

009983

| Name of Case   | Court   | Citation  | Date         | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|--------------|---|--|------------------------------|-------------|---------------------------------------|
|  |   |   |              |   | -served by an injunction. The motion for a preliminary injunction was denied sua sponte.   |                              |             |                                       |
| Nat'l Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | United States District Court for the District of Maryland | 150 F. Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | July 5, 2001 | Plaintiff, national organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for | Defendants alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter | No                           | N/A         | No                                    |

009984

| Name of Case | Court | Citation | Date | Facts             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | summary judgment. | registration services were not registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter registration services at the initial |                              |             |                                       |

009985

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion</p> |                              |             |                                       |

00998R

| Name of Case       | Court                        | Citation  | Date          | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|---|---------------|--|---|------------------------------|-------------|---------------------------------------|
|                    |                              |   |               |  | for summary judgment was denied.  |                              |             |                                       |
| People v. Disimone | Court of Appeals of Michigan | 251 Mich. App. 605; 650 N.W.2d 436; 2002 Mich. App. LEXIS 826 | July 11, 2002 | Defendant was charged with attempting to vote more than once in the 2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed. | Defendant was registered in the Colfax township for the 2000 general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court | No                           | N/A         | No                                    |

009987



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous</p> |                              |             |                                       |

009988

| Name of Case | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |   | terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual | No                           | N/A         | No                                    |

009989

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter applicants whose</p> |                              |             |                                       |

009990

| Name of Case | Court  | Citation | Date    | Facts                | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|----------------------|--|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                      | <p>registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.</p> |                              |             |                                       |
| Charles H.   | United | 324 F.   | July 1, | Plaintiffs, a voter, | The organization   | No                           | N/A         | No                                    |

009991

| Name of Case                     | Court  | Citation                                   | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|--|--|------|--|--|------------------------------|-------------|---------------------------------------|
| Wesley Educ. Found., Inc. v. Cox | States District Court for the Northern District of Georgia | Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120 | 2004 | fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV. | participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African--Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person. |                              |             |                                       |

009992

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an</p> |                              |             |                                       |

009993

009994

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was |                              |             |                                       |

| Name of Case     | Court   | Citation                                       | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |  |                  |   | mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.   |                              |             |                                       |
| Moseley v. Price | United States District Court for the Eastern District of Virginia | 300 F. Supp. 2d 389; 2004 U.S. Dist. LEXIS 850 | January 22, 2004 | Plaintiff alleged, that defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from | The court concluded that plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect | No                           | N/A         | No                                    |

009995



| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the race for Commonwealth Attorney because of the investigation. Defendants moved to dismiss the complaint.</p> | <p>in the event a mailed registration card was returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared. The court found the inference wholly unwarranted</p> |                              |             |                                       |

009996

| Name of Case | Court   | Citation | Date     | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------|----------|----------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |         |          |          |             | <p>because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice.</p> |                              |             |                                       |
| Thompson v.  | Supreme | 295      | June 10, | Respondents | Respondents alleged  | No                           | N/A         | No                                    |

009997

| Name of Case | Court  | Citation   | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|--|------|--|---|------------------------------|-------------|---------------------------------------|
| Karben       | Court of New York, Appellate Division, Second Department | A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101 | 2002 | filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order. | that appellant was unlawfully registered to vote from an address at which he did not reside and that he should have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May 2001 paycheck |                              |             |                                       |

009998

| Name of Case            | Court  | Citation                    | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|-----------------------------|----------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |  |                             |                |  | <p>stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address.</p> <p>Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.</p> |                              |             |                                       |
| Nat'l Coalition v. Taft | United States District Court for the Southern District of Ohio | 2002 U.S. Dist. LEXIS 22376 | August 2, 2002 | Plaintiffs, a nonprofit public interest group and certain individuals, sued defendants, certain state and university | The court found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a   | No                           | N/A         | No                                    |

666600

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a preliminary injunction.</p> | <p>government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under</p> |                              |             |                                       |

010000

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary injunction was granted in part and the Secretary of</p> |                              |             |                                       |

010001

| Name of Case            | Court  | Citation                                | Date        | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|-------------|---|--|------------------------------|-------------|---------------------------------------|
|                         |  |   |             |   | State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability.     |                              |             |                                       |
| Lawson v. Shelby County | United States Court of Appeals for the Sixth Circuit | 211 F.3d 331; 2000 U.S. App. LEXIS 8634 | May 3, 2000 | Plaintiffs who were denied the right to vote when they refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western | Plaintiffs attempted to register to vote in October, and to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI.</p> | <p>privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was</p> |                              |             |                                       |



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>barred. The court also held the statute of limitations ran from the date plaintiffs were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under the Young exception to sovereign immunity,</p> |                              |             |                                       |

010004

| Name of Case    | Court  | Citation  | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |   |              |   | to be fashioned.  |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544 | June 4, 2001 | Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to enjoin a Texas state court proceeding under the All Writs Act. | Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be | No                           | N/A         | No                                    |

010005

010006

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since, unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and</p> |                              |             |                                       |

| Name of Case      | Court  | Citation                                      | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|---|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                   |  |   |                   |   | such challenge properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding. |                              |             |                                       |
| Pepper v. Darnell | United States Court of Appeals for the Sixth Circuit | 24 Fed. Appx. 460; 2001 U.S. App. LEXIS 26618 | December 10, 2001 | Plaintiff individual appealed from a judgment of the district court, in an action against defendant state | Individual argued on appeal that the district court erred in finding that the registration forms used by the state did not violate the  | No                           | N/A         | No                                    |

010007

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p> | <p>NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>provide a specific location as an address, regardless of the transient lifestyle of the potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the indigent individual, acting in his own behalf, was clearly</p> |                              |             |                                       |

60009

| Name of Case        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |  |  |                  |   | unable to represent fairly the class. The district court's judgment was affirmed.   |                              |             |                                       |
| Miller v. Blackwell | United States District Court for the Southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a | No                           | N/A         | No                                    |

010010

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>individuals filed a motion to intervene as defendants.</p> | <p>substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of</p> |                              |             |                                       |

010011



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>success on the merits because they made a strong showing that defendants' intended actions regarding pre--election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court also granted the individuals' motion to intervene.</p> |                              |             |                                       |

010012

| Name of Case        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Miller v. Blackwell | United States District Court for the southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants. | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre--election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre--election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of | No                           | N/A         | No                                    |

010013

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because</p> |                              |             |                                       |

010014

| Name of Case         | Court         | Citation        | Date             | Facts                               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|---------------|-----------------|------------------|-------------------------------------|--|------------------------------|-------------|---------------------------------------|
|                      |               |                 |                  |                                     | they made a strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court also granted the individuals' motion to intervene. |                              |             |                                       |
| Spencer v. Blackwell | United States | 347 F. Supp. 2d | November 1, 2004 | Plaintiff voters filed a motion for | The voters alleged that defendants   | No                           | N/A         | No                                    |

010015

| Name of Case | Court  | Citation                         | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|----------------------------------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | District Court for the Southern District of Ohio | 528; 2004 U.S. Dist. LEXIS 22062 |      | temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls. | had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was |                              |             |                                       |

010016

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of</p> |                              |             |                                       |

010017

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door.</p> <p>Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional</p> |                              |             |                                       |

010018

| Name of Case                   | Court  | Citation                   | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------|--|----------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                                |  |                            |              |   | and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day. |                              |             |                                       |
| Charfauros v. Bd. of Elections | United States Court of Appeals for the Ninth Circuit | 2001 U.S. App. LEXIS 15083 | May 10, 2001 | Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern | Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by  | No                           | N/A         | No                                    |

010019



| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity.</p> | <p>administering pre-election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court</p> |                              |             |                                       |

010020

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge</p> |                              |             |                                       |

010021

| Name of Case  | Court   | Citation                                  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|               |   |   |                  |  | <p>panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.</p> |                              |             |                                       |
| Wit v. Berman | United States Court of Appeals for the Second Circuit | 306 F.3d 1256; 2002 U.S. App. LEXIS 21301 | October 11, 2002 | Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State | Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that,   | No                           | N/A         | No                                    |

010022

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p> | <p>since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over-- or under-- inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to</p> |                              |             |                                       |

| Name of Case    | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                  |  | choose which of their residences was their domicile for voting purposes could not be deemed discriminatory. Affirmed.  |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987 | November 3, 2000 | Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas. | Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self-styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with | No                           | N/A         | No                                    |

010025

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Texas law, three resident voters filed affidavits challenging the escapees' residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court issued a preliminary injunction prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future</p> |                              |             |                                       |

010027



| Name of Case                     | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                  |   |   |                  |   | election. Motion for preliminary injunction was granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act. |                              |             |                                       |
| Peace & Freedom Party v. Shelley | Court of Appeal of California, Third Appellate District | 114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. | January 15, 2004 | Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of | The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed,   | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS 42 |      | mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election. | observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure |                              |             |                                       |

010029

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in</p> |                              |             |                                       |

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.   |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all</p> |                              |             |                                       |

010033

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice. |                              |             |                                       |

010034

| Name of Case                                | Court   | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States Court of Appeals for the Eleventh Circuit | 408 F.3d 1349; 2005 U.S. App. LEXIS 8320 | May 12, 2005 | Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the | The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration | No                           | N/A         | No                                    |



| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | foundation. | forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the |                              |             |                                       |

010036

| Name of Case | Court  | Citation | Date      | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|-----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |           |           | <p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p> |                              |             |                                       |
| McKay v.     | United | 226 F.3d | September | Plaintiff | The trial court   | No                           | N/A         | No                                    |

010037

| Name of Case | Court   | Citation                        | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---------------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thompson     | States Court of Appeals for the Sixth Circuit | 752; 2000 U.S. App. LEXIS 23387 | 18, 2000 | challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p> |                              |             |                                       |

010039

| Name of Case | Court  | Citation | Date    | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|---------------------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                     | immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. |                              |             |                                       |
| Nat'l        | United | 150 F.   | July 5, | Plaintiff, national | Defendants  | No                           | N/A         | No                                    |

010040

| Name of Case   | Court   | Citation                                 | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--|------|---|--|------------------------------|-------------|---------------------------------------|
| Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | States District Court for the Southern District of Maryland | Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | 2001 | organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not |                              |             |                                       |

010041

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p> |                              |             |                                       |

010043



| Name of Case                               | Court  | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |  |                            |                   |   | complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied. |                              |             |                                       |
| Cunningham v. Chi. Bd. of Election Comm'rs | United States District Court for the Northern District of Illinois | 2003 U.S. Dist. LEXIS 2528 | February 24, 2003 | Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed | Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were                                  | No                           | N/A         | No                                    |

570010

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined. | registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for |                              |             |                                       |

| Name of Case | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |  | preliminary relief was denied.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental | No                           | N/A         | No                                    |

010047

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p> |                              |             |                                       |

870010

670049

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without |                              |             |                                       |

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | prejudice granted.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA | No                           | N/A         | No                                    |

010050

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p> |                              |             |                                       |

010051



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p> |                              |             |                                       |

010052

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                |   | summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.  |                              |             |                                       |
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause | The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place | No                           | N/A         | No                                    |

010053

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p> | <p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p> |                              |             |                                       |

010054

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p> |                              |             |                                       |

010055

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

010056

| Name of Case                                | Court   | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States Court of Appeals for the Eleventh Circuit | 408 F.3d 1349; 2005 U.S. App. LEXIS 8320 | May 12, 2005 | Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the | The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration | No                           | N/A         | No                                    |

010057

| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | foundation. | forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the |                              |             |                                       |

| Name of Case | Court  | Citation | Date      | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|-----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |           |           | <p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p> |                              |             |                                       |
| McKay v.     | United | 226 F.3d | September | Plaintiff | The trial court   | No                           | N/A         | No                                    |

010059



| Name of Case | Court   | Citation                        | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---------------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thompson     | States Court of Appeals for the Sixth Circuit | 752; 2000 U.S. App. LEXIS 23387 | 18, 2000 | challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it |                              |             |                                       |

010060

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p> |                              |             |                                       |

010061

| Name of Case | Court  | Citation | Date    | Facts               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|---------------------|--|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                     | <p>immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.</p> |                              |             |                                       |
| Nat'l        | United | 150 F.   | July 5, | Plaintiff, national | Defendants   | No                           | N/A         | No                                    |

010062

| Name of Case   | Court   | Citation                                 | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--|------|---|---|------------------------------|-------------|---------------------------------------|
| Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | States District Court for the Southern District of Maryland | Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | 2001 | organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiffs members that requested voter registration services were not |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p> |                              |             |                                       |

010064

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p> |                              |             |                                       |

| Name of Case                               | Court  | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |  |                            |                   |   | complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied. |                              |             |                                       |
| Cunningham v. Chi. Bd. of Election Comm'rs | United States District Court for the Northern District of Illinois | 2003 U.S. Dist. LEXIS 2528 | February 24, 2003 | Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed | Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were                                  | No                           | N/A         | No                                    |

010066

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p> | <p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p> |                              |             |                                       |

010067



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p> |                              |             |                                       |

| Name of Case | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |  | preliminary relief was denied.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental | No                           | N/A         | No                                    |

010069

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p> |                              |             |                                       |

010070

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p> |                              |             |                                       |

010071

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | prejudice granted.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA | No                           | N/A         | No                                    |

010072

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p> |                              |             |                                       |

010073

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p> |                              |             |                                       |

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                |   | summary judgment were granted as to all claims with prejudice, except the voters' state--law claim, which was dismissed for want of jurisdiction, without prejudice.   |                              |             |                                       |
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause | The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place | No                           | N/A         | No                                    |

010075



| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p> | <p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p> |                              |             |                                       |

010077

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

010078

| Name of Case         | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Hileman v. McGinness | Court of Appeals of Illinois, Fifth District | 316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845 | October 25, 2000 | Appellant challenged the circuit court declaration that that the result of a primary election for county circuit clerk was void. | In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been segregated, apportionment was the | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a determination as to whether fraud was evident in</p> |                              |             |                                       |

010080

| Name of Case             | Court                     | Citation   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|---------------------------|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|                          |                           |  |              |  | the electoral process. The court reversed the declaration of the trial court, holding that a determination as to whether fraud was involved in the election was necessary to a determination of whether or not a new election was required. |                              |             |                                       |
| DeFabio v. Gummersheimer | Supreme Court of Illinois | 192 Ill. 2d 63; 733 N.E.2d 1241; 2000 Ill. LEXIS 993 | July 6, 2000 | Appellant challenged the judgment of the appellate court, which affirmed the trial court's decision granting appellee's summary judgment motion in action brought by | Appellee filed a petition for election contest, alleging that the official results of the Monroe County coroners election were invalid because none of the 524 ballots cast in  | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellee to contest the results of the election for the position of county coroner in Monroe County.</p> | <p>Monroe County's second precinct were initialed by an election judge, in violation of Illinois law. The trial court granted appellee's motion for summary judgment, and the appellate court affirmed the judgment. The Illinois supreme court affirmed, noting that statutes requiring election judges to initial election ballots were mandatory, and uninitialed</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption. Thus, the supreme court held that the trial court properly invalidated all of the ballots cast in Monroe County's second precinct. The court reasoned that none of the ballots contained the requisite initialing, and neither party argued that any</p> |                              |             |                                       |



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of the uninitialed ballots could have been distinguished or identified as absentee ballots. The supreme court affirmed the judgment because the Illinois statute requiring election judges to initial election ballots was mandatory, and uninitialed ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption.</p> |                              |             |                                       |

010084

| Name of Case                                | Court   | Citation  | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |   |               |   | Additionally, none of the ballots in Monroe County's second precinct contained the requisite initialing.  |                              |             |                                       |
| Gilmore v. Amityville Union Free Sch. Dist. | United States District Court for the Eastern District of New York | 305 F. Supp. 2d 271; 2004 U.S. Dist. LEXIS 3116 | March 2, 2004 | Plaintiffs, two school board candidates, filed a class action complaint against defendants, a school district, the board president, and other district agents or employees, challenging a school board election. Defendants moved to dismiss. | During the election, a voting machine malfunctioned, resulting in votes being cast on lines that were blank on the ballot. The board president devised a plan for counting the machine votes by moving each tally up one line. The two candidates, who were African | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>American, alleged that the president's plan eliminated any possibility that an African American would be elected. The court found that the candidates failed to state a claim under § 1983 because they could not show that defendants' actions were done or approved by a person with final policymaking authority, nor was there a showing of intentional or</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>purposeful discrimination on defendants' part. The vote-counting method applied equally to all candidates. The candidates' claims under § 2000a and 2000c--8 failed because schools were not places of public accommodation, as required under § 2000a, and § 2000c--8 applied to school segregation. Their claim under § 1971 of deprivation of voting rights failed because §</p> |                              |             |                                       |

| Name of Case                      | Court                 | Citation                       | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|--------------------------------|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |                                |                    |  | 1971 did not provide for a private right of action. The court declined to exercise supplemental jurisdiction over various state law claims. Defendants' motion to dismiss was granted with respect to the candidates' federal claims; the state law claims were dismissed without prejudice. |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, | The Secretary of State issued a directive to all Ohio county boards of   | No                           | N/A         | No                                    |

| Name of Case | Court | Citation  | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|---|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | 4789;<br>834<br>N.E.2d<br>346;<br>2005<br>Ohio<br>LEXIS<br>2074 |      | sought review of a judgment from the court of appeals, which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the |                              |             |                                       |

010089

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The court dismissed the complaint, finding that no clear legal right was established under Ohio law and the federal claims could be adequately raised in an action under § 1983. On appeal, the Ohio supreme court</p> |                              |             |                                       |

| Name of Case           | Court                            | Citation                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|----------------------------------|----------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                        |                                  |                            |                   |   | held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed under § 1983 to raise the federal--law claims. Affirmed. |                              |             |                                       |
| Touchston v. McDermott | United States District Court for | 120 F. Supp. 2d 1055; 2000 | November 14, 2000 | In action in which plaintiffs, registered voters in Brevard County, | In their complaint, plaintiffs challenged the  | No                           | N/A         | No                                    |

010091



| Name of Case | Court                          | Citation               | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------------------------------|------------------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | the Middle District of Florida | U.S. Dist. LEXIS 20091 |      | Florida, filed suit against defendants, members of several County Canvassing Boards and the Secretary of the Florida Department of State, challenging the constitutionality of Fla. Stat. Ann. § 102.166(4) (2000), before the court was plaintiffs' emergency motion for temporary restraining order and/or preliminary injunction. | constitutionality of § 102.166(4), asserting that the statute violated their rights under the Equal Protection and Due Process Clauses of U.S. Const. amend. XIV. Based on these claims, plaintiffs sought an order from the court stopping the manual recount of votes. The court found that plaintiffs had failed to set forth a valid basis for intervention by federal courts. They had not |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. Moreover, plaintiffs had not established a likelihood of success on the merits of their claims. Plaintiffs' motion for temporary restraining order and/or preliminary injunction denied; plaintiffs had</p> |                              |             |                                       |

010093

| Name of Case     | Court   | Citation  | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|---|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |   |                   |   | not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote.                                    |                              |             |                                       |
| Siegel v. LePore | United States District Court for the Southern District of Florida | 120 F. Supp. 2d 1041; 2000 U.S. Dist. LEXIS 16333 | November 13, 2000 | Plaintiffs, individual Florida voters and Republican Party presidential and vice-presidential candidates, moved for a temporary restraining order and preliminary injunction to enjoin defendants, canvassing board members from four Florida | The court addressed who should consider plaintiffs' serious arguments that manual recounts would diminish the accuracy of vote counts due to ballot degradation and the exercise of discretion in determining | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | counties, from proceeding with manual recounts of election ballots. | voter intent. The court ruled that intervention by a federal district court, particularly on a preliminary basis, was inappropriate. A federal court should not interfere except where there was an immediate need to correct a constitutional violation. Plaintiffs neither demonstrated a clear deprivation of a constitutional injury or a fundamental unfairness in Florida's manual |                              |             |                                       |

010096

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | recount provision. The recount provision was reasonable and non--discriminatory on its face and resided within the state's broad control over presidential election procedures. Plaintiffs failed to show that manual recounts were so unreliable as to constitute a constitutional injury, that plaintiffs' alleged injuries were irreparable, or that they lacked |                              |             |                                       |

| Name of Case   | Court                    | Citation                             | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|--------------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                          |                                      |                   |   | <p>an adequate state court remedy. Injunctive relief denied because plaintiffs demonstrated neither clear deprivation of constitutional injury or fundamental unfairness in Florida's manual recount provision to justify federal court interference in state election procedures.</p> |                              |             |                                       |
| Gore v. Harris | Supreme Court of Florida | 773 So. 2d 524; 2000 Fla. LEXIS 2474 | December 22, 2000 | In a contest to results of the 2000 presidential election in Florida, the United States Supreme Court | The state supreme court had ordered the trial court to conduct a manual recount  | No                           | N/A         | No                                    |

010097

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>reversed and remanded a Florida Supreme Court decision that had ordered a manual recount of certain ballots.</p> | <p>of 9000 contested Miami--Dade County ballots, and also held that uncounted "undervotes" in all Florida counties were to be manually counted. The trial court was ordered to use the standard that a vote was "legal" if there was a clear indication of the intent of the voter. The United States Supreme Court released an opinion on December 12, 2000, which held that such a</p> |                              |             |                                       |

010098

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>standard violated equal protection rights because it lacked specific standards to ensure equal application, and also mandated that any manual recount would have to have been completed by December 12, 2000. On remand, the state supreme court found that it was impossible under that time frame to adopt adequate standards and make necessary evaluations of vote tabulation</p> |                              |             |                                       |

010099



| Name of Case                                     | Court                                   | Citation                       | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--------------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |                                |                   |   | equipment. Also, development of a specific, uniform standard for manual recounts was best left to the legislature. Because adequate standards for a manual recount could not be developed by the deadline set by the United States Supreme Court, appellants were afforded no relief. |                              |             |                                       |
| Goodwin v. St. Thomas--St. John Bd. of Elections | Territorial Court of the Virgin Islands | 43 V.I. 89; 2000 V.I. LEXIS 15 | December 13, 2000 | Plaintiff political candidate alleged that certain general election absentee ballots violated | Plaintiff alleged that defendants counted unlawful absentee ballots   | No                           | N/A         | No                                    |

010100

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots.</p> | <p>that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed</p> |                              |             |                                       |

010101

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly</p> |                              |             |                                       |

010102

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper.</p> |                              |             |                                       |

010103

| Name of Case          | Court                                  | Citation                          | Date            | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|--|-----------------------------------|-----------------|--|---|------------------------------|-------------|---------------------------------------|
|                       |  |                                   |                 |  | <p>Plaintiffs request for declaratory and injunctive relief was denied. Invalidation of absentee ballots was not required since the irregularities asserted by plaintiff involved ballots which were in fact valid, were not tabulated by defendants, or were insufficient to change the outcome of the election.</p> |                              |             |                                       |
| Shannon v. Jacobowitz | United States Court of Appeals for the | 394 F.3d 90; 2005 U.S. App. LEXIS | January 7, 2005 | Plaintiffs, voters and an incumbent candidate, sued defendants, a challenger | Local election inspectors noticed a problem with a voting machine.  | No                           | N/A         | No                                    |

010104

| Name of Case | Court          | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Second Circuit | 259      |      | candidate, a county board of election, and commissioners, pursuant to § 1983 alleging violation of the Due Process Clause of the Fourteenth Amendment. The United States District Court for the Northern District of New York granted summary judgment in favor of plaintiffs. Defendants appealed. | Plaintiffs asserted that their votes were not counted due to the machine malfunction. Rather than pursue the state remedy of quo warranto, by requesting that New York's Attorney General investigate the machine malfunction and challenge the election results in state court, plaintiffs filed their complaint in federal court. The court of appeals found that United States Supreme |                              |             |                                       |

010105

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Court jurisprudence required intentional conduct by state actors as a prerequisite for a due process violation. Neither side alleged that local officials acted intentionally or in a discriminatory manner with regard to the vote miscount. Both sides conceded that the recorded results were likely due to an unforeseen malfunction with the voting</p> |                              |             |                                       |

010106

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>machine.<br/> Because no conduct was alleged that would indicate an intentional deprivation of the right to vote, there was no cognizable federal due process claim. The proper remedy was to assert a quo warranto action to challenge the outcome of a general election based on an alleged voting machine malfunction. The district court's grant of summary judgment was</p> |                              |             |                                       |

010107



| Name of Case   | Court                       | Citation   | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-----------------------------|--|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |                             |  |                  |  | reversed and its injunctions were vacated. The case was remanded for further proceedings consistent with this opinion.   |                              |             |                                       |
| GEORGE W. BUSH v. PALM BEACH COUNTY CANVASSING BOARD, ET AL. | United States Supreme Court | 531 U.S. 70; 121 S. Ct. 471; 148 L. Ed. 2d 366; 2000 U.S. LEXIS 8087 | December 4, 2000 | Appellant Republican presidential candidate's petition for writ of certiorari to the Florida supreme court was granted in a case involving interpretations of Fla. Stat. Ann. §§ 102.111, 102.112, in proceedings brought by appellees Democratic presidential candidate, county | The Supreme Court vacated the state court's judgment, finding that the state court opinion could be read to indicate that it construed the Florida Election Code without regard to the extent to which the Florida Constitution could, consistent with | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>canvassing boards, and Florida Democratic Party regarding authority of the boards and respondent Florida Secretary of State as to manual recounts of ballots and deadlines.</p> | <p>U.S. Const. art. II, § 1, cl. 2, circumscribe the legislative power. The judgment of the Florida Supreme Court was vacated and remanded for further proceedings. The court stated the judgment was unclear as to the extent to which the state court saw the Florida constitution as circumscribing the legislature's authority under Article II of the United States Constitution, and as to the</p> |                              |             |                                       |

010109

| Name of Case           | Court   | Citation                                  | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|---|---|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                        |   |   |                   |   | consideration given the federal statute regarding state electors.  |                              |             |                                       |
| Touchston v. McDermott | United States Court of Appeals for the Eleventh Circuit | 234 F.3d 1130; 2000 U.S. App. LEXIS 29366 | November 17, 2000 | Plaintiff voters appealed from judgment of the United States District Court for the Middle District of Florida, which denied their emergency motion for an injunction pending appeal against defendant county election officials. Plaintiffs sought to enjoin defendants from conducting manual ballot recounts or to enjoin defendants from certifying results of the presidential | Plaintiff voters sought an emergency injunction pending appeal to enjoin defendant county election officials from conducting manual ballot recounts or to enjoin defendants from certifying the results of the Presidential election which contained any manual recounts. The district court | No                           | N/A         | No                                    |

010110

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | election that contained any manual recounts. | denied the emergency injunction and plaintiffs appealed. Upon review, the emergency motion for injunction pending appeal was denied without prejudice. Florida had adequate election dispute procedures, which had been invoked and were being implemented in the forms of administrative actions by state officials and actions in state court. |                              |             |                                       |

010111

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Therefore, the state procedures were adequate to preserve for ultimate review in the United States Supreme Court any federal questions arising out of the state procedures. Moreover, plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would warrant granting the extraordinary remedy of an injunction pending appeal. Denial of</p> |                              |             |                                       |

| Name of Case   | Court                    | Citation                   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                          |                            |                  |   | <p>plaintiff's petition for emergency injunction pending appeal was affirmed. The state procedures were adequate to preserve any federal issue for review, and plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would have warranted granting the extraordinary remedy of the injunction.</p> |                              |             |                                       |
| Gore v. Harris | Supreme Court of Florida | 772 So. 2d 1243; 2000 Fla. | December 8, 2000 | The court of appeal certified as being of great | Appellants contested the certification of  | No                           | N/A         | No                                    |

010113

| Name of Case | Court | Citation      | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|---------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>2373 |      | public importance a trial court judgment that denied all relief requested by appellants, candidates for President and Vice President of the United States, in appellants' contest to certified election results. | their opponents as the winners of Florida's electoral votes. The Florida supreme court found no error in the trial court's holding that it was proper to certify election night returns from Nassau County rather than results of a machine recount. Nor did the trial court err in refusing to include votes that the Palm Beach County Canvassing Board found not to be legal votes during a manual |                              |             |                                       |

010114

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>recount. However, the trial court erred in excluding votes that were identified during the Palm Beach County manual recount and during a partial manual recount in Miami--Dade County. It was also error to refuse to examine Miami--Dade County ballots that registered as non--votes during the machine count. The trial court applied an improper standard to</p> |                              |             |                                       |

010115



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>determine whether appellants had established that the result of the election was in doubt, and improperly concluded that there was no probability of a different result without examining the ballots that appellants claimed contained rejected legal votes. The judgment was reversed and remanded; the trial court was ordered to tabulate by hand Miami-Dade</p> |                              |             |                                       |

010116

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>County ballots that the counting machine registered as non--votes, and was directed to order inclusion of votes that had already been identified during manual recounts. The trial court also was ordered to consider whether manual recounts in other counties were necessary.</p> |                              |             |                                       |

010117

| Name of Case     | Court  | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval. | The court issued an order to assure that the service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by | No                           | N/A         | No                                    |

| Name of Case     | Court         | Citation  | Date             | Facts                        | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------|------------------|------------------------------|--|------------------------------|-------------|---------------------------------------|
|                  |               |           |                  |                              | <p>November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.</p> |                              |             |                                       |
| United States v. | United States | 2004 U.S. | October 20, 2004 | Plaintiff United States sued | The testimony of the two witnesses   | No                           | N/A         | No                                    |

010119

| Name of Case | Court  | Citation          | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Pennsylvania | District Court for the Middle district of Pennsylvania | Dist. LEXIS 21167 |      | defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year. | offered by the United States did not support its contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern |                              |             |                                       |

010120

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>regarding their ability or right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had adduced substantial evidence that the requested</p> |                              |             |                                       |

010121

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. must consider the following four factors: (1) the likelihood that the applicant will prevail on the merits of the substantive claim; (2) the extent to which the moving party will be irreparably harmed in the absence of injunctive relief; (3) the extent to which</p> |                              |             |                                       |

010122

| Name of Case                               | Court   | Citation  | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |   |      |   | the nonmoving party will suffer irreparable harm if the court grants the requested injunctive relief; and (4) the public interest. District courts should only grant injunctive relief after consideration of each of these factors. Motion for injunctive relief denied. |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 |      | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state | Plaintiff presidential and vise--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal   | No                           | N/A         | No                                    |

010123



| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p> | <p>write--in ballots based on criteria inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outside the United States and requiring the state election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p> |                              |             |                                       |

| Name of Case      | Court         | Citation        | Date             | Facts                     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------|-----------------|------------------|---------------------------|---|------------------------------|-------------|---------------------------------------|
|                   |               |                 |                  |                           | <p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and relief GRANTED in part and declared valid all federal write-in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p> |                              |             |                                       |
| Harris v. Florida | United States | 122 F. Supp. 2d | December 9, 2000 | Plaintiffs challenged the | In two separate cases, plaintiff  | No                           | N/A         | No                                    |

010126

| Name of Case                | Court   | Citation                          | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|-----------------------------------|------|--|---|------------------------------|-------------|---------------------------------------|
| Elections Canvassing Comm'n | District Court for the Northern District of Florida | 1317; 2000 U.S. Dist. LEXIS 17875 |      | counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida election law. | electors originally sued defendant state elections canvassing commission and state officials in Florida state circuit court, challenging the counting of overseas absentee ballots received after 7 p.m. on election day. Defendant governor removed one case to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case |                              |             |                                       |

010127

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law.</p> |                              |             |                                       |

010129

| Name of Case   | Court  | Citation   | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--|--|-------------------|--|--|------------------------------|-------------|---------------------------------------|
| Romeu v. Cohen | United States District Court for the Southern District of New York | 121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842 | September 7, 2000 | Plaintiff territorial resident and plaintiff--intervenor territorial governor moved for summary judgment and defendant federal, state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election. | Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff--intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non--justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>standing because he made a substantial showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential</p> |                              |             |                                       |

010131



| Name of Case   | Court   | Citation                                 | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---|--|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                |   |  |                   |  | election. The court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.  |                              |             |                                       |
| Romeu v. Cohen | United States Court of Appeals for the Second Circuit | 265 F.3d 118; 2001 U.S. App. LEXIS 19876 | September 6, 2001 | Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of residence. The resident appealed | The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents residing in a territory, who were not permitted to | No                           | N/A         | No                                    |

010132

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p> | <p>vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his</p> |                              |             |                                       |

010133

| Name of Case                        | Court  | Citation                       | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--------------------------------|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |  |                                |               |   | residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed. |                              |             |                                       |
| Igartua de la Rosa v. United States | United States District Court for the District of | 107 F. Supp. 2d 140; 2000 U.S. | July 19, 2000 | Defendant United States moved to dismiss plaintiffs' action seeking a declaratory | The court denied the motion of defendant United States to dismiss the action of  | No                           | N/A         | No                                    |

| Name of Case | Court       | Citation                | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------------|-------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | Puerto Rico | Dist.<br>LEXIS<br>11146 |      | judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights. | plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>elections. No constitutional amendment was needed. The present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in Presidential</p> |                              |             |                                       |

010137

| Name of Case | Court | Citation | Date | Facts | Holding    | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | elections. |                              |             |                                       |

010138

| Name of Case      | Court                           | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
| James v. Bartlett | Supreme Court of North Carolina | 359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146 | February 4, 2005 | Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed. | The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional | No                           | N/A         | No                                    |



| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | ballots to be counted in state and local elections. The candidates failure to challenge the counting of out--of--precinct provisional ballots before the election did not render their action untimely. Reversed and remanded. |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 387 F.3d 565; 2004 U.S. App. LEXIS 22320 | October 26, 2004 | Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast | The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42  | No                           | N/A         | No                                    |

010140

010141

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county. | U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted.</p> <p>Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p> |                              |             |                                       |

010142

| Name of Case                      | Court                 | Citation  | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|---|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |   |                    |  | legal votes. Affirmed in part and reversed in part.  |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074 | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p> |                              |             |                                       |

010144

010145

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed |                              |             |                                       |

| Name of Case                  | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |   |   |                  |  | under § 1983 to raise the federal-law claims. Affirmed.   |                              |             |                                       |
| Fla. Democratic Party v. Hood | United States District Court for the Northern District of Florida | 342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720 | October 21, 2004 | Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings. | The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p> |                              |             |                                       |

010127



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p> |                              |             |                                       |

010148

| Name of Case                        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |  | was cast in the proper precinct under State law.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss. | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the</p> |                              |             |                                       |

010150

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p> |                              |             |                                       |

010151

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | even if the cost, in terms of uncounted ballots, was regrettable.  |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 386 F.3d 815; 2004 U.S. App. LEXIS 28765 | October 23, 2004 | Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements. | On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p> |                              |             |                                       |

010153

| Name of Case     | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |                             |                  |   | valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.   |                              |             |                                       |
| Hawkins v. Blunt | United States District Court for the Western District of Missouri | 2004 U.S. Dist. LEXIS 21512 | October 12, 2004 | In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved | The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements. | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | for summary judgment. | The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional |                              |             |                                       |

010155



| Name of Case                        | Court   | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |  | ballot, the voter would first be directed to his proper polling place.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551 | October 13, 2004 | Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal | The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper | No                           | N/A         | No                                    |

010156

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>legislation. Defendants filed a motion to transfer venue.</p> | <p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p> |                              |             |                                       |

010157

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a |                              |             |                                       |

010158

| Name of Case                        | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |   | mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872 | October 19, 2004 | Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a | The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a | No                           | N/A         | No                                    |

010159

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p> | <p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p> |                              |             |                                       |

010160

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law.</p> |                              |             |                                       |

010161

| Name of Case      | Court                           | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
| James v. Bartlett | Supreme Court of North Carolina | 359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146 | February 4, 2005 | Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed. | The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional | No                           | N/A         | No                                    |

010162

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | ballots to be counted in state and local elections. The candidates failure to challenge the counting of out--of--precinct provisional ballots before the election did not render their action untimely. Reversed and remanded. |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 387 F.3d 565; 2004 U.S. App. LEXIS 22320 | October 26, 2004 | Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast | The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42  | No                           | N/A         | No                                    |

010163



| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p> | <p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted.</p> <p>Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p> |                              |             |                                       |

010165

| Name of Case                      | Court                 | Citation  | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|---|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |   |                    |  | legal votes. Affirmed in part and reversed in part.  |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074 | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional | No                           | N/A         | No                                    |

010166

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p> |                              |             |                                       |

010167

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p> |                              |             |                                       |

010168

| Name of Case                  | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |   |   |                  |  | under § 1983 to raise the federal-law claims. Affirmed.   |                              |             |                                       |
| Fla. Democratic Party v. Hood | United States District Court for the Northern District of Florida | 342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720 | October 21, 2004 | Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings. | The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p> |                              |             |                                       |

010171



| Name of Case                        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |  | was cast in the proper precinct under State law.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss. | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the | No                           | N/A         | No                                    |

010172

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p> |                              |             |                                       |

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | even if the cost, in terms of uncounted ballots, was regrettable.  |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 386 F.3d 815; 2004 U.S. App. LEXIS 28765 | October 23, 2004 | Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements. | On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive | No                           | N/A         | No                                    |

010175

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p> |                              |             |                                       |

010176

| Name of Case     | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |                             |                  |   | valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.   |                              |             |                                       |
| Hawkins v. Blunt | United States District Court for the Western District of Missouri | 2004 U.S. Dist. LEXIS 21512 | October 12, 2004 | In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved | The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements. | No                           | N/A         | No                                    |

010177

| Name of Case | Court | Citation | Date | Facts                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | for summary judgment. | The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional |                              |             |                                       |

010178

| Name of Case                        | Court   | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |  | ballot, the voter would first be directed to his proper polling place.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551 | October 13, 2004 | Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal | The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper | No                           | N/A         | No                                    |

010179



| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>legislation. Defendants filed a motion to transfer venue.</p> | <p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p> |                              |             |                                       |

010180

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a |                              |             |                                       |

| Name of Case                        | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |   | mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872 | October 19, 2004 | Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a | The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a | No                           | N/A         | No                                    |

010182

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p> | <p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p> |                              |             |                                       |

010183

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law.</p> |                              |             |                                       |

010184

| Name of Case     | Court  | Citation                                  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Weber v. Shelley | United States Court of Appeals for the Ninth Circuit | 347 F.3d 1101; 2003 U.S. App. LEXIS 21979 | October 28, 2003 | Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter--verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the | On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and excluded references to news--paper articles and unidentified studies absent any indication that | No                           | N/A         | No                                    |

010185

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | secretary and the registrar summary judgment. The voter appealed. | experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California |                              |             |                                       |

| Name of Case                                     | Court   | Citation  | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|--------------|--|---|------------------------------|-------------|---------------------------------------|
|  |   |   |              |  | made a reasonable, politically neutral and non--discriminatory choice to certify touchscreen systems as an alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Shelley | United States District Court for the Central District of California | 324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587 | July 6, 2004 | Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California | The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch-screen technology. Although it was not  | No                           | N/A         | No                                    |



| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on</p> | <p>disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made</p> |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the merits; (2) the possibility of irreparable injury in the absence of an injunction; (3) a balancing of the harms; and (4) the public interest.</p> | <p>accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The</p> |                              |             |                                       |

| Name of Case                  | Court                             | Citation                        | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|-----------------------------------|---------------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |                                   |                                 |                  |  | individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships. |                              |             |                                       |
| Fla. Democratic Party v. Hood | Court of Appeal of Florida, First | 884 So. 2d 1148; 2004 Fla. App. | October 28, 2004 | Petitioner, the Florida Democratic Party, sought | The Party argued that: (1) the Florida Administrative Code, recast  | No                           | N/A         | No                                    |

010190

| Name of Case | Court    | Citation       | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|----------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | District | LEXIS<br>16077 |      | review of an emergency rule adopted by the Florida Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed. | language from the earlier invalidated rule prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if no rule were in place, the same confusion and inconsistency in |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate. But, the following question was certified to the Supreme Court:<br/>Whether under Fla. Stat. ch. 120.54(4), the Department of</p> |                              |             |                                       |

010192

| Name of Case     | Court   | Citation  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |   |                  |   | State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was certified to the supreme court as a matter of great public importance. |                              |             |                                       |
| Wexler v. Lepore | United States District Court for the Southern District of | 342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344 | October 25, 2004 | Plaintiffs, a congressman, state commissioners, and a registered voter, brought | The officials claimed that the state had established an updated standard for manual recounts in counties using  | No                           | N/A         | No                                    |

010193

| Name of Case | Court   | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | Florida |          |      | a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const. amends. V and XIV. A bench trial ensued. | optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules |                              |             |                                       |

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prescribed uniform, nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida law because the manual recount scheme properly reflected a voter's choice.</p> |                              |             |                                       |

010195



| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied. |                              |             |                                       |

010196

| Name of Case         | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Spencer v. Blackwell | United States District Court for the Southern District of Ohio | 347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062 | November 1, 2004 | Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls. | The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their | No                           | N/A         | No                                    |

010197

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and</p> |                              |             |                                       |

| Name of Case  | Court                       | Citation                           | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------------|------------------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                             |                                    |                  |  | <p>pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.</p> |                              |             |                                       |
| MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al. | United States Supreme Court | 125 S. Ct. 305; 160 L. Ed. 2d 213; | November 2, 2004 | In two separate actions, plaintiffs sued defendant members of a political party, | Plaintiffs contended that the members planned to send numerous challengers to   | No                           | N/A         | No                                    |

| Name of Case   | Court | Citation                      | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------|-------------------------------|------|--|---|------------------------------|-------------|---------------------------------------|
| (No. 04A360)<br>SUMMIT<br>COUNTY<br>DEMOCRATIC<br>CENTRAL and<br>EXECUTIVE<br>COMMITTEE,<br>et al.,<br>Petitioners v.<br>MATTHEW<br>HEIDER, et al.<br>(No. 04A364) |       | 2004<br>U.S.<br>LEXIS<br>7400 |      | alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities. | polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a |                              |             |                                       |

010200

| Name of Case            | Court         | Citation        | Date         | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---------------|-----------------|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |               |                 |              |  | <p>single Circuit Justice, declined to reinstate the injunctions for prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters.</p> |                              |             |                                       |
| Charles H. Wesley Educ. | United States | 324 F. Supp. 2d | July 1, 2004 | Plaintiffs, a voter, fraternity members, | The organization participated in   | No                           | N/A         | No                                    |

010201

| Name of Case        | Court   | Citation                          | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---|-----------------------------------|------|--|---|------------------------------|-------------|---------------------------------------|
| Found., Inc. v. Cox | District Court for the Northern District of Georgia | 1358; 2004 U.S. Dist. LEXIS 12120 |      | and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV. | numerous non-partisan voter registration drives primarily designed to increase the voting strength of African--Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person |                              |             |                                       |

010202

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an</p> |                              |             |                                       |



| Name of Case                                   | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |  | injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.   |                              |             |                                       |
| Jacksonville Coalition for Voter Prot. v. Hood | United States District Court for the Middle District of Florida | 351 F. Supp. 2d 1326; 2004 U.S. Dist. LEXIS 26522 | October 25, 2004 | Plaintiffs, voter protection coalition, union, and voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials', | The coalition, the union, and the voters based their claim on the fact that the county had the largest percentage of African--American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African--American registered voter percentages had more early voting sites. Based | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>implementation of early voting procedures violated the Voting Rights Act and their constitutional rights.</p> | <p>on that, they argued that African-- American voters in the county were disproportionately affected. The court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's</p> |                              |             |                                       |

010205

| Name of Case   | Court   | Citation                                 | Date            | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---|--|-----------------|--|--|------------------------------|-------------|---------------------------------------|
|                |   |  |                 |  | <p>implementation of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied.</p> |                              |             |                                       |
| Taylor v. Howe | United States Court of Appeals for the Eighth Circuit | 225 F.3d 993; 2000 U.S. App. LEXIS 22241 | August 31, 2000 | Plaintiffs, African American voters, poll watchers, and candidates appealed from a judgment of the United States | The court of appeals affirmed--in--part, reversed--in--part, and remanded the district court's judgment. The court found that the  | No                           | N/A         | No                                    |

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of discriminatory intent.</p> | <p>district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that</p> |                              |             |                                       |

010207

| Name of Case         | Court  | Citation   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                      |  |  |                   |   | defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part.   |                              |             |                                       |
| Stewart v. Blackwell | United States District Court for the Northern District of Ohio | 356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS 26897 | December 14, 2004 | Plaintiffs, including African--American voters, alleged that use of punch card voting and "central-count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights | The primary thrust of the litigation was an attempt to federalize elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the | No                           | N/A         | No                                    |

010208

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Act.  | <p>legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000 presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local</p> |                              |             |                                       |

010209

| Name of Case     | Court   | Citation   | Date               | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|--|--------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |  |                    |   | variety in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible. |                              |             |                                       |
| Taylor v. Currie | United States District Court for the Eastern District of Michigan | 386 F. Supp. 2d 929; 2005 U.S. Dist. LEXIS 20257 | September 14, 2005 | Plaintiff brought an action against defendants, including a city elections commission, alleging defects in a city council | This action involved issues pertaining to absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility  | No                           | N/A         | No                                    |

010210

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff.</p> | <p>checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African--American. The court ordered the case remanded because it found no</p> |                              |             |                                       |

010211



| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a</p> |                              |             |                                       |

010212

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | goal of perpetuating their violation of a non-discriminatory state law. Motion to remand granted. |                              |             |                                       |

### Methodology for Case Review

In order to properly identify all applicable cases the consultants first developed an extensive word search term list. A West Law search was performed and the first one hundred cases under each word search term were then gathered in individual files. This resulted in a total of approximately 44,000 cases. Most of these cases were federal as opposed to state and appellate as opposed to trial.

Consultant Serebrov analyzed the cases in each file to determine if they were on point. If he found that the first twenty cases were inapplicable, Serebrov would sample forty to fifty other file cases at random to determine applicability. If the entire file did not yield any cases, the file would be discarded. All discarded word search terms were recorded in a separate file. Likewise, if the file only yielded a few applicable cases, it would also be discarded. However, if a small but significant number of cases were on point, the file was later charted.

The results of the case search were stark because relatively few applicable cases were found. Consultant Serebrov recommends that a selective regional, state district court search be preformed in the second phase of this project

**Rough Summary of Department of Justice, Public Integrity Section Activities,  
October 2002-January 2006**

**Prosecutions and Convictions-- Individuals**

Noncitizen voting: 20

Vote buying: 49

Double voting: 12

Registration fraud: 13

Civil Rights: 4

Voter Intimidation: 2

Unclear: 1

**Open Investigations (note: a few cases overlap with prosecutions and convictions)**

Noncitizen voting: 3

Vote buying: 25

Double voting: 15

Registration fraud: 29

Absentee ballot fraud: 9

Official: 8

Ineligibles: 4

Deceptive Practices: 1

Civil Rights: 14

Intimidation: 6

Other: 2

**Cases and Investigations Closed for Lack of Evidence**

Civil Rights: 8

Official: 12

Registration Fraud: 12

Absentee Ballot Fraud: 14

Ineligible Voting: 3

Intimidation: 8

Double Voting: 5

Ballot Box Stuffing: 1

Vote Buying: 14

Ballot/machine tampering: 2

Other: 8

Unclear: 3

## Major Vote Buying Cases Summary

Between 2001 and 2006, allegations and convictions for vote buying and conspiracies to buy votes were concentrated in three states: Illinois, West Virginia and Kentucky.

In **East St. Louis, Illinois**, nine individuals, including a former city council member and the head of the local Democratic Party, Charles Powell, Jr., were convicted or pled guilty to vote buying and conspiracy to commit election fraud during the 2004 general election. The government's conspiracy case was almost entirely based on taped conversations in which the defendants discussed buying votes for \$5 and whether this would be adequate. Federal prosecutors alleged that the vote buying was financed with \$79,000 transferred from the County Democratic Party shortly before the election, although county officials have not been charged. Four defendants were convicted of purchasing or offering to purchase at least one vote directly, while Democratic Party chairman was only convicted of conspiracy.<sup>1</sup> Earlier, three precinct officials and one precinct worker pled guilty to buying votes for \$5 or \$10 in that same election.<sup>2</sup>

**Eastern Kentucky** has witnessed a series of vote buying cases over the last several years. The most recent revolved around Ross Harris, a Pike County political fundraiser and coal executive, and his associate Loren Glenn Turner. Harris and Turner were convicted in September 2004 of vote buying, mail fraud, and several other counts.<sup>3</sup> Prosecutors alleged Harris and Turner conspired to buy votes and provided the necessary funds in an unsuccessful 2002 bid for Pike County district judge by former State Senator Doug Hays. Harris supplied nearly \$40,000, Turner laundered the money through straw contributors, and the cash was then disbursed in the form of \$50 checks ostensibly for 'vote hauling', the legal practice of paying campaign workers to get voters to the polls which is notorious as a cover for buying votes.<sup>4</sup> Harris attempted to influence the race on behalf of Hays in order to get revenge on Hays' opponent for a personal matter.<sup>5</sup>

A grand jury initially indicted 10 individuals in connection with the Harris and Turner case, including Hays and his wife, and six campaign workers. Of the remaining defendants, only one, Tom Varney, also a witness in the Hays case, pled guilty. The others were either acquitted of vote buying charges or had vote buying charges dropped.<sup>6</sup> Prosecutors have announced that their investigation continues into others tied to Harris and may produce further indictments.

The Harris case follows a series of trials related to the 1998 Knott County Democratic primary. Between 2003 and 2004, 10 individuals were indicted on vote buying charges, including a winning candidate in those primaries, Knott County judge-executive Donnie Newsome, who was reelected in 2002. In 2004 Newsome and a supporter were sent to jail and fined. Five other

---

<sup>1</sup> "Five convicted in federal vote-fraud trial" Associated Press, June 30, 2005; "Powell gets 21 months" Belleville News-Democrat, March 1, 2006.

<sup>2</sup> "Four Plead Guilty To Vote-Buying Cash Was Allegedly Supplied By St. Clair Democratic Machine" Belleville News-Democrat, March 23, 2005.

<sup>3</sup> "2 found guilty in pike county vote-fraud case; Two-year sentences possible," Lexington Herald Leader, September 17, 2004.

<sup>4</sup> "Jury weighing vote-fraud case," Lexington Herald Leader, September 16, 2004.

<sup>5</sup> "Pike Election Trial Goes To Jury" Lexington Herald Leader, January 1, 2006.

<sup>6</sup> "Former state senator acquitted of vote buying," Lexington Herald Leader, November 2, 2004.

defendants pled guilty to vote buying charges, and three were acquitted. The primary means of vote buying entailed purchasing absentee votes from elderly, infirm, illiterate or poor voters, usually for between \$50 and \$100. This resulted in an abnormally high number of absentee ballots in the primary.<sup>7</sup> Indictments relating to that same 1998 primary were also brought in 1999, when 6 individuals were indicted for buying the votes of students at a small local college. Five of those indicted were convicted or pled guilty.<sup>8</sup>

Absentee vote buying was also an issue in 2002, when federal prosecutors opened an investigation in Kentucky's Clay County after an abnormal number of absentee ballots were filed in the primary and the sheriff halted absentee voting twice over concerns.<sup>9</sup> Officials received hundreds of complaints of vote-buying during the 2002 primary, and state investigators performed follow up investigations in a number of counties, including Knott, Bell, Floyd, Pike, and Maginoff.<sup>10</sup> No indictments have been produced so far.

So far, relatively few incidents of vote-buying have been substantially identified or investigated in the 2004 election. Two instances of vote buying in local 2004 elections have been brought before a grand jury. In one, a Casey County man was indicted for purchasing votes in a local school board race with cash and whiskey.<sup>11</sup> In the second, the grand jury chose not to indict an individual accused of offering to purchase a teenager's vote on a local proposal with beer.<sup>12</sup>

An extensive vote buying conspiracy has also been uncovered in southern **West Virginia**. The federal probe, which handed down its first indictment in 2003, has yielded more than a dozen guilty pleas to charges of vote buying and conspiracy in elections since the late 1980s. As this area is almost exclusively dominated by the Democratic Party, vote-buying occurred largely during primary contests.

The first phase of the probe focused on Logan County residents, where vote buying charges were brought in relation to elections in 1996, 2000, 2002 and 2004. In an extraordinary tactic, the FBI planted the former mayor of Logan City, Tom Esposito, as a candidate in a state legislative race. Esposito's cooperation led to guilty pleas from the Logan County Clerk, who pled guilty to selling his vote to Esposito in 1996,<sup>13</sup> and another man who took money from Esposito for the purpose of vote buying in 2004.<sup>14</sup>

Guilty pleas were also obtained in connection with former county sheriff Johnny Mendez, who pled guilty to buying votes in two primary elections in order to elect candidates including

---

<sup>7</sup> "Knott County, KY., Judge Executive sentenced on vote-buying conspiracy charges," Department of Justice, March 16, 2004.

<sup>8</sup> "6 men accused of vote fraud in '98 Knott primary; Charges include vote buying and lying to FBI"

<sup>9</sup> "Election 2002: ABSENTEE BALLOTING; State attorney general's office investigates voting records in some counties" The Courier-Journal, November 7, 2002.

<sup>10</sup> "Election 2002: Kentucky; VOTE FRAUD; Investigators monitor 17 counties across state" The Courier-Journal, November 6, 2002.

<sup>11</sup> "Jury finds man guilty on vote-buying charges" Associated Press, November 11, 2005.

<sup>12</sup> "Man in beer vote case files suit" The Cincinnati Enquirer, March 17, 2005.

<sup>13</sup> "Two plead to vote fraud; Logan clerk sold vote; politician tried to buy votes" Charleston Gazette, December 14, 2005.

<sup>14</sup> "Logan man gets probation in vote-fraud scandal" Charleston Gazette, March 1, 2006.

himself. In 2000, with a large amount of funding from a prominent local lawyer seeking to influence a state delegate election for his wife, Mendez distributed around \$10,000 in payments to voters of \$10 to \$100. Then, in the 2004 primary, Mendez distributed around \$2,000 before his arrest.<sup>15</sup> A deputy of Mendez', the former Logan police chief, also pled guilty to a count of vote buying in 2002.<sup>16</sup>

Prosecutors focusing on neighboring Lincoln County have alleged a long-standing vote-buying conspiracy extending back to the late 1980s. The probe identified Lincoln County Circuit Clerk Greg Stowers as head of a Democratic Party faction which routinely bought votes in order to maintain office. Stowers pled guilty in December 2005 to distributing around \$7,000 to buy votes in the 2004 primary. The Lincoln County Assessor, and Stowers' longtime political ally, Jerry Allen Weaver, also pled guilty to conspiracy to buy votes.<sup>17</sup> These were accompanied by four other guilty pleas from party workers for vote buying in primaries. While most specific charges focused on vote buying in the 2004 primary, defendants also admitted buying votes as far back as the 1988, 1990, and 1992 primaries.

The leading conspirators would give party workers candidate slates and cash, which workers would then take to the polling place and use to purchase votes for amounts between \$10 and \$40 and in one instance, for liquor. Voters would be handed the slate of chosen candidates, and would then be paid upon exiting the polling place. In other cases, the elected officials in question purchased votes in exchange for non-cash rewards, including patronage positions, fixed tickets, favorable tax assessments, and home improvements.<sup>18</sup>

The West Virginia probe is ongoing, as prosecutors are scrutinizing others implicated during the proceedings so far, including a sitting state delegate, who may be under scrutiny for vote buying in a 1990 election, and one of the Lincoln county defendants who previously had vote buying charges against him dropped.<sup>19</sup>

---

<sup>15</sup> "Mendez confined to home for year Ex-Logan sheriff was convicted of buying votes" Charleston Gazette, January 22, 2005.

<sup>16</sup> "Ex-Logan police sentenced for buying votes" Associated Press, February 15, 2005.

<sup>17</sup> "Clerk says he engaged in vote buying" Charleston Gazette, December 30, 2005.

<sup>18</sup> "Lincoln clerk, two others plead guilty to election fraud" Charleston Daily Mail, December 30, 2005.

<sup>19</sup> "Next phase pondered in federal vote-buying probe" Associated Press, January 1, 2006.

## Case Summaries

After reviewing over 40,000 cases, the majority of which came from appeals courts, I have found comparatively very few which are applicable to this study. Of those that are applicable, no apparent thematic pattern emerges. However, it seems that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility. But because so few cases provided a picture of these current problems, I suggest that case research for the second phase of this project concentrate on state trial-level decisions.

*Job Serebrov*  
*May 2006*



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case      | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
| Powers v. Donahue | Supreme Court of New York, Appellate Division, First Department | 276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644 | December 5, 2000 | Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names. | When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted. | No                           | N/A         | No                                    |

010220

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p> |                              |             |                                       |

010221

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case            | Court                    | Citation         | Date              | Facts               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--------------------------|------------------|-------------------|---------------------|--|------------------------------|-------------|---------------------------------------|
|                         |                          |                  |                   |                     | <p>local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed.</p> |                              |             |                                       |
| Goodwin v. St. Thomas-- | Territorial Court of the | 43 V.I. 89; 2000 | December 13, 2000 | Plaintiff political | Plaintiff alleged that defendants  | No                           | N/A         | No                                    |

010222

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case              | Court          | Citation      | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|----------------|---------------|------|--|--|------------------------------|-------------|---------------------------------------|
| St. John Bd. of Elections | Virgin Islands | V.I. LEXIS 15 |      | candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results | counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to |                              |             |                                       |

010223

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                           | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | tabulated without such ballots. | establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot |                              |             |                                       |

010224

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case         | Court                    | Citation        | Date             | Facts             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------|-----------------|------------------|-------------------|---|------------------------------|-------------|---------------------------------------|
|                      |                          |                 |                  |                   | <p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p> |                              |             |                                       |
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. LEXIS | December 9, 2005 | The circuit court | The voters and the incumbent all  | No                           | N/A         | No                                    |

010225

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | 214      |      | <p>overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross-- appealed. In the meantime, the trial court stayed enforcement of its judgment pending</p> | <p>challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with</p> |                              |             |                                       |

010226

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | resolution of the appeal. | their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to |                              |             |                                       |

010227



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                            | Court   | Citation   | Date            | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |  |                 |   | <p>count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.</p> |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Supreme Court of New York, Appellate Division, Third Department | 10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS | August 23, 2004 | Appellant candidates appealed from a judgment entered by the supreme court, which partially | The candidates argued that the Board violated a federal court order regarding the election. The appellate court   | No                           | N/A         | No                                    |

010228

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | 10360    |      | <p>granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.</p> | <p>held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to</p> |                              |             |                                       |

010229

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was |                              |             |                                       |

010230

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case           | Court                      | Citation                             | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|----------------------------|--------------------------------------|----------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |                            |                                      |                |  | properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.  |                              |             |                                       |
| Erlandson v. Kiffmeyer | Supreme Court of Minnesota | 659 N.W.2d 724; 2003 Minn. LEXIS 196 | April 17, 2003 | Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief | The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly | No                           | N/A         | No                                    |

010231

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p> | <p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p> |                              |             |                                       |

010232

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p> |                              |             |                                       |

010233

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case        | Court   | Citation   | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                     |   |  |              |  | mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot. |                              |             |                                       |
| People v. Deganutti | Appellate Court of Illinois, First District, Third Division | 348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App. | May 12, 2004 | Defendant appealed from a judgment of the circuit court, which convicted | Defendant went to the voters' homes and obtained their signatures on absentee ballot   | No                           | N/A         | No                                    |

010234

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation     | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>518 |      | defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters. | request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re-- punch a number that had not |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                             | Court         | Citation                             | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---------------|--------------------------------------|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |               |                                      |                   |  | and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed. |                              |             |                                       |
| Jacobs v. Seminole County Canvassing Bd. | Supreme Court | 773 So. 2d 519; 2000 Fla. LEXIS 2404 | December 12, 2000 | In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require | Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.   | No                           | N/A         | No                                    |

010237

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.</p> | <p>Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the</p> |                              |             |                                       |

010238

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the |                              |             |                                       |

010239

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                            | Court                        | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                              |  |                  |  | other party's forms. Affirmed.  |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Court of Appeals of New York | 3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412 | October 14, 2004 | Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters. | Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be | No                           | N/A         | No                                    |

010240

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p> |                              |             |                                       |

010241

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors."<br/>Affirmed.</p> |                              |             |                                       |

010242

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case  | Court                         | Citation                                       | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-------------------------------|--|---------------|---|--|------------------------------|-------------|---------------------------------------|
| In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election | Supreme Court of Pennsylvania | 577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431 | March 8, 2004 | A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain | The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and | No                           | N/A         | No                                    |

010243



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | candidates and voters. | that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non--disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third--person hand--delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in--person delivery |                              |             |                                       |

010244

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case     | Court                 | Citation           | Date              | Facts                | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-----------------------|--------------------|-------------------|----------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                       |                    |                   |                      | <p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p> |                              |             |                                       |
| In re Canvass of | Commonwealth Court of | 839 A.2d 451; 2003 | December 22, 2003 | The Allegheny County | On appeal, the issue was whether  | No                           | N/A         | No                                    |

010245

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                         | Court        | Citation             | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--------------|----------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Absentee Ballots of November 4, 2003 | Pennsylvania | Pa. Commw. LEXIS 963 |      | Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order. | non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory |                              |             |                                       |

010246

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p> |                              |             |                                       |

010247

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                  | Court  | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |  |                             |                  |  | <p>Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.</p> |                              |             |                                       |
| United States v. Pennsylvania | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21167 | October 20, 2004 | Plaintiff United States sued defendant Commonwealth of | The testimony of the two witnesses offered by the United States did not support its   | No                           | N/A         | No                                    |

010248

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p> | <p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p> |                              |             |                                       |

010249

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                      | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | late in the election year. | right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had |                              |             |                                       |

010250

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                              | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied. |                              |             |                                       |
| Hoblock v. Albany County Bd. of Elections | United States District Court for the Northern District of New York | 341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326 | October 25, 2004 | Plaintiffs, candidates and voters, sued defendant, the Albany County, New York, | An election for members of the Albany County Legislature had been enjoined, and special   | No                           | N/A         | No                                    |

010251



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p> | <p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p> |                              |             |                                       |

010252

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p> |                              |             |                                       |

010253

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p> |                              |             |                                       |

010254

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case      | Court  | Citation                                  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                   |  |   |                  |  | Board from certifying winners of the election was granted.  |                              |             |                                       |
| Griffin v. Roupas | United States Court of Appeals for the Seventh Circuit | 385 F.3d 1128; 2004 U.S. App. LEXIS 21476 | October 15, 2004 | In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District | The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the | No                           | N/A         | No                                    |

010255

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim. | problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois |                              |             |                                       |

010256

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p> |                              |             |                                       |

010257

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case     | Court  | Citation                    | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |  |                             |                  |   | applied to everyone.<br>Affirmed.  |                              |             |                                       |
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a | The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee | No                           | N/A         | No                                    |

010258

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | voluntary agreement and submitted it to the court for approval. | ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against |                              |             |                                       |

010259



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                               | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |  | the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.  |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 | December 8, 2000 | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write-in ballots based | Plaintiff presidential and vice-presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write-in ballots based on criteria inconsistent with the Uniformed | No                           | N/A         | No                                    |

010260

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p> | <p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write-in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p> |                              |             |                                       |

010261

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot |                              |             |                                       |

010262

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court         | Citation | Date      | Facts           | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|-----------|-----------------|---|------------------------------|-------------|---------------------------------------|
|              |               |          |           |                 | <p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p> |                              |             |                                       |
| Kolb v.      | Supreme Court | 270      | March 17, | Both petitioner | Both petitioner   | No                           | N/A         | No                                    |

010263

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court  | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|--|------|---|---|------------------------------|-------------|---------------------------------------|
| Casella      | of New York, Appellate Division, Fourth Department | A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483 | 2000 | and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election. | and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter |                              |             |                                       |

010264

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee</p> |                              |             |                                       |

010265

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case    | Court                        | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|------------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                              |   |               |   | ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.                            |                              |             |                                       |
| People v. Woods | Court of Appeals of Michigan | 241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156 | June 27, 2000 | Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to | Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election | No                           | N/A         | No                                    |

010266

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | pursue the interlocutory appeal, in a criminal action alleging violations of election laws. | fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary |                              |             |                                       |

010267



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p> |                              |             |                                       |

010268

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                  | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                  |   | violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense. |                              |             |                                       |
| Harris v. Florida Elections Canvassing Comm'n | United States District Court for the Northern District of Florida | 122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875 | December 9, 2000 | Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the | The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                    | Court   | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |                             |                  | ballots violated Florida law.  | not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. |                              |             |                                       |
| Weldon v. Berks County Dep't of Election Servs. | United States District Court for the Eastern District of Pennsylvania | 2004 U.S. Dist. LEXIS 21948 | November 1, 2004 | Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary | The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to   | No                           | N/A         | No                                    |

010270

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p> | <p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p> |                              |             |                                       |

010271

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p><b>OVERVIEW:</b><br/>The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p> |                              |             |                                       |

010272

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case           | Court  | Citation                                 | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |                   |  | concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction. |                              |             |                                       |
| Qualkinbush v. Skubisz | Court of Appeals of Illinois, First District | 822 N.E.2d 38; 2004 Ill. App. LEXIS 1546 | December 28, 2004 | Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court | Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and   | No                           | N/A         | No                                    |

010274

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | declared petitioner mayor. | violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters. Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots. The Election Code did not violate equal protection principles, as the burden placed</p> |                              |             |                                       |

010276

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case        | Court  | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |  |   |                  |   | upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.                                |                              |             |                                       |
| Panio v. Sunderland | Supreme Court of New York, Appellate Division, Second Department | 14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433 | January 25, 2005 | In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of | The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by: | No                           | N/A         | No                                    |

010277

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p> | <p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p> |                              |             |                                       |

010278

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                | Court   | Citation   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |  |                   |   | equivalent of an application for a special ballot. Order modified and judgment affirmed.  |                              |             |                                       |
| Pierce v. Allegheny County Bd. of Elections | United States District Court for the Western District of Pennsylvania | 324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569 | November 13, 2003 | Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those | Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction. | regarding whether the absentee ballot provision requiring hand--delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies. |                              |             |                                       |

010281

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case       | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |   |   |                  |   | court by virtue of the state court's concurrent jurisdiction.  |                              |             |                                       |
| Friedman v. Snipes | United States District Court for the Southern District of Florida | 345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739 | November 9, 2004 | Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters | The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of § | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p> | <p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p> |                              |             |                                       |

010284

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p> |                              |             |                                       |

010285

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                        | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--------------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Preliminary injunction denied. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                            | District | Case Number | Date             | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|-------------|------------------|--|------------------------------|-------------|---------------------------------------|
| United States v. Rogelio Mejorada-Lopez | Alaska   | 05-CR-074   | December 5, 2005 | Mejorada-Lopez, a Mexican citizen, completed several voter registration applications to register to vote in Alaska and voted in the 2000, 2002, and 2004 general elections. He was charged with three counts of voting by a non-citizen in violation of 18 U.S.C. section 611 and pled guilty. Mejorada-Lopez was sentenced to probation for | No                           | N/A         | No                                    |

010291

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                | District         | Case Number   | Date             | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further             |
|-----------------------------|------------------|---------------|------------------|--|------------------------------|-------------|---|
|                             |                  |               |                  | one year.  |                              |             |   |
| United States v. Shah       | Colorado         | 1:04-CR-00458 | March 1, 2005    | Shah was indicted on two counts of providing false information concerning United States citizenship in order to register to vote in violation of 18 U.S.C. section 911 and 1015(f). Shah was convicted on both counts. | No                           | N/A         | No  |
| United States v. Mohsin Ali | Northern Florida | 4:05-CR-47    | January 17, 2006 | A misdemeanor was filed against Ali charging him with voting by a non-citizen of 18 U.S.C. section 611. Trial was set for January 17, 2006   | No                           | N/A         | Yes-need information on the outcome of the trial. |

010292

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case               | District         | Case Number   | Date         | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|------------------|---------------|--------------|---|------------------------------|-------------|---------------------------------------|
| United States v. Chaudhary | Northern Florida | 4:04-CR-00059 | May 18, 2005 | Chaudhary was indicted for misuse of a social security number in violation of 42 U.S.C. section 408 and for making a false claim of United States citizenship on a 2002 driver's license application in violation of 18 U.S.C. section 911. A superceding indictment was returned, charging Chaudhary with falsely claiming United States citizenship on a driver's license | No                           | N/A         | No                                    |

010293

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case               | District         | Case Number   | Date              | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|------------------|---------------|-------------------|---|------------------------------|-------------|---------------------------------------|
|                            |                  |               |                   | application and on the accompanying voter registration application. He was convicted of the false citizenship claim on his voter registration application.  |                              |             |                                       |
| United States v. Velasquez | Southern Florida | 1:03-CR-20233 | September 9, 2003 | Velasquez, a former 1996 and 1998 candidate for the Florida legislature, was indicted on charges of misrepresenting United States citizenship in connection with voting and for making false statements | No                           | N/A         | No                                    |

010294

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District         | Case Number  | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|--|---------------|--|------------------------------|-------------|---------------------------------------|
|   |                  |  |               | to the Immigration and Naturalization Service, in violation of 18 U.S.C. section 911, 1015(f) and 1001. Velasquez was convicted on two counts of making false statements on his naturalization application to the INS concerning his voting history. |                              |             |                                       |
| United States v. McKenzie;<br>United States v. Francois;<br>United States v. Exavier; United States v. Lloyd Palmer; United | Southern Florida | 0:04-CR-60160;<br>1:04-CR-20488;<br>0:04-CR-60161;<br>0:04-CR-60159; | July 15, 2004 | Fifteen non-citizens were charged with voting in various elections beginning in 1998 in  | No                           | N/A         | No                                    |

010295



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case   | District          | Case Number   | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------|---|-------------------|--|------------------------------|-------------|---------------------------------------|
| States v. Velrine Palmer; United states v. Shivdayal; United States v. Rickman; United States v. Knight; United States v. Sweeting; United States v. Lubin; United States v. Bennett; United States v. O'Neil; United States v. Torres-Perez; United States v. Phillip; United States v. Bain Knight |                   | 0:04-CR-60162;<br>0:04-CR-60164;<br>1:04-CR-20491;<br>1:04-CR-20490;<br>1:04-CR-20489;<br>0:04-CR-60163;<br>1:04-CR-14048;<br>0:04-CR-60165;<br>2:04-CR-14046;<br>9:04-CR-80103;<br>2:04-CR-14047 |                   | violation of 18 U.S.C. section 611. Four of the defendants were also charged with making false citizenship claims in violation of 18 U.S.C. sections 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government. |                              |             |                                       |
| United States v. Brooks  | Southern Illinois | 3:03-CR-30201   | February 12, 2004 | East St. Louis election official Leander Brooks was indicted for   | No                           | N/A         | No                                    |

010296

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District          | Case Number   | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-------------------|---|---------------|--|------------------------------|-------------|---------------------------------------|
|   |                   |   |               | submitting fraudulent ballots in the 2002 general election in violation of 42 U.S.C. section 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. sections 241 and 371. Brooks pled guilty to all charges. |                              |             |                                       |
| United States v. Scott; United States v. Nichols; United States v. Terrance Stith; United States v. Sandra Stith; United States v. Powell, et al. | Southern Illinois | 3:05-CR-30040;<br>3:05-CR-30041;<br>3:05-CR-30042;<br>3:05-CR-30043;<br>3:05-CR-30044 | June 29, 2005 | Four Democrat precinct committeemen in East St. Louis were charged with vote buying on the 2004 general election in violation of 42 U.S.C.   | No                           | N/A         | No                                    |

010297

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | section 1973i(c). All four pled guilty. Also indicted were four additional Democrat committeemen, Charles Powell, Jr., Jesse Lewis, Sheila Thomas, Kelvin Ellis, and one precinct worker, Yvette Johnson, on conspiracy and vote buying charges in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). All five defendants were convicted. Kelvin Ellis |                              |             |                                       |

010298

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case              | District | Case Number   | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|----------|---------------|-------------------|--|------------------------------|-------------|---------------------------------------|
|                           |          |               |                   | also pled guilty to one count of 18 U.S.C. section 1512(c)(2) relative to a scheme to kill one of the trial witnesses and two counts of 18 U.S.C. section 1503 relative to directing two other witnesses to refuse to testify before the grand jury. |                              |             |                                       |
| United States v. McIntosh | Kansas   | 2:04-CR-20142 | December 20, 2004 | A felony information was filed against lawyer Leslie McIntosh for voting in both Wyandotte County, Kansas and Jackson  | No                           | N/A         | No                                    |

010299

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District         | Case Number                      | Date                              | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|----------------------------------|-----------------------------------|---|------------------------------|-------------|---------------------------------------|
|   |                  |                                  |                                   | County, Missouri, in the general elections of 2000 and 2002 in violation of 42 U.S.C. section 1973i(e). A superseding misdemeanor information was filed, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. section 242, to which the defendant pled guilty. |                              |             |                                       |
| United States v. Conley; United States v. Slone; United States v. | Eastern Kentucky | 7:03-CR-00013;<br>7:03-CR-00014; | March 28, 2003 and April 24, 2003 | Ten people were indicted on vote buying charges in  | No                           | N/A         | No                                    |

010300

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District         | Case Number   | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---|---------------|--|------------------------------|-------------|---------------------------------------|
| Madden; United States v. Slone et al.; United States v. Calhoun; United States v. Johnson; United States v. Newsome, et al. |                  | 7:03-CR-00015;<br>7:03-CR-00016;<br>7:03-CR-00017;<br>7:03-CR-00018;<br>7:03-CR-00019 |               | connection with the 1998 primary election in Knott County, Kentucky, in violation of 42 U.S.C. section 1973i(c). Five of the defendants pled guilty, two were convicted, and three were acquitted. |                              |             |                                       |
| United States v. Hays, et al.   | Eastern Kentucky | 7:03-CR-00011   | March 7, 2003 | Ten defendants were indicted for conspiracy and vote buying for a local judge in Pike County, Kentucky, in the 2002 general election, in violation of 42 U.S.C. section                            | No                           | N/A         | No                                    |

010301

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                   | District         | Case Number   | Date        | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------|------------------|---------------|-------------|--|------------------------------|-------------|---------------------------------------|
|                                |                  |               |             | 1973i(c) and 18 U.S.C. section 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government. |                              |             |                                       |
| United States v. Turner, et al | Eastern Kentucky | 3:05-CR-00002 | May 5, 2005 | Three defendants were indicted for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties, Kentucky, in violation of 42 | No                           | N/A         | Yes-need update on case status.       |

010302

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                | District          | Case Number   | Date           | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|-------------------|---------------|----------------|--|------------------------------|-------------|---------------------------------------|
|                             |                   |               |                | U.S.C. section 1973i(c) and 18 U.S.C. section 341.   |                              |             |                                       |
| United States v. Braud      | Middle Louisiana  | 3:03-CR-00019 | May 2, 2003    | Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of eleven voter registration applications, in violation of 18 U.S.C. section 1623. Braud pled guilty on all counts. | No                           | N/A         | No                                    |
| United States v. Thibodeaux | Western Louisiana | 6:03-CR-60055 | April 12, 2005 | St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on  | No                           | N/A         | No                                    |

010303



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District         | Case Number   | Date  | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------|---|---|---|------------------------------|-------------|---------------------------------------|
|   |                  |   |   | two counts of conspiring to submit false voter registration information, in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). She pled guilty to both charges. |                              |             |                                       |
| United States v. Scherzer;<br>United States v. Goodrich;<br>United States v. Jones; United States v. Martin | Western Missouri | 4:04-CR-00401;<br>4:04-CR-00402;<br>4:05-CR-00257;<br>4:05-CR-00258 | January 7, 2005;<br>March 28, 2005;<br>September 8, 2005;<br>October 13, 2005 | Two misdemeanor informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2000 and 2002 general elections on                     | No                           | N/A         | No                                    |

010304

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>both Johnson County, Kansas and in Kansas City, Missouri. The informations charged deprivation of a constitutional right by causing spurious ballots, in violation of 18 U.S.C. sections 242 and 2. Both pled guilty. Additionally, similar misdemeanor informations were filed against Tammy J. Martin, who voted in both Independence and Kansas City, Missouri</p> |                              |             |                                       |

010305

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District      | Case Number   | Date              | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---------------|---|-------------------|--|------------------------------|-------------|---------------------------------------|
|   |               |   |                   | in the 2004 general election and Brandon E. Jones, who voted both in Raytown and Kansas City, Missouri in the 2004 general election. Both pled guilty.   |                              |             |                                       |
| United States v. Raymond;<br>United States v. McGee; United States v. Tobin;<br>United States v. Hansen | New Hampshire | 04-CR-00141; 04-CR-00146;<br>04-CR-00216; 04-CR-00054 | December 15, 2005 | Two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and Charles McGee, former executive director of the New | No                           | N/A         | No                                    |

010306

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Both</p> |                              |             |                                       |

010307

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>pled guilty. James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. An information was filed charging Shaun Hansen, the principal of an</p> |                              |             |                                       |

010308

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Idaho telemarketing firm called MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment, in violation of 18 U.S.C. section 371 and 2 and 47 U.S.C. section 223. The information against Hansen was dismissed upon motion of the government. A superseding indictment was returned</p> |                              |             |                                       |

010309

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | against Tobin charging conspiracy to impede the constitutional right to vote for federal candidates, in violation of 18 U.S.C. section 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. section 223. Tobin was convicted of one count of conspiracy to commit telephone harassment and one count of aiding and abetting of telephone |                              |             |                                       |

010310

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case             | District               | Case Number   | Date          | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|------------------------|---------------|---------------|--|------------------------------|-------------|---------------------------------------|
| United States v. Workman | Western North Carolina | 1:03-CR-00038 | June 30, 2003 | <p>harassment.</p> <p>A ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and related offenses in the 200 and 2002 primary and general elections in Avery County, North Carolina, in violation of 18 U.S.C. sections 611, 911, 1001, and 1015(f). Workman pled guilty to providing false information to election officials and to</p> | No                           | N/A         | No                                    |

010311



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                     | District               | Case Number   | Date         | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|------------------------|---------------|--------------|--|------------------------------|-------------|---------------------------------------|
|                                  |                        |               |              | a federal agency.  |                              |             |                                       |
| United States v. Shatley, et al. | Western North Carolina | 5:03-CR-00035 | May 14, 2004 | A nine-count indictment was returned charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner with conspiracy and vote buying in the Caldwell County 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Anita and Valerie Moore pled guilty. Shatley, Hood, | No                           | N/A         | No                                    |

010312

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District               | Case Number  | Date   | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------|--|--|--|------------------------------|-------------|---------------------------------------|
|   |                        |  |  | and Banner were all convicted.   |                              |             |                                       |
| United States v. Vargas   | South Dakota           | 05-CR-50085  | December 22, 2005  | An indictment was filed against Rudolph Vargas, for voting more than once at Pine Ridge in the 2002 general election in violation of 42 U.S.C. section 1973i(e). Vargas pled guilty. | No                           | N/A         | No                                    |
| United States v. Wells; United States v. Mendez; United States v. Porter; United States v. Hrutkay; United States v. Porter; United States v. | Southern West Virginia | 02-CR-00234;<br>2:04-CR-00101;<br>2:04-CR-00145;<br>2:04-CR-00149;<br>2:04-CR- | July 22, 2003; July 19, 2004; December 7, 2004; January 7, 2005; March 21, 2005; | Danny Ray Wells, Logan County, West Virginia, magistrate, was indicted and charged with violating 18 U.S.C. section  | No                           | N/A         | No                                    |

010313

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District | Case Number   | Date                                   | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|---|--|--|------------------------------|-------------|---------------------------------------|
| Stapleton;<br>United States v. Thomas E. Esposito;<br>United States v. Nagy; United States v. Adkins; United States v. Harvey |          | 00173;<br>2:05-CR-00002; 05-CR-00019;<br>05-CR-00148; 05-CR-00161 | October 11, 2005;<br>December 13, 2005 | 1962. Wells was found guilty. A felony indictment was filed against Logan County sheriff Johnny Mendez for conspiracy to defraud the United States in violation 18 U.S.C section 371. Mendez pled guilty. An information was filed charging former Logan County police chief Alvin Ray Porter, Jr., with making expenditures to influence voting in violation of 18 U.S.C. section |                              |             |                                       |

010314

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>597. Porter pled guilty. Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. section 1341. Hrutkay pled guilty. Earnest Stapleton, commander of the local VFW, was charged by information with mail fraud. He pled guilty. An information was filed charging Thomas E. Esposito, a former mayor of the City of</p> |                              |             |                                       |

010315

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Logan, with concealing the commission of a felony, in violation of 18 U.S.C. section 4. Esposito pled guilty. John Wesley Nagy, Logan County Court marshall, pled guilty to making false statements to a federal agent, a violation of 18 U.S.C. section 1001. An information charging Glen Dale Adkins, county clerk of Logan County, with accepting payment for voting, in violation of 18</p> |                              |             |                                       |

010316

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case                    | District               | Case Number   | Date                   | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------------|---------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                                 |                        |               |                        | U.S.C. section 1973i(c). Adkins pled guilty. Perry French Harvey, Jr., a retired UMW official, pled guilty to involvement in a conspiracy to buy votes.   |                              |             |                                       |
| United States v. Adkins, et al. | Southern West Virginia | 2:04-CR-00162 | December 28 & 30, 2005 | Jackie Adkins was indicted for vote buying in Lincoln County, West Virginia, in violation of 42 U.S.C. section 1973i(c). A superceding indictment added Wandell "Rocky" Adkins to the indictment and charged both defendants with | No                           | N/A         | No                                    |

010317

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>conspiracy to buy votes in violation of 18 U.S.C. section 371 and vote buying. A second superseding indictment was returned which added three additional defendants, Gegory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment. Charges were later dismissed against Jackie Adkins. A third superseding</p> |                              |             |                                       |

010318

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>indictment was returned adding two additional defendants, Jerry Allen Weaver and Ralph Dale Adkins. A superseding information was filed charging Vance with expenditures to influence voting, in violation of 18 U.S.C. section 597. Vance pled guilty. Superseding informations were filed against Stowers and Dingess for expenditures to influence voting, in</p> |                              |             |                                       |

010319



EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case   | District          | Case Number  | Date  | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further   |
|--|-------------------|--|---|--|------------------------------|-------------|---|
|  |                   |  |   | violation of 18 U.S.C. section 597. Both defendants pled guilty. Weaver also pled guilty. Superseding informations were filed against Ralph and Wandell Adkins for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty. |                              |             |   |
| United States v. Davis; United States v. Byas; United States v. Ocasio; United States v. Prude; United States v. | Eastern Wisconsin | 2:05-MJ-00454;<br>2:05-MJ-00455;<br>2:05-CR-00161;<br>2:05-CR- | September 16, 2005;<br>September 21, 2005;<br>October 5, 2005;<br>October 26, | Criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them   | No                           | N/A         | Need updated status on Gooden and the Anderson, Cox, Edwards, and Little cases. |

010320

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case  | District | Case Number   | Date  | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|----------|---|---|--|------------------------------|-------------|---------------------------------------|
| Sanders; United States v. Alicea; United States v. Brooks; United States v. Hamilton; United States v. Little; United States v. Swift; United States v. Anderson; United States v. Cox; United States v. Edwards; United States v. Gooden |          | 00162;<br>2:05-CR-00163;<br>2:05-CR-00168;<br>2:05-CR-00170;<br>2:05-CR-00171;<br>2:05-CR-00172;<br>2:05-CR-00177;<br>2:05-CR-00207;<br>2:05-CR-00209;<br>2:05-CR-00211;<br>2:05-CR-00212 | 2005;<br>October 31, 2005,<br>November 10, 2005 | with double voting, in violation of 42 U.S.C. section 1973i(e). Indictments were filed against convicted felons Milo R. Ocasio and Kimberly Prude, charging them with falsely certifying that they were eligible to vote, in violation of 42 U.S.C. section 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting, in |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | violation of 42 U.S.C. section 1973i(e). Five more indictments were later returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. section 1973i(e) and convicted felons Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote |                              |             |                                       |

010322

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>in violation of 42 U.S.C. section 1973gg-10(2)(B). Indictments were filed against Davis and Byas charging them with double voting. Four more indictments were returned charging convicted felons Ethel M. Anderson, Jiyto L. Cox, Correan F. Edwards, and Joseph J. Gooden with falsely certifying that they were eligible to vote.</p> |                              |             |                                       |

010323

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|---|------------------------------|-------------|---------------------------------------|
|              |          |             |      | <p>Ocasio and Hamilton pled guilty. Prude was found guilty. A mistrial was declared in the Sanders case. Brooks was acquitted. Byas signed a plea agreement agreeing to plead to a misdemeanor 18 U.S.C. section 242 charge. Swift moved to change his plea. Davis was found incompetent to stand trial so the government dismissed the case. Gooden is a fugitive.</p> |                              |             |                                       |

010324

EAC Voting Fraud-Voter Intimidation Preliminary Research  
DOJ Cases

| Name of Case | District | Case Number | Date | Facts  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|-------------|------|--|------------------------------|-------------|---------------------------------------|
|              |          |             |      | Alicea was acquitted. Four cases are pending --- Anderson, Cox, Edwards, and Little. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                     | Court   | Citation  | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|--------------|--|---|------------------------------|-------------|---------------------------------------|
| Am. Ass'n of People with Disabilities v. Shelley | United States District Court for the Central District of California | 324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587 | July 6, 2004 | Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in | The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | the alternative, a preliminary injunction. | deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. |                              |             |                                       |

010327



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                  | Court   | Citation   | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|----------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |  |                |   | showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Hood | United States District Court for the Middle District of Florida | 310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615 | March 24, 2004 | Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida | The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p> | <p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p> |                              |             |                                       |

010330

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--disabled voters.</p> |                              |             |                                       |

010331

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting system would</p> |                              |             |                                       |

010332

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the voters.</p> |                              |             |                                       |

010333

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case      | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Troiano v. Lepore | United States District Court for the Southern District of Florida | 2003 U.S. Dist. LEXIS 25850 | November 3, 2003 | Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary judgment. | The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow things down | No                           | N/A         | No                                    |

010334

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also failed to state</p> |                              |             |                                       |

010335



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have audio</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                       | Court   | Citation                                  | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------------|---|---|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                    |   |   |                   |  | components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.   |                              |             |                                       |
| Troiano v. Supervisor of Elections | United States Court of Appeals for the Eleventh Circuit | 382 F.3d 1276; 2004 U.S. App. LEXIS 18497 | September 1, 2004 | Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in voting booths | The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The appellate court | No                           | N/A         | No                                    |

010037

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p> | <p>agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio components</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the accessible</p> |                              |             |                                       |

010339

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                   | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |  | voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Smith | United States District Court for the Middle District of Florida | 227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373 | October 16, 2002 | Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state and local | Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In order to vote,                  | No                           | N/A         | No                                    |

010340

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p> | <p>the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined with the federal</p> |                              |             |                                       |

010341

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the court could not</p> |                              |             |                                       |

010342

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs asserted that</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p> |                              |             |                                       |

010343

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case    | Court   | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. | No                           | N/A         | No                                    |

010344

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p> |                              |             |                                       |

010345

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case       | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |   | minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice. |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights   | No                           | N/A         | No                                    |

010346

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>violations of the Voting Rights Act. The parties filed cross--motions for summary judgment.</p> | <p>schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p> |                              |             |                                       |

010348

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case            | Court  | Citation                                  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                         |  |   |               |   | constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Farrakhan v. Washington | United States Court of Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.   | No                           | N/A         | No                                    |

010349

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p> | <p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p> |                              |             |                                       |

010350



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p> |                              |             |                                       |

010351

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case       | Court   | Citation                                | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |   |   |                |   | less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim. |                              |             |                                       |
| Muntaqim v. Coombe | United States Court of Appeals for the Second Circuit | 366 F.3d 102; 2004 U.S. App. LEXIS 8077 | April 23, 2004 | Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation | At issue was whether the VRA could be applied to N.Y. Elec. Law§ 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the   | No                           | N/A         | No                                    |

010352

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | of § 2 of the Voting Rights Act of 1965. | New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in |                              |             |                                       |

010353

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                | Court   | Citation                                  | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|---|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                             |   |   |                   |   | district court's judgment was affirmed.   |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 353 F.3d 1287; 2003 U.S. App. LEXIS 25859 | December 19, 2003 | Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws. | The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a | No                           | N/A         | No                                    |

010355

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p> |                              |             |                                       |

010356

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p> |                              |             |                                       |

010357

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | violation of federal voting laws and remanded the matter to the district court for further proceedings.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court | No                           | N/A         | No                                    |

010358



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case           | Court                  | Citation       | Date           | Facts                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------|----------------|----------------|----------------------------|---|------------------------------|-------------|---------------------------------------|
|                        |                        |                |                |                            | <p>authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.</p> |                              |             |                                       |
| Johnson v. Governor of | United States Court of | 405 F.3d 1214; | April 12, 2005 | Plaintiff individuals sued | The individuals argued that the   | No                           | N/A         | No                                    |

010360

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court                            | Citation                  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|---------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Fla.         | Appeals for the Eleventh Circuit | 2005 U.S. App. LEXIS 5945 |      | defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted. | racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial |                              |             |                                       |

010361

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p> |                              |             |                                       |

010362

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case          | Court                              | Citation                      | Date               | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|-------------------------------|--------------------|---|---|------------------------------|-------------|---------------------------------------|
|                       |                                    |                               |                    |   | <p>permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.</p> |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief | Petitioner convicted felons were presently or had formerly been confined in state   | No                           | N/A         | No                                    |

010363

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation     | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>534 |      | as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' |                              |             |                                       |

010364

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since</p> |                              |             |                                       |

010365

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court  | Citation                    | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|-----------------------------|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                     |  |                             |                   |  | incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them. |                              |             |                                       |
| Rosello v. Calderon | United States District Court for the District of Puerto Rico | 2004 U.S. Dist. LEXIS 27216 | November 30, 2004 | Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the | The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the  | No                           | N/A         | No                                    |

010366



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>invalidity of absentee and split ballots in a gubernatorial election.</p> | <p>same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal constitutions. The</p> |                              |             |                                       |

010367

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law pursuant to federal</p> |                              |             |                                       |

010368

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court  | Citation                                      | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 |   | guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.  |                              |             |                                       |
| Woodruff v. Wyoming | United States Court of Appeals for the Tenth Circuit | 49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060 | October 7, 2002 | Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10-106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon which relief could | The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing fee or filed a | No                           | N/A         | No                                    |

010369

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts                        | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|------------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | be granted and as frivolous. | motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who heard their cases. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                      | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |  |   |                  |  | The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed. |                              |             |                                       |
| N.J. State Conf.--NAACP v. Harvey | Superior Court of New Jersey, Appellate Division | 381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316 | November 2, 2005 | The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it denied | The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey discriminated   | No                           | N/A         | No                                    |

010371

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p> | <p>against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting. Moreover, those</p> |                              |             |                                       |

010372

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case           | Court  | Citation                   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |  | convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed. |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was  | No                           | N/A         | No                                    |

010373

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>excluded incarcerated felons from voting while they were imprisoned.</p> | <p>not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices</p> |                              |             |                                       |

010374



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional</p> |                              |             |                                       |

010375

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case  | Court   | Citation  | Date            | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|-----------------|--|---|------------------------------|-------------|---------------------------------------|
|   |   |   |                 |  | rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.  |                              |             |                                       |
| Southwest Voter Registration Educ. Project v. Shelley | United States District Court for the Central District of California | 278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413 | August 15, 2003 | Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be conducted without use of punch--card | Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch--card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the votes on the basis of race, in violation | No                           | N/A         | No                                    |

010376

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | machines. | of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if plaintiffs could show disparate |                              |             |                                       |

010377

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with plaintiffs' ex parte application for |                              |             |                                       |

010378

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                         | Court  | Citation                                 | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--|--|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                                      |  |  |                |   | temporary restraining order) was denied.  |                              |             |                                       |
| Igartua--de la Rosa v. United States | United States Court of Appeals for the First Circuit | 417 F.3d 145; 2005 U.S. App. LEXIS 15944 | August 3, 2005 | Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States. | The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were not, but were voting for electors. | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case            | Court  | Citation                                | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
| United States v. Madden | United States Court of Appeals for the Sixth Circuit | 403 F.3d 347; 2005 U.S. App. LEXIS 5326 | April 4, 2005 | Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role | Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not | No                           | N/A         | No                                    |

010381

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

Deliberative Process  
Privilege

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enhancement and increased defendant's base offense level by two levels. | violated by his conduct. In the alternative, he stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to |                              |             |                                       |

010382



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | establish a vote-buying offense. That argument also failed. Defendant next argued that the district court erred by applying the vulnerable-victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for |                              |             |                                       |

010383

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case           | Court  | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |  |  |              |  | <p>their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.</p> |                              |             |                                       |
| United States v. Slone | United States Court of Appeals for the Sixth Circuit | 411 F.3d 643; 2005 U.S. App. LEXIS 10137 | June 3, 2005 | Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of | Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him  | No                           | N/A         | No                                    |

010384

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p> | <p>because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The</p> |                              |             |                                       |

010385

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an</p> |                              |             |                                       |

010386

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and |                              |             |                                       |

010387

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case           | Court  | Citation                                       | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |               |   | sentence were affirmed.   |                              |             |                                       |
| United States v. Smith | United States Court of Appeals for the Sixth Circuit | 139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855 | July 18, 2005 | Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed. | One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced that two witnesses had been threatened. The appellate court found that defendants | No                           | N/A         | No                                    |

010388

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness testified that he or she was approached by a</p> |                              |             |                                       |

010389

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated |                              |             |                                       |

010390



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case     | Court              | Citation             | Date           | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--------------------|----------------------|----------------|---------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                    |                      |                |                     | defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker. |                              |             |                                       |
| Nugent v. Phelps | Court of Appeal of | 816 So. 2d 349; 2002 | April 23, 2002 | Plaintiff incumbent | The incumbent argued that: (1)  | No                           | N/A         | No                                    |

010391

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court                     | Citation            | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------------|---------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | Louisiana, Second Circuit | La. App. LEXIS 1138 |      | police chief sued defendant challenger, the winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's | the number of persons who were bribed for their votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters |                              |             |                                       |

010392

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>case, the district court for the dismissed his suit. The incumbent appealed.</p> | <p>should have been counted because they were incarcerated for the sole purpose of keeping them from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be</p> |                              |             |                                       |

010393

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the</p> |                              |             |                                       |

010394

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed.  |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud. | Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office | No                           | N/A         | No                                    |

010395

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the argument arose because, while the prosecutor's closing</p> |                              |             |                                       |

010396

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Furthermore, the trial judge did not abuse his discretion when he did not allow defendant</p> |                              |             |                                       |

010397

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case            | Court   | Citation                    | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---|-----------------------------|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |   |                             |                   |  | to ask the individual whether she wanted to see defendant go to prison because the individual's potential bias was shown by the individual's testimony that she expected the prosecution to recommend her sentence. The court affirmed defendant's conviction. |                              |             |                                       |
| United States v. Turner | United States District Court for the Eastern District of Kentucky | 2005 U.S. Dist. LEXIS 31709 | November 30, 2005 | Defendants were charged with committing mail fraud and conspiracy to commit mail fraud and | Defendants argued that recusal was mandated by 28 U.S.C.S. § 455(a) and (b)(1). The court found no merit in defendants'  | No                           | N/A         | No                                    |

010398



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>vote--buying. First defendant filed a motion to recuse. Second defendant's motion to join the motion to recuse was granted. First defendant moved to compel the Government to grant testimonial use immunity to second defendant and moved to sever defendants.</p> | <p>arguments. The fact that the judge's husband was the commissioner of the Kentucky Department of Environmental Protection, a position to which he was appointed by the Republican Governor, was not relevant. The judge's husband was neither a party nor a witness. The court further concluded that no reasonable person could find that the judge's spouse had any direct</p> |                              |             |                                       |

010399

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | interest in the instant action. As for issue of money donated by the judge's husband to Republican opponents of first defendant, the court could not discern any reason why such facts warranted recusal. First defendant asserted that second defendant should have been granted use immunity based on a belief that second defendant would testify that first defendant did |                              |             |                                       |

010400

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not agree to, possess knowledge of, engage in, or otherwise participate in any of the illegal activity alleged in the indictment. The court found the summary of expected testimony to be too general to grant immunity. In addition, it was far from clear whether the court had the power to grant testimonial use immunity to second defendant. Defendants' motion to recuse</p> |                              |             |                                       |

010401

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | was denied.<br>First defendant's motions to compel and to sever were denied. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court                     | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---------------------------|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Ways v. Shively | Supreme Court of Nebraska | 264 Neb. 250; 646 N.W.2d 621; 2002 Neb. LEXIS 158 | July 5, 2002 | Appellant felon filed a writ of mandamus, which sought to compel appellee Election Commissioner of Lancaster County, Nebraska, to permit him to register to vote. The District Court for Lancaster County denied the felon's petition for writ of mandamus and dismissed the petition. The felon appealed. | The felon was discharged from the Nebraska State Penitentiary in June 1998 after completing his sentences for the crimes of pandering, carrying a concealed weapon and attempting to possess a controlled substance. The commissioner asserted that as a result of the felon's conviction, the sentence for which had neither been reversed nor annulled, he had lost his right to vote. The commissioner contended that the | No                           | N/A         | No                                    |

010903

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>only method by which the felon's right to vote could be restored was through a warrant of discharge issued by the Nebraska Board of Pardons--<br/>-a warrant of discharge had not been issued. The supreme court ruled that the certificate of discharge issued to the felon upon his release did not restore his right to vote. The supreme court ruled that as a matter of law, the specific right to vote was not restored to the felon upon his discharge from incarceration at the</p> |                              |             |                                       |

010404

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | completion of his sentences. The judgment was affirmed.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court declared the disenfranchisement | No                           | N/A         | No                                    |

010405

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the authority under</p> |                              |             |                                       |

010406



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative</p> |                              |             |                                       |

010407

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case          | Court                              | Citation                                | Date               | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|---|--------------------|---|---|------------------------------|-------------|---------------------------------------|
|                       |                                    |   |                    |   | authority.  |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. LEXIS 534 | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | Petitioner convicted felons were presently or had formerly been confined in state prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released | No                           | N/A         | No                                    |

010408

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing</p> |                              |             |                                       |

010409

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case       | Court                        | Citation  | Date            | Facts                              | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|-----------|-----------------|------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                    |                              |           |                 |                                    | and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them. |                              |             |                                       |
| NAACP Philadelphia | United States District Court | 2000 U.S. | August 14, 2000 | Plaintiffs moved for a preliminary | Plaintiffs, ex--felon,  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court                                    | Citation          | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|-------------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Branch v. Ridge | for the Eastern District of Pennsylvania | Dist. LEXIS 11520 |      | injunction, which the parties agreed to consolidate with the merits determination for a permanent injunction, in plaintiffs' civil rights suit contending that the Pennsylvania Voter Registration Act, offended the Equal Protection Clause of U.S. Const. amend. XIV. | unincorporated association, and others, filed a civil rights suit against defendant state and local officials, contending that the Pennsylvania Voter Registration Act, violated the Equal Protection Clause by prohibiting some ex--felons from voting during the five year period following their release from prison, while permitting other ex--felons to vote. Plaintiffs conceded that one plaintiff lacked standing, and the court assumed the remaining |                              |             |                                       |

010411

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>plaintiffs had standing. The court found that all that all three of the special circumstances necessary to invoke the Pullman doctrine were present in the case, but found that abstention was not appropriate under the circumstances since it did not agree with plaintiffs' contention that the time constraints caused by the upcoming election meant that the option of pursuing their claims in state court did not offer plaintiffs an adequate remedy.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case       | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |   | Plaintiff's motion for permanent injunction denied; the court abstained from deciding merits of plaintiffs' claims under the Pullman doctrine because all three of the special circumstances necessary to invoke the doctrine were present in the case; all further proceedings stayed until further order. |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations of the Voting Rights Act. The parties filed cross--motions for | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the  | No                           | N/A         | No                                    |

010413

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | summary judgment. | right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of minorities; as a result, minorities were under--represented in |                              |             |                                       |

010414



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new constitutional problem, allowing disenfranchisement only of white</p> |                              |             |                                       |

010415

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court   | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |   |   |               |   | felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement                     | No                           | N/A         | No                                    |

010416

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence</p> |                              |             |                                       |

010417

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the</p> |                              |             |                                       |

010418

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case           | Court  | Citation                   | Date         | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|---|--|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |   | officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.   |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned. | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to | No                           | N/A         | No                                    |

010419

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 |                              |             |                                       |

010420

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's</p> |                              |             |                                       |

010421

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case     | Court  | Citation                    | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |  |                             |               |   | motion for summary judgment.  |                              |             |                                       |
| Hayden v. Pataki | United States District Court for the Southern District of New York | 2004 U.S. Dist. LEXIS 10863 | June 14, 2004 | In a 42 U.S.C.S. § 1983 action filed by plaintiffs, black and latino convicted felons, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) were unconstitutional, defendants, New York's governor and the chairperson of the board of elections, moved for judgment on the pleadings under Fed. R. Civ. P. 12(c). | The felons sued defendants, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) unlawfully denied suffrage to incarcerated and paroled felons on account of their race. The court granted defendants' motion for judgment on the pleadings on the felons' claims under U.S. Const. amend. XIV, XV because their factual allegations were insufficient from which to draw an inference | No                           | N/A         | No                                    |

010422



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the challenged provisions or their predecessors were enacted with discriminatory intent, and because denying suffrage to those who received more severe punishments, such as a term of incarceration, and not to those who received a lesser punishment, such as probation, was not arbitrary. The felons' claims under 42 U.S.C.S. § 1973 were dismissed because § 1973 could not be used to challenge the legality of N.Y. Elec. Law § 5--106. Defendants'</p> |                              |             |                                       |

010423

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>motion was granted as to the felons' claims under 42 U.S.C.S. § 1971 because § 1971 did not provide for a private right of action, and because the felons were not "otherwise qualified to vote." The court also granted defendants' motion on the felons' U.S. Const. amend. I claim because it did not guarantee a felon the right to vote. Defendants' motion for judgment on the pleadings was granted in the felons' § 1983</p> |                              |             |                                       |

010424

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case            | Court   | Citation                                  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                         |   |   |               |   | action.  |                              |             |                                       |
| Farrakhan v. Washington | United States Court for Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed. | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised. The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that | No                           | N/A         | No                                    |

010425

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial</p> |                              |             |                                       |

010426

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system</p> |                              |             |                                       |

010427

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case   | Court                     | Citation                                      | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                |                           |   |                  |  | claim.  |                              |             |                                       |
| In re Phillips | Supreme Court of Virginia | 265 Va. 81; 574 S.E.2d 270; 2003 Va. LEXIS 10 | January 10, 2003 | The circuit court, entered a judgment in which it declined to consider petitioner former felon's petition for approval of her request to seek restoration of her eligibility to register to vote. The former felon appealed. | More than five years earlier, the former felon was convicted of the felony of making a false written statement incident to a firearm purchase. She then petitioned the trial court asking it to approve her request to seek restoration of her eligibility to register to vote. Her request was based on Va. Code Ann. § 53.1--231.2, allowing persons convicted of non--violent felonies to petition a trial court for approval of a request to seek | No                           | N/A         | No                                    |

010428

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>restoration of voting rights. The trial court declined. It found that Va. Code Ann. § 53.1--231.2 violated constitutional separation of powers principles since it gave the trial court powers belonging to the governor. It also found that even if the statute was constitutional, it was fundamentally flawed for not providing notice to respondent Commonwealth regarding a petition. After the petition was denied, the state supreme court</p> |                              |             |                                       |

010429

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court         | Citation | Date     | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|----------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |               |          |          |           | <p>found the separation of powers principles were not violated since the statute only allowed the trial court to determine if an applicant met the requirements to have voting eligibility restored. It also found the statute was not fundamentally flawed since the Commonwealth was not an interested party entitled to notice. OUTCOME: The judgment was reversed and the case was remanded for further proceedings.</p> |                              |             |                                       |
| Howard v.    | United States | 2000     | February | Appellant | Appellant was  | No                           | N/A         | No                                    |

010430



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court                                   | Citation             | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|----------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Gilmore      | Court of Appeals for the Fourth Circuit | U.S. App. LEXIS 2680 | 23, 2000 | challenged the United States District Court for the Eastern District of Virginia's order summarily dismissing his complaint, related to his inability to vote as a convicted felon, for failure to state a claim upon which relief can be granted. | disenfranchised by the Commonwealth of Virginia following his felony conviction. He challenged that decision by suing the Commonwealth under the U.S. Const. amends. I, XIV, XV, XIX, and XXIV, and under the Voting Rights Act of 1965. The lower court summarily dismissed his complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Appellant challenged. The court found U.S. Const. amend. I |                              |             |                                       |

010431

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>created no private right of action for seeking reinstatement of previously canceled voting rights, U.S. Const. amends. XIV, XV, XIX, and the VRA required either gender or race discrimination, neither of which appellant asserted, and the U.S. Const. amend. XXIV, while prohibiting the imposition of poll taxes, did not prohibit the imposition of a \$10 fee for reinstatement of appellant's civil rights, including the right to vote. Consequently,</p> |                              |             |                                       |

010432

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case                | Court   | Citation                            | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|-------------------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                             |   |                                     |                   |   | <p>appellant failed to state a claim. The court affirmed, finding that none of the constitutional provisions appellant relied on were properly pled because appellant failed to assert that either his race or gender were involved in the decisions to deny him the vote. Conditioning reestablishment of his civil rights on a \$10 fee was not unconstitutional.</p> |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 353 F.3d 1287; 2003 U.S. App. LEXIS | December 19, 2003 | Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a | The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their  | No                           | N/A         | No                                    |

010433

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | 25859    |      | <p>decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.</p> | <p>constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show</p> |                              |             |                                       |

010434

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court found that the claim under the Voting Rights Act, also needed to be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was</p> |                              |             |                                       |

010435

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case   | Court    | Citation | Date      | Facts               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|----------|----------|-----------|---------------------|--|------------------------------|-------------|---------------------------------------|
|                |          |          |           |                     | behind the Florida disenfranchisement provisions, in violation of the Voting Rights Act. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for violation of federal voting laws and remanded the matter to the district court for further proceedings. |                              |             |                                       |
| State v. Black | Court of | 2002     | September | In 1997, petitioner | The appellate  | No                           | N/A         | No                                    |

010436

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court                | Citation             | Date     | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------|----------------------|----------|---|--|------------------------------|-------------|---------------------------------------|
|              | Appeals of Tennessee | Tenn. App. LEXIS 696 | 26, 2002 | was convicted of forgery and sentenced to the penitentiary for two years, but was immediately placed on probation. He subsequently petitioned the circuit court for restoration of citizenship. The trial court restored his citizenship rights. The State appealed. The appellate court issued its opinion, but granted the State's motions to supplement the record and to rehear its decision. | court's original opinion found that petitioner had not lost his right to hold public office because Tennessee law removed that right only from convicted felons who were "sentenced to the penitentiary." The trial court's amended judgment made it clear that petitioner was in fact sentenced to the penitentiary. Based upon this correction to the record, the appellate court found that petitioner's sentence to the penitentiary resulted in the |                              |             |                                       |

010437

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | forfeiture of his right to seek and hold public office by operation of Tenn. Code Ann. § 40-20--114. However, the appellate court concluded that this new information did not requires a different outcome on the merits of the issue of restoration of his citizenship rights, including the right to seek and hold public office. The appellate court adhered to its conclusion that the statutory presumption in favor of the restoration was not overcome by a |                              |             |                                       |

010438



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case                | Court   | Citation                                 | Date           | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|--|----------------|--|---|------------------------------|-------------|---------------------------------------|
|                             |   |  |                |  | <p>showing, by a preponderance of the evidence, of good cause to deny the petition for restoration of citizenship rights. The appellate court affirmed the restoration of petitioner's right to vote and reversed the denial of his right to seek and hold public office. His full rights of citizenship were restored.</p> |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 405 F.3d 1214; 2005 U.S. App. LEXIS 5945 | April 12, 2005 | Plaintiff individuals sued defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. | The individuals argued that the racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally   | No                           | N/A         | No                                    |

010439

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>art. VI, § 4 (1968), violated the Equal Protection Clause and 42 U.S.C.S. § 1973. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.</p> | <p>operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not</p> |                              |             |                                       |

010740

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that 42 U.S.C.S. § 1973 applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment permitted the state to maintain. In addition, the legislative history indicated that Congress never</p> |                              |             |                                       |

010441

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted. |                              |             |                                       |

010442

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                 | Court  | Citation                                 | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|--|-----------------|---|--|------------------------------|-------------|---------------------------------------|
| Jenkins v. Williamson-Butler | Court of Appeal of Louisiana, Fourth Circuit | 883 So. 2d 537; 2004 La. App. LEXIS 2433 | October 8, 2004 | Petitioner, a candidate for a parish juvenile court judgeship, failed to qualify for a runoff election. She filed suit against defendant, the clerk of criminal court for the parish seeking a new election, based on grounds of substantial irregularities. The district court ruled in favor of the candidate | The trial court found that the voting machines were not put into service until two, four, and, in many instances, eight hours after the statutorily mandated starting hour which constituted serious irregularities so as to deprive voters from freely expressing their will. It was impossible to determine the number of voters that were affected by the | No                           | N/A         | No                                    |

010443

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case        | Court  | Citation                                  | Date            | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|--|---|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 | and ordered the holding of a restricted citywide election. The clerk appealed. | late start up or late arrival of voting machines, making it impossible to determine the result. The appellate court agreed that the irregularities were so serious that the trial court's voiding the election and calling a new election was the proper remedy. Judgment affirmed. |                              |             |                                       |
| Hester v. McKeithen | Court of Appeal of Louisiana, Fourth Circuit | 882 So. 2d 1291; 2004 La. App. LEXIS 2429 | October 8, 2004 | Petitioner, school board candidate, filed suit against defendants, Louisiana   | The candidate argued that the trial court erred in not setting aside the election, even after   | No                           | N/A         | No                                    |

010444

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case  | Court                 | Citation   | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------|--|----------------|--|--|------------------------------|-------------|---------------------------------------|
|   |                       |  |                | Secretary of State and district court clerk, contesting the school board election results. The trial court rendered judgment against the candidate, finding no basis for the election to be declared void. The candidate appealed. | acknowledging in its reasons for judgment numerous irregularities with the election process. The appellate court ruled that had the irregularities not occurred the outcome would have been exactly the same. Judgment affirmed. |                              |             |                                       |
| In re Election Contest of Democratic Primary Election | Supreme Court of Ohio | 88 Ohio St. 3d 258; 2000 Ohio 325; 725 N.E.2d 271; 2000 Ohio | March 29, 2000 | Appellant sought review of the judgment of the court of common   | Appellant contended that an election irregularity occurred when the board failed   | No                           | N/A         | No                                    |

010445

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case     | Court | Citation  | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-------|-----------|------|--|---|------------------------------|-------------|---------------------------------------|
| Held May 4, 1999 |       | LEXIS 607 |      | pleas denying his election contest challenging an opponent's nomination for election irregularity. | to meet and act by majority vote on another candidate's withdrawal, instead permitting its employees to make decisions. Appellant had to prove by clear and convincing evidence that one or more election irregularities occurred and it affected enough votes to change or make uncertain the result of the election. Judgment affirmed. The appellant did |                              |             |                                       |

010446



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case   | Court                         | Citation                                       | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------------------|--|--------------|---|---|------------------------------|-------------|---------------------------------------|
|  |                               |  |              |   | not establish election irregularity by the board's actions on the candidate's withdrawal, the board acted diligently and exercised its discretion in keeping the candidate's name on the ballot and notifying electors of his withdrawal. |                              |             |                                       |
| In re Election Contest As to Watertown Special Referendum Election | Supreme Court of South Dakota | 2001 SD 62; 628 N.W.2d 336; 2001 S.D. LEXIS 66 | May 23, 2001 | Appellant sought review of the judgment of the circuit court declaring a local election valid and | The burden was on appellants to show not only that voting irregularities occurred, but also show that those irregularities  | No                           | N/A         | No                                    |

010447

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case    | Court                    | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                          |   |               | declining to order a new election.  | were so egregious that the will of the voters was suppressed. Appellants did not meet their burden, as mere inconvenience or delay in voting was not enough to overturn the election. Judgment affirmed. |                              |             |                                       |
| Jones v. Jessup | Supreme Court of Georgia | 279 Ga. 531; 615 S.E.2d 529; 2005 Ga. LEXIS 447 | June 30, 2005 | Defendant incumbent appealed a judgment by the trial court that invalidated an election for the position of sheriff and | After the candidate lost the sheriff's election to the incumbent, he contested the election, asserting that there were sufficient irregularities to  | No                           | N/A         | No                                    |

010428

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>ordered that a new election be held based on plaintiff candidate's election contest.</p> | <p>place in doubt the election results. The state supreme court held that the candidate failed to prove substantial error in the votes cast by the witnesses adduced at the hearing who voted at the election. Although the candidate's evidence reflected the presence of some irregularities, not every irregularity invalidated the vote. The absentee ballots</p> |                              |             |                                       |

010429

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were only to be rejected where the electors failed to furnish required information. Because the ballots cast by the witnesses substantially complied with all of the essential requirements of the form, the trial court erred by finding that they should not have been considered. The candidate failed to establish substantial error in the votes. Judgment reversed.</p> |                              |             |                                       |

010450

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case        | Court                     | Citation                                      | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---------------------------|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
| Toliver v. Thompson | Supreme Court of Oklahoma | 2000 OK 98; 17 P.3d 464; 2000 Okla. LEXIS 101 | December 21, 2000 | Petitioner challenged an order of the district court denying his motion to compel a recount of votes from an election. | The court held a recount of votes cast in an election could occur when the ballots had been preserved in the manner prescribed by statute. The trial court noted when the ballots had not been preserved in such a manner, no recount would be conducted. The court further noted a petition alleging irregularities in an election could be based upon an allegation that | No                           | N/A         | No                                    |

010451

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>it was impossible to determine with mathematical certainty which candidate was entitled to be issued a certificate of election. The Oklahoma supreme court held petitioner failed to show that the actual votes counted in the election were tainted with irregularity, and similarly failed to show a statutory right to a new election based upon a failure to preserve the</p> |                              |             |                                       |

010452

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case       | Court                      | Citation                           | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|----------------------------|------------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |                            |                                    |                   |   | ballots.<br>Judgment affirmed.   |                              |             |                                       |
| Adkins v. Huckabay | Supreme Court of Louisiana | 755 So. 2d 206; 2000 La. LEXIS 504 | February 25, 2000 | Plaintiff candidate challenged judgment of court of appeal, second circuit, which reversed the lower court's judgment and declared defendant candidate winner of a runoff election for sheriff. | The issue presented for the appellate court's determination was whether the absentee voting irregularities plaintiff candidate complained of rendered it impossible to determine the outcome of the election for sheriff. The Louisiana supreme court concluded that the lower court had applied the correct | No                           | N/A         | No                                    |

010453

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>standard, substantial compliance, to the election irregularities, but had erred in its application by concluding that the contested absentee ballots substantially complied with the statutory requirements. The supreme court found that in applying substantial compliance to five of the ballot irregularities, the trial court correctly vacated the general election</p> |                              |             |                                       |

010454



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>and set it aside because those absentee ballots should have been disqualified. Because of the constitutional guarantee to secrecy of the ballot and the fact that the margin of victory in the runoff election was three votes, it was impossible to determine the result of the runoff election. Thus, the supreme court ordered a new general election. Judgment of the</p> |                              |             |                                       |

010455

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case       | Court                       | Citation   | Date          | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|-----------------------------|--|---------------|--|---|------------------------------|-------------|---------------------------------------|
|                    |                             |  |               |  | court of appeals reversed.  |                              |             |                                       |
| In re Gray--Sadler | Supreme Court of New Jersey | 164 N.J. 468; 753 A.2d 1101; 2000 N.J. LEXIS 668 | June 30, 2000 | Appellants, write--in candidates for the offices of mayor and borough council, appealed the judgment of the superior court, appellate division reversing the trial court's decision to set aside the election results for those offices due to irregularities related to the write--in | The New Jersey supreme court held that the votes that were rejected by election officials did not result from the voters' own errors, but from the election officials' noncompliance with statutory requirements. In other words, the voters were provided with patently inadequate instructions and defective voting machines. Moreover, | No                           | N/A         | No                                    |

010456

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                                    | Court                                   | Citation                       | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |                                |                   | instructions and defective voting machines.                         | appellants met the statutory requirement for successfully contesting the election results by showing that enough qualified voters were denied the right to cast write--in votes as to affect the outcome of the election. Judgment reversed and the state trial court's decision reinstated. |                              |             |                                       |
| Goodwin v. St. Thomas-St. John Bd. of Elections | Territorial Court of the Virgin Islands | 43 V.I. 89; 2000 V.I. LEXIS 15 | December 13, 2000 | Plaintiff political candidate alleged that certain general election | Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks,   | No                           | N/A         | No                                    |

010457

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the</p> | <p>were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The territorial court held that plaintiff was not entitled to relief since he failed to</p> |                              |             |                                       |

010458

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | election results tabulated without such ballots. | establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly |                              |             |                                       |

010459

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were</p> |                              |             |                                       |

010460

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case             | Court  | Citation  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                          |  |   |                  |   | proper.   |                              |             |                                       |
| Johnson v. Lopez--Torres | Supreme Court of New York, Appellate Division, Second Department | 2005 NY Slip Op 7825; 2005 N.Y. App. Div. LEXIS 11276 | October 21, 2005 | In a proceeding for a re--canvass of certain affidavit ballots cast in the Democratic Party primary election for the public office of surrogate, the supreme court denied appellant candidate's petition requesting the same and declared appellee opponent the winner of | Finding that the candidate had waived her right to challenge the affidavit ballots and had not sufficiently established her claim of irregularities to warrant a hearing, the trial court denied her petition and declared the opponent the winner of the primary. However, on appeal, the appellate division held that no waiver occurred. |                              |             |                                       |

010461

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts          | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | that election. | Moreover, because hundreds of apparently otherwise eligible voters failed to fill in their party enrollment and/or prior address, it could be reasonably inferred that these voters were misled thereby into omitting the required information. Finally, the candidate failed to make a sufficient showing of voting irregularities in |                              |             |                                       |

010462



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case   | Court                    | Citation                            | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|-------------------------------------|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                          |                                     |                 |   | the machine vote to require a hearing on that issue. Judgment reversed.  |                              |             |                                       |
| Ex parte Avery | Supreme Court of Alabama | 843 So. 2d 137; 2002 Ala. LEXIS 239 | August 23, 2002 | Petitioner probate judge moved for a writ of mandamus directing a circuit judge to vacate his order requiring the probate judge to transfer all election materials to the circuit clerk and holding him in contempt for failing to do so. The | The issuance of a writ of mandamus was appropriate. The district attorney had a right to the election materials because he was conducting a criminal investigation of the last election. Furthermore, the circuit judge had no jurisdiction or authority to issue an order | No                           | N/A         | No                                    |

010463

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                                    | Court                        | Citation                             | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--------------------------------------|----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |                              |                                      |                | probate judge also requested that said material be turned over to the district attorney, pursuant to an outstanding subpoena.     | directing that the election materials be given to the clerk. The district attorney received several claims of irregularities in the election, some of which could constitute voter fraud. Petition granted and writ issued. |                              |             |                                       |
| Harpole v. Kemper County Democratic Exec. Comm. | Supreme Court of Mississippi | 908 So. 2d 129; 2005 Miss. LEXIS 463 | August 4, 2005 | After his loss in a primary election for the office of sheriff, appellant candidate sued appellees, a political party's executive | The candidate alleged the sheriff had his deputies transport prisoners to the polls, felons voted, and the absentee voter law was breached. The committee   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>committee and the incumbent sheriff, alleging irregularities in the election. The circuit court dismissed the candidate's petition for judicial review with prejudice. He appealed.</p> | <p>agreed with the last contention and threw out the absentee ballots (seven percent of votes cast); after a recount, the sheriff still prevailed. The trial court dismissed the case due to alleged defects in the petition; in the alternative, it held that the candidate failed to sufficiently allege violations and irregularities in the election. The supreme court held that the petition was</p> |                              |             |                                       |

010465

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not defective. Disqualification of seven percent of the total votes was not substantial enough so as to cause the will of the voters to be impossible to discern and to warrant a special election, and there were not enough illegal votes cast for the sheriff to change the outcome. A blanket allegation implying that the sheriff had deputies transport prisoners to the</p> |                              |             |                                       |

010466

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | polls was not supported by credible evidence. Judgment affirmed. |                              |             |                                       |

010467

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case         | Court                    | Citation            | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------|---------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. LEXIS 214 | December 9, 2005 | The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of | The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | its judgment pending resolution of the appeal. | at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those |                              |             |                                       |

010469

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply</p> |                              |             |                                       |

010470



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case     | Court         | Citation        | Date             | Facts                  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                        | with the absentee--voting requirements. The judgment declaring the incumbent's opponent the winner was affirmed. The judgment counting the challenged votes in the final tally of votes was reversed, and said votes were subtracted from the incumbents total, and the stay was vacated. All other arguments were rendered moot as a result. |                              |             |                                       |
| ACLU of Minn. v. | United States | 2004 U.S. Dist. | October 29, 2004 | Plaintiffs, voters and | Plaintiffs argued that Minn. Stat.  | No                           | N/A         | No                                    |

010471

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court  | Citation    | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Kiffmeyer    | District Court for the District of Minnesota | LEXIS 22996 |      | associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the |                              |             |                                       |

010472

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth</p> |                              |             |                                       |

010473

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100,</p> |                              |             |                                       |

010474

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case                        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |   | violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | dismiss. | ballot, a first--time voter could identify himself by providing his driver's license number or the last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable |                              |             |                                       |

010476

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the |                              |             |                                       |

010477

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, even if the cost, in terms of uncounted ballots, was regrettable. The court granted the Secretary's motion to dismiss. |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case               | Court  | Citation                                      | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| New York v. County of Del. | United States District Court for the Northern District of New York | 82 F. Supp. 2d 12; 2000 U.S. Dist. LEXIS 1398 | February 8, 2000 | Plaintiffs brought a claim in the district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued. | In their complaint plaintiffs alleged that defendants violated the ADA by making the voting locations inaccessible to disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct parties, because | No                           | N/A         | No                                    |

010479

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>pursuant to New York election law defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, due to the alleged</p> |                              |             |                                       |

010480

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                    | Court                  | Citation                | Date             | Facts                             | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------------|-------------------------|------------------|-----------------------------------|--|------------------------------|-------------|---------------------------------------|
|                                 |                        |                         |                  |                                   | <p>facts, the court found plaintiffs would likely succeed on the merits. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction and granted plaintiffs' motion for leave to amend their complaint.</p> |                              |             |                                       |
| New York v. County of Schoharie | United States District | 82 F. Supp. 2d 19; 2000 | February 8, 2000 | Plaintiffs brought a claim in the | In their complaint, plaintiffs   | No                           | N/A         | No                                    |

010481

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court                                       | Citation              | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|-----------------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | Court for the Northern District of New York | U.S. Dist. LEXIS 1399 |      | district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and a motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued. | alleged defendants violated the ADA by allowing voting locations to be inaccessible for disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct party, because pursuant to New York election law, |                              |             |                                       |

010482

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, the court found that plaintiffs would likely succeed on the</p> |                              |             |                                       |

010483

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>merits of their case. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction because plaintiffs showed irreparable harm and proved likely success on the merits and granted plaintiff's motion for leave to amend the complaint.</p> |                              |             |                                       |

010484

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case  | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Westchester Disabled on the Move, Inc. v. County of Westchester | United States District Court for the Southern District of New York | 346 F. Supp. 2d 473; 2004 U.S. Dist. LEXIS 24203 | October 22, 2004 | Plaintiffs sued defendant county, county board of elections, and election officials pursuant to 42 U.S.C.S. §§ 12131--12134, N.Y. Exec. Law § 296, and N.Y. Elec. Law § 4--1--4. Plaintiffs moved for a preliminary injunction, requesting (among other things) that the court order defendants to modify the polling places in the county so that they | The inability to vote at assigned locations on election day constituted irreparable harm. However, plaintiffs could not show a likelihood of success on the merits because the currently named defendants could not provide complete relief sought by plaintiffs. Although the county board of elections was empowered to | No                           | N/A         | No                                    |

010485

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>were accessible to disabled voters on election day. Defendants moved to dismiss.</p> | <p>select an alternative polling place should it determine that a polling place designated by a municipality was "unsuitable or unsafe," it was entirely unclear that its power to merely designate suitable polling places would be adequate to ensure that all polling places used in the upcoming election actually conformed</p> |                              |             |                                       |

010486



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | with the Americans with Disabilities Act. Substantial changes and modifications to existing facilities would have to be made, and such changes would be difficult, if not impossible, to make without the cooperation of municipalities. Further, the court could order defendants to approve voting machines that conformed to |                              |             |                                       |

010487

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the ADA were they to be purchased and submitted for county approval, but the court could not order them to purchase them for the voting districts in the county. A judgment issued in the absence of the municipalities would be inadequate. Plaintiffs' motion for preliminary injunction was denied, and defendants' motion to dismiss was granted.</p> |                              |             |                                       |

010488

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                            | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Nat'l Org. on Disability v. Tartaglione | United States District Court for the Eastern District of Pennsylvania | 2001 U.S. Dist. LEXIS 16731 | October 11, 2001 | Plaintiffs, disabled voters and special interest organizations, sued defendants, city commissioners, under the Americans with Disabilities Act and § 504 of the Rehabilitation Act of 1973, and regulations under both statutes, regarding election practices. The commissioners moved to dismiss for failure (1) to | The voters were visually impaired or wheelchair bound. They challenged the commissioners' failure to provide talking voting machines and wheelchair accessible voting places. They claimed discrimination in the process of voting because they were not afforded the same opportunity to participate in the voting process as non-disabled | No                           | N/A         | Yes-see if the case was refiled       |

010489

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | state a cause of action and (2) to join an indispensable party. | voters, and assisted voting and voting by alternative ballot were substantially different from, more burdensome than, and more intrusive than the voting process utilized by non--disabled voters. The court found that the complaint stated causes of actions under the ADA, the Rehabilitation Act, and 28 C.F.R. §§ 35.151 and |                              |             |                                       |

010490

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>35.130. The court found that the voters and organizations had standing to raise their claims. The organizations had standing through the voters' standing or because they used significant resources challenging the commissioners' conduct. The plaintiffs failed to join the state official who would need to approve any talking voting machine as a</p> |                              |             |                                       |

010491

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>party. As the court could not afford complete relief to the visually impaired voters in that party's absence, it granted the motion to dismiss under Fed. R. Civ. P. 12(b)(7) without prejudice. The court granted the commissioners' motion to dismiss in part, and denied it in part. The court granted the motion to dismiss the claims of the</p> |                              |             |                                       |

010492

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                                | Court                       | Citation   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------------|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                             |  |              |  | visually impaired voters for failure to join an indispensable party, without prejudice, and with leave to amend the complaint.  |                              |             |                                       |
| TENNESSEE, Petitioner v. GEORGE LANE et al. | United States Supreme Court | 541 U.S. 509; 124 S. Ct. 1978; 158 L. Ed. 2d 820; 2004 U.S. LEXIS 3386 | May 17, 2004 | Respondent paraplegics sued petitioner State of Tennessee, alleging that the State failed to provide reasonable access to court facilities in violation of Title II of the Americans with Disabilities Act | The state contended that the abrogation of state sovereign immunity in Title II of the ADA exceeded congressional authority under U.S. Const. amend XIV, § 5, to enforce substantive constitutional guarantees. | No                           | N/A         | No                                    |

010493

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | of 1990. Upon the grant of a writ of certiorari, the State appealed the judgment of the United States Court of Appeals for the Sixth Circuit which denied the State's claim of sovereign immunity. | The United States Supreme Court held, however, that Title II, as it applied to the class of cases implicating the fundamental right of access to the courts, constituted a valid exercise of Congress's authority. Title II was responsive to evidence of pervasive unequal treatment of persons with disabilities in the administration of state |                              |             |                                       |

010494



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>services and programs, and such disability discrimination was thus an appropriate subject for prophylactic legislation. Regardless of whether the State could be subjected to liability for failing to provide access to other facilities or services, the fundamental right of access to the courts warranted the limited requirement that the State reasonably</p> |                              |             |                                       |

010495

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>accommodate disabled persons to provide such access. Title II was thus a reasonable prophylactic measure, reasonably targeted to a legitimate end. The judgment denying the State's claim of sovereign immunity was affirmed.</p> |                              |             |                                       |

010496

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case         | Court                                       | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Hileman v. McGinness | Appellate Court of Illinois, Fifth District | 316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845 | October 25, 2000 | Appellant challenged the circuit court's declaration that that the result of a primary election for county circuit clerk was void. | In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been | No                           | N/A         | No                                    |

010497

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | segregated, apportionment was the appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a |                              |             |                                       |

010498

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | determination as to whether fraud was evident in the electoral process. Judgment reversed and remanded.   |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of the circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud. | Defendant was helping with his cousin's campaign in a run-off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the</p> |                              |             |                                       |

010500

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court    | Citation | Date   | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|----------|--------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |          |          |        |           | <p>argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Judgment affirmed.</p> |                              |             |                                       |
| Wilson v.    | Court of | 2000 Va. | May 2, | Defendant | At trial, the   | No                           | N/A         | No                                    |

010501

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court               | Citation       | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------|----------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Commonwealth | Appeals of Virginia | App. LEXIS 322 | 2000 | appealed the judgment of the circuit court which convicted her of election fraud. | Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from |                              |             |                                       |

010502



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | the Department of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. Judgment affirmed. |                              |             |                                       |
|              |       |          |      |       |  |                              |             |                                       |
|              |       |          |      |       |  |                              |             |                                       |
|              |       |          |      |       |  |                              |             |                                       |

010503

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Miller v. Blackwell | United States District Court for the southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants. | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in | No                           | N/A         | No                                    |

010505

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>likelihood of success on the merits because they made a strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The</p> |                              |             |                                       |

010507

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case         | Court  | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                      |  |  |                  |   | court also granted the individuals' motion to intervene.   |                              |             |                                       |
| Spencer v. Blackwell | United States District Court for the Southern District of Ohio | 347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062 | November 1, 2004 | Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls. | The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that | No                           | N/A         | No                                    |

010508

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the |                              |             |                                       |

010511

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case                   | Court  | Citation                   | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------|--|----------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                                |  |                            |              |   | state on Election Day.  |                              |             |                                       |
| Charfauros v. Bd. of Elections | United States Court of Appeals for the Ninth Circuit | 2001 U.S. App. LEXIS 15083 | May 10, 2001 | Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity. | Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by administering pre--election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal</p> |                              |             |                                       |

010513

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed</p> |                              |             |                                       |

010514

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case  | Court   | Citation                                  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|               |   |   |                  |  | where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.   |                              |             |                                       |
| Wit v. Berman | United States Court of Appeals for the Second Circuit | 306 F.3d 1256; 2002 U.S. App. LEXIS 21301 | October 11, 2002 | Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the | Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that, since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both | No                           | N/A         | No                                    |

010515

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p> | <p>of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over--or under--inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to choose which of their residences was their domicile for voting purposes could not be deemed</p> |                              |             |                                       |

010517

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case    | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                  |  | discriminatory.<br>Affirmed.   |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987 | November 3, 2000 | Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas. | Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self-styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with Texas law, three resident voters filed affidavits challenging the escapees' | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the court issued a preliminary injunction</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future election. Motion for preliminary injunction was</p> |                              |             |                                       |

010520

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case                     | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                  |   |  |                  |   | granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act. |                              |             |                                       |
| Peace & Freedom Party v. Shelley | Court of Appeal of California, Third Appellate District | 114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | January 15, 2004 | Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel | The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed, observing that although the   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p> | <p>election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent</p> |                              |             |                                       |

010523

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | <p>certain conditions, inactive voters in California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.</p>   |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts                       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | moved for summary judgment. | afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and</p> |                              |             |                                       |

010526



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case                                | Court   | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States Court of Appeals for the Eleventh Circuit | 408 F.3d 1349; 2005 U.S. App. LEXIS 8320 | May 12, 2005 | Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the | The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | foundation. | forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the |                              |             |                                       |

010529

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court  | Citation | Date      | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|-----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |           |           | <p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p> |                              |             |                                       |
| McKay v.     | United | 226 F.3d | September | Plaintiff | The trial court   | No                           | N/A         | No                                    |

010530

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court   | Citation                        | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---------------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thompson     | States Court of Appeals for the Sixth Circuit | 752; 2000 U.S. App. LEXIS 23387 | 18, 2000 | challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it |                              |             |                                       |

010531

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p> |                              |             |                                       |

010532

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court  | Citation | Date    | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|---------------------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                     | immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. |                              |             |                                       |
| Nat'l        | United | 150 F.   | July 5, | Plaintiff, national | Defendants  | No                           | N/A         | No                                    |

010533

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case   | Court   | Citation                                 | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--|------|---|---|------------------------------|-------------|---------------------------------------|
| Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | States District Court for the Southern District of Maryland | Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | 2001 | organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiffs members that requested voter registration services were not |                              |             |                                       |

010534



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p> |                              |             |                                       |

010535

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended |                              |             |                                       |

010536

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case                               | Court  | Citation                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|----------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|  |  |                            |                   |   | <p>complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p> |                              |             |                                       |
| Cunningham v. Chi. Bd. of Election Comm'rs | United States District Court for the Northern District of Illinois | 2003 U.S. Dist. LEXIS 2528 | February 24, 2003 | Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed | Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p> | <p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |  | preliminary relief was denied.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental | No                           | N/A         | No                                    |

010540

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p> |                              |             |                                       |

010541

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p> |                              |             |                                       |

010542



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | prejudice granted.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA | No                           | N/A         | No                                    |

010543

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p> |                              |             |                                       |

010544

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for |                              |             |                                       |

010545

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                |   | summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.  |                              |             |                                       |
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause | The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p> | <p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p> |                              |             |                                       |

010547

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p> |                              |             |                                       |

010548

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

010549

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-- 3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio | The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did | No                           | N/A         | No                                    |

010550



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>granted summary judgment in favor of defendants. The voters appealed.</p> | <p>not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that</p> |                              |             |                                       |

010551

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

010552

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case           | Court                        | Citation                | Date        | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------------|-------------------------|-------------|---|--|------------------------------|-------------|---------------------------------------|
| Wilson v. Commonwealth | Court of Appeals of Virginia | 2000 Va. App. LEXIS 322 | May 2, 2000 | Defendant appealed the judgment of the circuit court which convicted her of election fraud. | On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form required by Title 24.2. At trial, the Commonwealth | No                           | N/A         | No                                    |

010553

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department</p> |                              |             |                                       |

010554

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including</p> |                              |             |                                       |

010555

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case     | Court         | Citation        | Date             | Facts                  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|------------------------|--|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                        | records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. |                              |             |                                       |
| ACLU of Minn. v. | United States | 2004 U.S. Dist. | October 29, 2004 | Plaintiffs, voters and | Plaintiffs argued that   | No                           | N/A         | No                                    |

010556

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court  | Citation    | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Kiffmeyer    | District Court for the District of Minnesota | LEXIS 22996 |      | associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and |                              |             |                                       |

010557

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>address of the individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal</p> |                              |             |                                       |

010558



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on |                              |             |                                       |

010559

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                 | Court  | Citation  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                              |  |   |                   |  | their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.                       |                              |             |                                       |
| Kalsson v. United States FEC | United States District Court for the Southern District of New York | 356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279 | February 16, 2005 | Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's action, which sought a declaration that | The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held that the | No                           | N/A         | No                                    |

010560

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p> | <p>individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and</p> |                              |             |                                       |

010561

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court      | Citation | Date        | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------|----------|-------------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |            |          |             |           | <p>even if such an injury in other circumstances might have sufficed for standing, any dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.</p> |                              |             |                                       |
| Peace &      | California | 114 Cal. | January 15, | Plaintiff | The trial court  | No                           | N/A         | No                                    |

010562

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case             | Court                                     | Citation  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|---|---|------|---|--|------------------------------|-------------|---------------------------------------|
| Freedom Party v. Shelley | Court of Appeal, Third Appellate District | App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | 2004 | political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election. | ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the |                              |             |                                       |

010563

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file</p> |                              |             |                                       |

010564

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and</p> |                              |             |                                       |

010565

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case      | Court  | Citation                                 | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|--|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                   |  |  |                    |  | vote. Affirmed.  |                              |             |                                       |
| McKay v. Thompson | United States Court of Appeals for the Sixth Circuit | 226 F.3d 752; 2000 U.S. App. LEXIS 23387 | September 18, 2000 | Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be | No                           | N/A         | No                                    |

010566



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. Plaintiff</p> |                              |             |                                       |

010567

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under</p> |                              |             |                                       |

010568

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | 28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental |                              |             |                                       |

010569

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                               | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |  |  |                  |  | right to vote, free exercise of religion, privileges and immunities, and due process claims.  |                              |             |                                       |
| Lucas County Democratic Party v. Blackwell | United States District Court for the Northern District of Ohio | 341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416 | October 21, 2004 | Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. The organizations claimed that the memorandum contravened provisions of the Help America Vote | The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their Social Security number. In his memorandum, the Secretary informed all | No                           | N/A         | No                                    |

010570

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Act and the National Voter Registration Act. The organizations moved for a preliminary injunction. | Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations |                              |             |                                       |

010571

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were likely to succeed on the merits of their claim. Denying the organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that</p> |                              |             |                                       |

010572

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                                   | Court                            | Citation                             | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------------------|--------------------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|  |                                  |                                      |              |   | they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re--open in--person registration until election day. The public interest would have been ill--served by an injunction. The motion for a preliminary injunction was denied sua sponte. |                              |             |                                       |
| Nat'l Coalition for Students with Disabilities | United States District Court for | 150 F. Supp. 2d 845; 2001 U.S. Dist. | July 5, 2001 | Plaintiff, national organization for disabled | Defendants alleged that plaintiff lacked standing to  | No                           | N/A         | No                                    |

010573

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                      | Court                    | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--------------------------|------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Educ. & Legal Def. Fund v. Scales | the District of Maryland | LEXIS 9528 |      | students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not registered |                              |             |                                       |

010574



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim,</p> |                              |             |                                       |

010575

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the court found that the agency practice of only offering voter registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case       | Court                        | Citation                                 | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |                              |  |               |   | <p>university. Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claimant denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p> |                              |             |                                       |
| People v. Disimone | Court of Appeals of Michigan | 251 Mich. App. 605; 650 N.W.2d 436; 2002 | July 11, 2002 | Defendant was charged with attempting to vote more than once in the | Defendant was registered in the Colfax township for the 2000  | No                           | N/A         | No                                    |

010577

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation             | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | Mich. App. LEXIS 826 |      | 2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed. | general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court |                              |             |                                       |

010578

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the |                              |             |                                       |

010579

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                  | Citation                   | Date             | Facts                                  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------------------|----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |                        |                            |                  |  | defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed. |                              |             |                                       |
| Diaz v. Hood | United States District | 342 F. Supp. 2d 1111; 2004 | October 26, 2004 | Plaintiffs, unions and individuals who | The putative voters sought injunctive relief   | No                           | N/A         | No                                    |

010580

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                                      | Citation               | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | Court for the Southern District of Florida | U.S. Dist. LEXIS 21445 |      | had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing | requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box |                              |             |                                       |

010581

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                         | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | and failure to state a claim. | indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter |                              |             |                                       |

010582



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no</p> |                              |             |                                       |

010583

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                                | Court   | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |   |              |  | injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.   |                              |             |                                       |
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States District Court for the Northern District of Georgia | 324 F. Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120 | July 1, 2004 | Plaintiffs, a voter, fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in | The organization participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members | No                           | N/A         | No                                    |

010584

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.</p> | <p>mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as</p> |                              |             |                                       |

010585

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that</p> |                              |             |                                       |

010586

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from</p> |                              |             |                                       |

010587

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case     | Court         | Citation        | Date             | Facts                   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|-------------------------|--|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                         | the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA. |                              |             |                                       |
| Moseley v. Price | United States | 300 F. Supp. 2d | January 22, 2004 | Plaintiff alleged, that | The court concluded that   | No                           | N/A         | No                                    |

010588

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court   | Citation                       | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|--------------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | District Court for the Eastern District of Virginia | 389; 2004 U.S. Dist. LEXIS 850 |      | defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from the race for Commonwealth Attorney because of the investigation. | plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect in the event a mailed registration card was |                              |             |                                       |

010589

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Defendants moved to dismiss the complaint. | <p>returned was to "resend the voter card, if address verified as correct."</p> <p>This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared.</p> |                              |             |                                       |

010590



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The court found the inference wholly unwarranted because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of</p> |                              |             |                                       |

010591

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case       | Court  | Citation   | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|--|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |  |  |               |   | fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice. |                              |             |                                       |
| Thompson v. Karben | Supreme Court of New York, Appellate Division, Second Department | 295 A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101 | June 10, 2002 | Respondents filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that | Respondents alleged that appellant was unlawfully registered to vote from an address at which he did not reside and that he should  | No                           | N/A         | No                                    |

010592

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.</p> | <p>have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May</p> |                              |             |                                       |

010593

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation  | Date      | Facts         | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--------|-----------|-----------|---------------|--|------------------------------|-------------|---------------------------------------|
|                 |        |           |           |               | 2001 paycheck stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address. Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed. |                              |             |                                       |
| Nat'l Coalition | United | 2002 U.S. | August 2, | Plaintiffs, a | The court  | No                           | N/A         | No                                    |

010594

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court   | Citation          | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|-------------------|------|--|---|------------------------------|-------------|---------------------------------------|
| v. Taft      | States District Court for the Southern District of Ohio | Dist. LEXIS 22376 | 2002 | nonprofit public interest group and certain individuals, sued defendants, certain state and university officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a | found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the |                              |             |                                       |

010595

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | preliminary injunction. | disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included |                              |             |                                       |

010596

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary</p> |                              |             |                                       |

010597

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case            | Court                                  | Citation                           | Date        | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|------------------------------------|-------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |  |                                    |             |  | injunction was granted in part and the Secretary of State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability. |                              |             |                                       |
| Lawson v. Shelby County | United States Court of Appeals for the | 211 F.3d 331; 2000 U.S. App. LEXIS | May 3, 2000 | Plaintiffs who were denied the right to vote when they | Plaintiffs attempted to register to vote in October, and   | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court         | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Sixth Circuit | 8634     |      | refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI. | to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one |                              |             |                                       |

010599

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was barred. The court also held the statute of limitations ran from the date plaintiffs</p> |                              |             |                                       |

010690

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |              |  | the Young exception to sovereign immunity, to be fashioned.  |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544 | June 4, 2001 | Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to | Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a | No                           | N/A         | No                                    |

010602

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enjoin a Texas state court proceeding under the All Writs Act. | preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since, |                              |             |                                       |

0106003

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and such challenge</p> |                              |             |                                       |

010604

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case      | Court               | Citation           | Date              | Facts                | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------|--------------------|-------------------|----------------------|--|------------------------------|-------------|---------------------------------------|
|                   |                     |                    |                   |                      | properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding. |                              |             |                                       |
| Pepper v. Darnell | United States Court | 24 Fed. Appx. 460; | December 10, 2001 | Plaintiff individual | Individual argued on   | No                           | N/A         | No                                    |

010605

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                            | Citation                   | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|----------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | of Appeals for the Sixth Circuit | 2001 U.S. App. LEXIS 26618 |      | <p>appealed from a judgment of the district court, in an action against defendant state officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p> | <p>appeal that the district court erred in finding that the registration forms used by the state did not violate the NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade</p> |                              |             |                                       |

010606



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote provide a specific location as an address, regardless of the transient lifestyle of the</p> |                              |             |                                       |

010607

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the</p> |                              |             |                                       |

809010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |  |  |                  |   | indigent individual, acting in his own behalf, was clearly unable to represent fairly the class. The district court's judgment was affirmed.  |                              |             |                                       |
| Miller v. Blackwell | United States District Court for the Southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process | No                           | N/A         | No                                    |

010609

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two individuals filed a motion to intervene as defendants.</p> | <p>Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The</p> |                              |             |                                       |

010610

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because they made a</p> |                              |             |                                       |

010611

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court</p> |                              |             |                                       |

010612

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | also granted the individuals' motion to intervene. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case         | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Hileman v. McGinness | Court of Appeals of Illinois, Fifth District | 316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845 | October 25, 2000 | Appellant challenged the circuit court declaration that that the result of a primary election for county circuit clerk was void. | In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been segregated, apportionment was the | No                           | N/A         | No                                    |

010614



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a determination as to whether fraud was evident in</p> |                              |             |                                       |

010615

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case             | Court                     | Citation   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|---------------------------|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|                          |                           |  |              |  | the electoral process. The court reversed the declaration of the trial court, holding that a determination as to whether fraud was involved in the election was necessary to a determination of whether or not a new election was required. |                              |             |                                       |
| DeFabio v. Gummersheimer | Supreme Court of Illinois | 192 Ill. 2d 63; 733 N.E.2d 1241; 2000 Ill. LEXIS 993 | July 6, 2000 | Appellant challenged the judgment of the appellate court, which affirmed the trial court's decision granting appellee's summary judgment motion in action brought by | Appellee filed a petition for election contest, alleging that the official results of the Monroe County coroners election were invalid because none of the 524 ballots cast in  | No                           | N/A         | No                                    |

010616

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellee to contest the results of the election for the position of county coroner in Monroe County.</p> | <p>Monroe County's second precinct were initialed by an election judge, in violation of Illinois law. The trial court granted appellee's motion for summary judgment, and the appellate court affirmed the judgment. The Illinois supreme court affirmed, noting that statutes requiring election judges to initial election ballots were mandatory, and uninitialed</p> |                              |             |                                       |

010617

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption. Thus, the supreme court held that the trial court properly invalidated all of the ballots cast in Monroe County's second precinct. The court reasoned that none of the ballots contained the requisite initialing, and neither party argued that any</p> |                              |             |                                       |

010618

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of the uninitialed ballots could have been distinguished or identified as absentee ballots. The supreme court affirmed the judgment because the Illinois statute requiring election judges to initial election ballots was mandatory, and uninitialed ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption.</p> |                              |             |                                       |

010619

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                                | Court   | Citation  | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |   |               |   | Additionally, none of the ballots in Monroe County's second precinct contained the requisite initialing.  |                              |             |                                       |
| Gilmore v. Amityville Union Free Sch. Dist. | United States District Court for the Eastern District of New York | 305 F. Supp. 2d 271; 2004 U.S. Dist. LEXIS 3116 | March 2, 2004 | Plaintiffs, two school board candidates, filed a class action complaint against defendants, a school district, the board president, and other district agents or employees, challenging a school board election. Defendants moved to dismiss. | During the election, a voting machine malfunctioned, resulting in votes being cast on lines that were blank on the ballot. The board president devised a plan for counting the machine votes by moving each tally up one line. The two candidates, who were African | No                           | N/A         | No                                    |

010620

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>American, alleged that the president's plan eliminated any possibility that an African American would be elected. The court found that the candidates failed to state a claim under § 1983 because they could not show that defendants' actions were done or approved by a person with final policymaking authority, nor was there a showing of intentional or</p> |                              |             |                                       |

010621

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>purposeful discrimination on defendants' part. The vote-counting method applied equally to all candidates. The candidates' claims under § 2000a and 2000c--8 failed because schools were not places of public accommodation, as required under § 2000a, and § 2000c--8 applied to school segregation. Their claim under § 1971 of deprivation of voting rights failed because §</p> |                              |             |                                       |

010622



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                      | Court                 | Citation                       | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|--------------------------------|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |                                |                    |  | 1971 did not provide for a private right of action. The court declined to exercise supplemental jurisdiction over various state law claims. Defendants' motion to dismiss was granted with respect to the candidates' federal claims; the state law claims were dismissed without prejudice. |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, | The Secretary of State issued a directive to all Ohio county boards of   | No                           | N/A         | No                                    |

010623

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation  | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|---|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | 4789;<br>834<br>N.E.2d<br>346;<br>2005<br>Ohio<br>LEXIS<br>2074 |      | sought review of a judgment from the court of appeals, which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional ballots were not counted. They, together with a political activist group, brought the mandamus action to compel |                              |             |                                       |

010624

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The court dismissed the complaint, finding that no clear legal right was established under Ohio law and the federal claims could be adequately raised in an action under §</p> |                              |             |                                       |

010625

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>1983. On appeal, the Ohio supreme court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed under § 1983 to raise the federal--law claims. Affirmed.</p> |                              |             |                                       |

010626

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case           | Court   | Citation  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|---|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
| Touchston v. McDermott | United States District Court for the Middle District of Florida | 120 F. Supp. 2d 1055; 2000 U.S. Dist. LEXIS 20091 | November 14, 2000 | In action in which plaintiffs, registered voters in Brevard County, Florida, filed suit against defendants, members of several County Canvassing Boards and the Secretary of the Florida Department of State, challenging the constitutionality of Fla. Stat. Ann. § 102.166(4) (2000), before the court was plaintiffs' emergency motion for temporary restraining order and/or preliminary injunction. | In their complaint, plaintiffs challenged the constitutionality of § 102.166(4), asserting that the statute violated their rights under the Equal Protection and Due Process Clauses of U.S. Const. amend. XIV. Based on these claims, plaintiffs sought an order from the court stopping the manual recount of votes. The court found that plaintiffs had failed to set forth a valid | No                           | N/A         | No                                    |

010627

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | basis for intervention by federal courts. They had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. Moreover, plaintiffs had not established a likelihood of success on the merits of their claims. Plaintiffs' motion for temporary restraining order and/or |                              |             |                                       |

010628

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case     | Court   | Citation  | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|---|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |   |   |                   |   | preliminary injunction denied; plaintiffs had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. |                              |             |                                       |
| Siegel v. LePore | United States District Court for the Southern District of Florida | 120 F. Supp. 2d 1041; 2000 U.S. Dist. LEXIS 16333 | November 13, 2000 | Plaintiffs, individual Florida voters and Republican Party presidential and vice-presidential candidates, moved for a temporary restraining order and preliminary injunction to | The court addressed who should consider plaintiffs' serious arguments that manual recounts would diminish the accuracy of vote counts due to ballot  | No                           | N/A         | No                                    |

010629

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enjoin defendants, canvassing board members from four Florida counties, from proceeding with manual recounts of election ballots. | degradation and the exercise of discretion in determining voter intent. The court ruled that intervention by a federal district court, particularly on a preliminary basis, was inappropriate. A federal court should not interfere except where there was an immediate need to correct a constitutional violation. Plaintiffs neither demonstrated a clear deprivation of a constitutional |                              |             |                                       |

010630



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>injury or a fundamental unfairness in Florida's manual recount provision. The recount provision was reasonable and non-discriminatory on its face and resided within the state's broad control over presidential election procedures. Plaintiffs failed to show that manual recounts were so unreliable as to constitute a constitutional injury, that plaintiffs'</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court            | Citation        | Date              | Facts                               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|------------------|-----------------|-------------------|-------------------------------------|--|------------------------------|-------------|---------------------------------------|
|                |                  |                 |                   |                                     | alleged injuries were irreparable, or that they lacked an adequate state court remedy. Injunctive relief denied because plaintiffs demonstrated neither clear deprivation of constitutional injury or fundamental unfairness in Florida's manual recount provision to justify federal court interference in state election procedures. |                              |             |                                       |
| Gore v. Harris | Supreme Court of | 773 So. 2d 524; | December 22, 2000 | In a contest to results of the 2000 | The state supreme court  | No                           | N/A         | No                                    |

010632

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court   | Citation             | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------|----------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | Florida | 2000 Fla. LEXIS 2474 |      | presidential election in Florida, the United States Supreme Court reversed and remanded a Florida Supreme Court decision that had ordered a manual recount of certain ballots. | had ordered the trial court to conduct a manual recount of 9000 contested Miami--Dade County ballots, and also held that uncounted "undervotes" in all Florida counties were to be manually counted. The trial court was ordered to use the standard that a vote was "legal" if there was a clear indication of the intent of the voter. The United States Supreme Court released an |                              |             |                                       |

010633

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>opinion on December 12, 2000, which held that such a standard violated equal protection rights because it lacked specific standards to ensure equal application, and also mandated that any manual recount would have to have been completed by December 12, 2000. On remand, the state supreme court found that it was impossible under that time frame to adopt adequate</p> |                              |             |                                       |

010634

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court       | Citation | Date     | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|-------------|----------|----------|---------------------|---|------------------------------|-------------|---------------------------------------|
|                |             |          |          |                     | standards and make necessary evaluations of vote tabulation equipment. Also, development of a specific, uniform standard for manual recounts was best left to the legislature. Because adequate standards for a manual recount could not be developed by the deadline set by the United States Supreme Court, appellants were afforded no relief. |                              |             |                                       |
| Goodwin v. St. | Territorial | 43 V.I.  | December | Plaintiff political | Plaintiff alleged   | No                           | N/A         | No                                    |

010635

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                      | Court                       | Citation               | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------------|------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thomas--St. John Bd. of Elections | Court of the Virgin Islands | 89; 2000 V.I. LEXIS 15 | 13, 2000 | candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots. | that defendants counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The |                              |             |                                       |

010636

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court held that plaintiff was not entitled to relief since he failed to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election</p> |                              |             |                                       |

010637

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements. Further, while defendants improperly counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and</p> |                              |             |                                       |

010638



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court  | Citation | Date       | Facts              | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|------------|--------------------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |            |                    | ballots without notarized signatures were proper. Plaintiff's request for declaratory and injunctive relief was denied. Invalidation of absentee ballots was not required since the irregularities asserted by plaintiff involved ballots which were in fact valid, were not tabulated by defendants, or were insufficient to change the outcome of the election. |                              |             |                                       |
| Shannon v.   | United | 394 F.3d | January 7, | Plaintiffs, voters | Local election  | No                           | N/A         | No                                    |

010639

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court  | Citation                     | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Jacobowitz   | States Court of Appeals for the Second Circuit | 90; 2005 U.S. App. LEXIS 259 | 2005 | and an incumbent candidate, sued defendants, a challenger candidate, a county board of election, and commissioners, pursuant to § 1983 alleging violation of the Due Process Clause of the Fourteenth Amendment. The United States District Court for the Northern District of New York granted summary judgment in favor of plaintiffs. Defendants appealed. | inspectors noticed a problem with a voting machine. Plaintiffs asserted that their votes were not counted due to the machine malfunction. Rather than pursue the state remedy of quo warranto, by requesting that New York's Attorney General investigate the machine malfunction and challenge the election results in state court, plaintiffs filed their complaint in federal court. |                              |             |                                       |

010640

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The court of appeals found that United States Supreme Court jurisprudence required intentional conduct by state actors as a prerequisite for a due process violation. Neither side alleged that local officials acted intentionally or in a discriminatory manner with regard to the vote miscount. Both sides conceded that the recorded results were</p> |                              |             |                                       |

010641

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>likely due to an unforeseen malfunction with the voting machine. Because no conduct was alleged that would indicate an intentional deprivation of the right to vote, there was no cognizable federal due process claim. The proper remedy was to assert a quo warranto action to challenge the outcome of a general election based on an alleged voting machine malfunction.</p> |                              |             |                                       |

010642

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court                       | Citation   | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-----------------------------|--|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |                             |  |                  |  | The district court's grant of summary judgment was reversed and its injunctions were vacated. The case was remanded for further proceedings consistent with this opinion.                              |                              |             |                                       |
| GEORGE W. BUSH v. PALM BEACH COUNTY CANVASSING BOARD, ET AL. | United States Supreme Court | 531 U.S. 70; 121 S. Ct. 471; 148 L. Ed. 2d 366; 2000 U.S. LEXIS 8087 | December 4, 2000 | Appellant Republican presidential candidate's petition for writ of certiorari to the Florida supreme court was granted in a case involving interpretations of Fla. Stat. Ann. §§ 102.111, 102.112, in proceedings brought by | The Supreme Court vacated the state court's judgment, finding that the state court opinion could be read to indicate that it construed the Florida Election Code without regard to the extent to which | No                           | N/A         | No                                    |

010623

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellees Democratic presidential candidate, county canvassing boards, and Florida Democratic Party regarding authority of the boards and respondent Florida Secretary of State as to manual recounts of ballots and deadlines.</p> | <p>the Florida Constitution could, consistent with U.S. Const. art. II, § 1, cl. 2, circumscribe the legislative power. The judgment of the Florida Supreme Court was vacated and remanded for further proceedings. The court stated the judgment was unclear as to the extent to which the state court saw the Florida constitution as circumscribing the legislature's authority under</p> |                              |             |                                       |

010644

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case           | Court   | Citation                                  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|---|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |   |   |                   |  | Article II of the United States Constitution, and as to the consideration given the federal statute regarding state electors.  |                              |             |                                       |
| Touchston v. McDermott | United States Court of Appeals for the Eleventh Circuit | 234 F.3d 1130; 2000 U.S. App. LEXIS 29366 | November 17, 2000 | Plaintiff voters appealed from judgment of the United States District Court for the Middle District of Florida, which denied their emergency motion for an injunction pending appeal against defendant county election officials. Plaintiffs sought to enjoin defendants from conducting manual ballot recounts or | Plaintiff voters sought an emergency injunction pending appeal to enjoin defendant county election officials from conducting manual ballot recounts or to enjoin defendants from certifying the results of the Presidential election which | No                           | N/A         | No                                    |

010645

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | to enjoin defendants from certifying results of the presidential election that contained any manual recounts. | contained any manual recounts. The district court denied the emergency injunction and plaintiffs appealed. Upon review, the emergency motion for injunction pending appeal was denied without prejudice. Florida had adequate election dispute procedures, which had been invoked and were being implemented in the forms of administrative |                              |             |                                       |

979010



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>actions by state officials and actions in state court. Therefore, the state procedures were adequate to preserve for ultimate review in the United States Supreme Court any federal questions arising out of the state procedures. Moreover, plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would warrant granting the extraordinary</p> |                              |             |                                       |

010647

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | remedy of an injunction pending appeal. Denial of plaintiff's petition for emergency injunction pending appeal was affirmed. The state procedures were adequate to preserve any federal issue for review, and plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would have warranted granting the extraordinary remedy of the |                              |             |                                       |

879010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court                    | Citation                              | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|---------------------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                |                          |                                       |                  |  | injunction.  |                              |             |                                       |
| Gore v. Harris | Supreme Court of Florida | 772 So. 2d 1243; 2000 Fla. LEXIS 2373 | December 8, 2000 | The court of appeal certified as being of great public importance a trial court judgment that denied all relief requested by appellants, candidates for President and Vice President of the United States, in appellants' contest to certified election results. | Appellants contested the certification of their opponents as the winners of Florida's electoral votes. The Florida supreme court found no error in the trial court's holding that it was proper to certify election night returns from Nassau County rather than results of a machine recount. Nor did the trial court err in refusing to include votes that the Palm Beach County | No                           | N/A         | No                                    |

010679

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Canvassing Board found not to be legal votes during a manual recount. However, the trial court erred in excluding votes that were identified during the Palm Beach County manual recount and during a partial manual recount in Miami--Dade County. It was also error to refuse to examine Miami--Dade County ballots that registered as non--votes during the machine count.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The trial court applied an improper standard to determine whether appellants had established that the result of the election was in doubt, and improperly concluded that there was no probability of a different result without examining the ballots that appellants claimed contained rejected legal votes. The judgment was reversed and remanded; the</p> |                              |             |                                       |

010651

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>trial court was ordered to tabulate by hand Miami-Dade County ballots that the counting machine registered as non--votes, and was directed to order inclusion of votes that had already been identified during manual recounts. The trial court also was ordered to consider whether manual recounts in other counties were necessary.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case      | Court                           | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
| James v. Bartlett | Supreme Court of North Carolina | 359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146 | February 4, 2005 | Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed. | The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded. |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 387 F.3d 565; 2004 U.S. App. LEXIS 22320 | October 26, 2004 | Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast | The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42  | No                           | N/A         | No                                    |

010654



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p> | <p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p> |                              |             |                                       |

010655

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p> |                              |             |                                       |

010656

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                      | Court                 | Citation  | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|---|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |   |                    |  | legal votes. Affirmed in part and reversed in part.  |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074 | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional | No                           | N/A         | No                                    |

010657

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p> |                              |             |                                       |

010658

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p> |                              |             |                                       |

010659

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                  | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |   |   |                  |  | under § 1983 to raise the federal-law claims.<br>Affirmed.  |                              |             |                                       |
| Fla. Democratic Party v. Hood | United States District Court for the Northern District of Florida | 342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720 | October 21, 2004 | Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings. | The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise | No                           | N/A         | No                                    |

010660

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p> |                              |             |                                       |

010661

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p> |                              |             |                                       |

010662



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |  | was cast in the proper precinct under State law.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss. | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the | No                           | N/A         | No                                    |

010663

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | even if the cost, in terms of uncounted ballots, was regrettable.  |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 386 F.3d 815; 2004 U.S. App. LEXIS 28765 | October 23, 2004 | Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements. | On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive | No                           | N/A         | No                                    |

010666

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p> |                              |             |                                       |

010667

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case     | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |                             |                  |   | valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.   |                              |             |                                       |
| Hawkins v. Blunt | United States District Court for the Western District of Missouri | 2004 U.S. Dist. LEXIS 21512 | October 12, 2004 | In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved | The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements. | No                           | N/A         | No                                    |

010668

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | for summary judgment. | The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional |                              |             |                                       |

010669

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court   | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |  | ballot, the voter would first be directed to his proper polling place.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551 | October 13, 2004 | Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal | The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>legislation. Defendants filed a motion to transfer venue.</p> | <p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |   | mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872 | October 19, 2004 | Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a | The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p> | <p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p> |                              |             |                                       |

010674

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case                                | Court   | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States Court of Appeals for the Eleventh Circuit | 408 F.3d 1349; 2005 U.S. App. LEXIS 8320 | May 12, 2005 | Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the | The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration | No                           | N/A         | No                                    |

010676

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | foundation. | forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the |                              |             |                                       |

010677

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court  | Citation | Date      | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|-----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |           |           | <p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p> |                              |             |                                       |
| McKay v.     | United | 226 F.3d | September | Plaintiff | The trial court   | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court   | Citation                        | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---------------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thompson     | States Court of Appeals for the Sixth Circuit | 752; 2000 U.S. App. LEXIS 23387 | 18, 2000 | challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it |                              |             |                                       |

010679

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p> |                              |             |                                       |

010680

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court  | Citation | Date    | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|---------------------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                     | immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. |                              |             |                                       |
| Nat'l        | United | 150 F.   | July 5, | Plaintiff, national | Defendants  | No                           | N/A         | No                                    |

010681

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case   | Court   | Citation                                 | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--|------|---|--|------------------------------|-------------|---------------------------------------|
| Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | States District Court for the Southern District of Maryland | Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | 2001 | organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not |                              |             |                                       |

010682

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case                               | Court  | Citation                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|----------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|  |  |                            |                   |   | <p>complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p> |                              |             |                                       |
| Cunningham v. Chi. Bd. of Election Comm'rs | United States District Court for the Northern District of Illinois | 2003 U.S. Dist. LEXIS 2528 | February 24, 2003 | Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed | Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were   | No                           | N/A         | No                                    |

010685

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p> | <p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p> |                              |             |                                       |

010686



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p> |                              |             |                                       |

010687

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |  | preliminary relief was denied.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental | No                           | N/A         | No                                    |

010688

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p> |                              |             |                                       |

010690

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | prejudice granted.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA | No                           | N/A         | No                                    |

010691

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p> |                              |             |                                       |

010692

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                |   | summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.  |                              |             |                                       |
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause | The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place | No                           | N/A         | No                                    |

010694



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p> | <p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p> |                              |             |                                       |

010696

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

010697

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case         | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Spencer v. Blackwell | United States District Court for the Southern District of Ohio | 347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062 | November 1, 2004 | Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the | The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing | No                           | N/A         | No                                    |

010698

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | polls. | challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case  | Court                       | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------------|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |                             |   |                  |   | defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.   |                              |             |                                       |
| MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al. (No. 04A360) SUMMIT COUNTY DEMOCRATIC CENTRAL and EXECUTIVE COMMITTEE, et al., Petitioners v. MATTHEW HEIDER, et al. (No. 04A364) | United States Supreme Court | 125 S. Ct. 305; 160 L. Ed. 2d 213; 2004 U.S. LEXIS 7400 | November 2, 2004 | In two separate actions, plaintiffs sued defendant members of a political party, alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to | Plaintiffs contended that the members planned to send numerous challengers to polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause | No                           | N/A         | No                                    |

010701

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities.</p> | <p>voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a single Circuit Justice, declined to reinstate the injunctions for</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case            | Court         | Citation        | Date         | Facts                           | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---------------|-----------------|--------------|---------------------------------|---|------------------------------|-------------|---------------------------------------|
|                         |               |                 |              |                                 | prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters. |                              |             |                                       |
| Charles H. Wesley Educ. | United States | 324 F. Supp. 2d | July 1, 2004 | Plaintiffs, a voter, fraternity | The organization participated in  | No                           | N/A         | No                                    |

010703

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case        | Court   | Citation                          | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---|-----------------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
| Found., Inc. v. Cox | District Court for the Northern District of Georgia | 1358; 2004 U.S. Dist. LEXIS 12120 |      | members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter | numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they |                              |             |                                       |

010704

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Registration Act and U.S. Const. amends. I, XIV, and XV.</p> | <p>were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that:</p> |                              |             |                                       |

010705

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case                                   | Court                            | Citation                        | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------------------|---------------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |                                  |                                 |                  |  | <p>plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.</p> |                              |             |                                       |
| Jacksonville Coalition for Voter Prot. v. Hood | United States District Court for | 351 F. Supp. 2d 1326; 2004 U.S. | October 25, 2004 | Plaintiffs, voter protection coalition, union, and | The coalition, the union, and the voters based their claim on  | No                           | N/A         | No                                    |

010708

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                          | Citation          | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------------------------------|-------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | the Middle District of Florida | Dist. LEXIS 26522 |      | voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials', implementation of early voting procedures violated the Voting Rights | the fact that the county had the largest percentage of African-- American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African-- American registered voter percentages had more early voting sites. Based on that, they argued that African-- American voters in the county were disproportionately affected. The |                              |             |                                       |

010707

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts                                | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--------------------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Act and their constitutional rights. | court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's implementation |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case   | Court                          | Citation                           | Date            | Facts                                     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------------|------------------------------------|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                                |                                    |                 |   | of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied. |                              |             |                                       |
| Taylor v. Howe | United States Court of Appeals | 225 F.3d 993; 2000 U.S. App. LEXIS | August 31, 2000 | Plaintiffs, African American voters, poll | The court of appeals affirmed--in--part, reversed--  | No                           | N/A         | No                                    |

010709

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                  | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------------------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | for the Eighth Circuit | 22241    |      | watchers, and candidates appealed from a judgment of the United States District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of | in--part, and remanded the district court's judgment. The court found that the district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case         | Court                                | Citation                                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------------------|--|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                      |                                      |  |                   | discriminatory intent.                                  | voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part. |                              |             |                                       |
| Stewart v. Blackwell | United States District Court for the | 356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS | December 14, 2004 | Plaintiffs, including African--American voters, alleged | The primary thrust of the litigation was an attempt to federalize  | No                           | N/A         | No                                    |

010711

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                     | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Northern District of Ohio | 26897    |      | that use of punch card voting and "central--count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights Act. | elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000 |                              |             |                                       |

010712

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local variety</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case     | Court                  | Citation                  | Date               | Facts                               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|------------------------|---------------------------|--------------------|-------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                        |                           |                    |                                     | in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible. |                              |             |                                       |
| Taylor v. Currie | United States District | 386 F. Supp. 2d 929; 2005 | September 14, 2005 | Plaintiff brought an action against | This action involved issues pertaining to   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                                      | Citation               | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | Court for the Eastern District of Michigan | U.S. Dist. LEXIS 20257 |      | defendants, including a city elections commission, alleging defects in a city council primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff. | absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African--American. The court ordered the case remanded because it found no basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a goal of perpetuating their violation of a non-discriminatory state law.</p> |                              |             |                                       |

010717

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Racial Discrimination Challenge Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Motion to remand granted. |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case     | Court  | Citation                                  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Weber v. Shelley | United States Court of Appeals for the Ninth Circuit | 347 F.3d 1101; 2003 U.S. App. LEXIS 21979 | October 28, 2003 | Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter--verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the | On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | secretary and the registrar summary judgment. The voter appealed. | excluded references to news--paper articles and unidentified studies absent any indication that experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found |                              |             |                                       |

010720

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California made a reasonable, politically neutral and non--discriminatory choice to certify touchscreen systems as an</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case  | Court  | Citation   | Date                | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|---------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                     |  | <p>alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed.</p>  |                              |             |                                       |
| <p>Am. Ass'n of People with Disabilities v. Shelley</p> | <p>United States District Court for the Central District of California</p> | <p>324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587</p> | <p>July 6, 2004</p> | <p>Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew</p> | <p>The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was</p> | <p>No</p>                    | <p>N/A</p>  | <p>No</p>                             |

010722

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on the merits; (2) the possibility of irreparable injury in the | not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was |                              |             |                                       |

010723

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | absence of an injunction; (3) a balancing of the harms; and (4) the public interest. | comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's |                              |             |                                       |

010724

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests</p> |                              |             |                                       |

010725

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case                  | Court                                      | Citation                                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                               |  |   |                  |   | for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships. |                              |             |                                       |
| Fla. Democratic Party v. Hood | Court of Appeal of Florida, First District | 884 So. 2d 1148; 2004 Fla. App. LEXIS 16077 | October 28, 2004 | Petitioner, the Florida Democratic Party, sought review of an emergency rule adopted by the Florida | The Party argued that: (1) the Florida Administrative Code, recast language from the earlier invalidated rule   | No                           | N/A         | No                                    |

010726



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed.</p> | <p>prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if</p> |                              |             |                                       |

010727

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>no rule were in place, the same confusion and inconsistency in divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate.</p> |                              |             |                                       |

010728

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>But, the following question was certified to the Supreme Court: Whether under Fla. Stat. ch. 120.54(4), the Department of State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was</p> |                              |             |                                       |

010729

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case     | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |   |   |                  |   | certified to the supreme court as a matter of great public importance.   |                              |             |                                       |
| Wexler v. Lepore | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344 | October 25, 2004 | Plaintiffs, a congressman, state commissioners, and a registered voter, brought a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const. | The officials claimed that the state had established an updated standard for manual recounts in counties using optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what | No                           | N/A         | No                                    |

010730

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | amends. V and XIV. A bench trial ensued. | constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules prescribed uniform, |                              |             |                                       |

010731

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida</p> |                              |             |                                       |

010732

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law because the manual recount scheme properly reflected a voter's choice. Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case     | Court  | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval. | The court issued an order to assure that the service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee ballots cast by service members and other | No                           | N/A         | No                                    |

010734



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against the Governor or the Secretary.</p> |                              |             |                                       |

010735

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                  | Court  | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                               |  |                             |                  |   | The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.   |                              |             |                                       |
| United States v. Pennsylvania | United States District Court for the Middle district of Pennsylvania | 2004 U.S. Dist. LEXIS 21167 | October 20, 2004 | Plaintiff United States sued defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who | The testimony of the two witnesses offered by the United States did not support its contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.</p> | <p>that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support</p> |                              |             |                                       |

010737

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by</p> |                              |             |                                       |

010738

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. must consider the following four factors: (1) the likelihood that the applicant will prevail on the merits of the substantive claim; (2) the extent to which the moving party will be irreparably harmed in the absence of injunctive relief; (3) the extent to which the nonmoving party</p> |                              |             |                                       |

010739

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                               | Court   | Citation  | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |   |      |   | will suffer irreparable harm if the court grants the requested injunctive relief; and (4) the public interest. District courts should only grant injunctive relief after consideration of each of these factors. Motion for injunctive relief denied. |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 |      | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee | Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee   | No                           | N/A         | No                                    |

010740

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>state ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p> | <p>state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee</p> |                              |             |                                       |

010741

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>voter to sign an oath that the ballot was mailed from outside the United States and requiring the state election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had</p> |                              |             |                                       |

010742



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and relief GRANTED in part and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign</p> |                              |             |                                       |

010743

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                                  | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                  |  | postmark, or solely because there was no record of an application for a state absentee ballot.   |                              |             |                                       |
| Harris v. Florida Elections Canvassing Comm'n | United States District Court for the Northern District of Florida | 122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875 | December 9, 2000 | Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida election law. | In two separate cases, plaintiff electors originally sued defendant state elections canvassing commission and state officials in Florida state circuit court, challenging the counting of overseas absentee ballots received after 7 p.m. on election day. Defendant governor removed one case | No                           | N/A         | No                                    |

010744

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose</p> |                              |             |                                       |

010745

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants |                              |             |                                       |

010746

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case   | Court  | Citation   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--|--|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |  |  |                   |   | because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law. |                              |             |                                       |
| Romeu v. Cohen | United States District Court for the Southern District of New York | 121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842 | September 7, 2000 | Plaintiff territorial resident and plaintiff--intervenor territorial governor moved for summary judgment and defendant federal, | Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the  | No                           | N/A         | No                                    |

010747

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election.</p> | <p>Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff--intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non--justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had standing because he made a substantial</p> |                              |             |                                       |

010748

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential election. The</p> |                              |             |                                       |

010749

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case   | Court   | Citation                                 | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---|--|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                |   |  |                   |   | court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.   |                              |             |                                       |
| Romeu v. Cohen | United States Court of Appeals for the Second Circuit | 265 F.3d 118; 2001 U.S. App. LEXIS 19876 | September 6, 2001 | Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of | The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents | No                           | N/A         | No                                    |

010750



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>residence. The resident appealed the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p> | <p>residing in a territory, who were not permitted to vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated |                              |             |                                       |

010752

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                        | Court  | Citation   | Date          | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|---------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |               |  | identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed.  |                              |             |                                       |
| Igartua de la Rosa v. United States | United States District Court for the District of Puerto Rico | 107 F. Supp. 2d 140; 2000 U.S. Dist. LEXIS 11146 | July 19, 2000 | Defendant United States moved to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in | The court denied the motion of defendant United States to dismiss the action of plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became | No                           | N/A         | No                                    |

010753

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights.</p> | <p>ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential elections. No constitutional amendment was needed. The</p> |                              |             |                                       |

010755

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in</p> |                              |             |                                       |

010756

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                 | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|-------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Presidential elections. |                              |             |                                       |

010757

**Rough Summary of Department of Justice, Public Integrity Section Activities,  
October 2002-January 2006\***

Prosecutions and Convictions-- Individuals

Noncitizen voting: 20  
Vote buying: 49  
Double voting: 12  
Registration fraud: 13  
Civil Rights: 4  
Voter Intimidation: 2  
Unclear: 1

Open Investigations (note: a few cases overlap with prosecutions and convictions)

Noncitizen voting: 3  
Vote buying: 25  
Double voting: 15  
Registration fraud: 29  
Absentee ballot fraud: 9  
Official: 8  
Ineligibles: 4  
Deceptive Practices: 1  
Civil Rights: 14  
Intimidation: 6  
Other: 2

Cases and Investigations Closed for Lack of Evidence

Civil Rights: 8  
Official: 12  
Registration Fraud: 12  
Absentee Ballot Fraud: 14  
Ineligible Voting: 3  
Intimidation: 8  
Double Voting: 5  
Ballot Box Stuffing: 1  
Vote Buying: 14  
Ballot/machine tampering: 2  
Other: 8  
Unclear: 3

\*Based upon information available as of January 2006



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case      | Court                           | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
| James v. Bartlett | Supreme Court of North Carolina | 359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146 | February 4, 2005 | Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed. | The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional | No                           | N/A         | No                                    |

010759

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded. |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 387 F.3d 565; 2004 U.S. App. LEXIS 22320 | October 26, 2004 | Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast | The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42  | No                           | N/A         | No                                    |

010760

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county. | U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional |                              |             |                                       |

010761

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Provisional Ballot Cases - 2

| Name of Case                      | Court                 | Citation  | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|---|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |   |                    |  | legal votes. Affirmed in part and reversed in part.  |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074 | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional | No                           | N/A         | No                                    |

010763

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p> |                              |             |                                       |

010764

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                  | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |   |   |                  |  | under § 1983 to raise the federal-law claims. Affirmed.   |                              |             |                                       |
| Fla. Democratic Party v. Hood | United States District Court for the Northern District of Florida | 342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720 | October 21, 2004 | Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings. | The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise | No                           | N/A         | No                                    |

010765

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p> |                              |             |                                       |

010766



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p> |                              |             |                                       |

010767

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p> |                              |             |                                       |

010768

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |  | was cast in the proper precinct under State law.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss. | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | even if the cost, in terms of uncounted ballots, was regrettable.  |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 386 F.3d 815; 2004 U.S. App. LEXIS 28765 | October 23, 2004 | Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements. | On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive | No                           | N/A         | No                                    |

010772

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p> |                              |             |                                       |

010773

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case     | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |                             |                  |   | valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.   |                              |             |                                       |
| Hawkins v. Blunt | United States District Court for the Western District of Missouri | 2004 U.S. Dist. LEXIS 21512 | October 12, 2004 | In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved | The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements. | No                           | N/A         | No                                    |

010774



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | for summary judgment. | The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                        | Court   | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |  | ballot, the voter would first be directed to his proper polling place.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551 | October 13, 2004 | Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal | The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper | No                           | N/A         | No                                    |

010776

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>legislation. Defendants filed a motion to transfer venue.</p> | <p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p> |                              |             |                                       |

010777

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a |                              |             |                                       |

010778

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                        | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |   | mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872 | October 19, 2004 | Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a | The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p> | <p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law. |                              |             |                                       |

## Word Search Terms

When performing a case law word search please use this word list and search both federal and state cases. The & (and) is included as the word search connector. You may have to substitute w/5 (within five words) for example instead of &. I want cases after 2000.

Election & fraud  
Voter & fraud  
Vote & fraud  
Voter & challenge  
Vote & challenge  
Election & challenge  
Election & irregularity  
Election & irregularities  
Election & violation  
Election & statutory & violation  
Election & statute & violation  
Election & administration  
Stealing & election  
Election & stealing  
At & the & time & of & the & election  
After & the & election  
Before & the & election  
Election & commissioners  
Election & mandamus  
Election & mandamus & declaratory & judgment  
Election & declaratory & judgment  
Election & theft  
Ballot & box  
Ballot & box & tampering  
Ballot & box & theft  
Ballot & box & stealing  
Paper & ballot  
Paper & ballot & tampering  
Election & officers  
Election & Sheriff  
Over & vote  
Over & votes  
Under & vote  
Under & votes  
Vote & counting  
Vote & count  
Election & counting  
Election & count  
Miscount & votes  
Vote & optical & scan



Election & optical & scan  
Election & crime  
Election & criminal  
Vote & crime  
Vote & criminal  
Double & voting  
Multiple & voting  
Dead & voting  
Election & counting & violation  
Election & counting & error  
Vote & counting & violation  
Vote & counting & error  
Voter & intimidation  
Vote & intimidation  
Voter & intimidating  
Voter & registration  
Voter & registration & fictitious & name  
Voter & registration & destruction  
Vote & registration  
Denial & voter & registration  
Voter & card  
Vote & card  
Voter & refuse & vote  
Voter & refuse  
Vote & refuse  
Voter & rolls  
Vote & rolls  
Voter & identification  
Vote & identification  
Voter & racial & profiling  
Vote & racial & profiling  
Voter & racial  
Voter & reject  
Vote & racial  
Vote & reject  
Voter & racial & challenge  
Vote & racial & challenge  
Voter & deny & racial  
Vote & deny & racial  
Voter & deny & challenge  
Voter & deny & reject  
Vote & deny & challenge  
Vote & deny & reject  
Voter & deny & black  
Vote & deny & black  
Voter & black & challenge

Voter & black & reject  
Vote & black & challenge  
Vote & black & reject  
Voter & black  
Vote & black  
Voter & deny & African & American  
Vote & deny & African & American  
Vote & African & American & reject  
Voter & African & American & challenge  
Voter & African & American & reject  
Vote & African & American & challenge  
Voter & African & American  
Vote & African & American  
Election & deny & black  
Election & black & challenge  
Election & black & reject  
Election & black  
Election & deny & African & American  
Election & African & American  
Election & African & American & challenge  
Election & African & American & reject  
Voter & deny & Hispanic  
Vote & deny & Hispanic  
Voter & Hispanic & challenge  
Voter & Hispanic & reject  
Vote & Hispanic & challenge  
Vote & Hispanic & reject  
Voter & Hispanic  
Vote & Hispanic  
Election & deny & Hispanic  
Election & Hispanic & challenge  
Election & Hispanic & reject  
Election & Hispanic  
Voter & deny & Latino  
Vote & deny & Latino  
Voter & Latino & challenge  
Voter & Latino & reject  
Vote & Latino & challenge  
Vote & Latino & reject  
Voter & Latino  
Vote & Latino  
Election & deny & Latino  
Election & Latino & challenge  
Election & Latino & reject  
Election & Latino  
Voter & deny & Native & American

Vote & deny & Native & American  
Voter & Native & American & challenge  
Voter & Native & American & reject  
Vote & Native & American & challenge  
Vote & Native & American & reject  
Voter & Native & American  
Vote & Native & American  
Election & deny & Native & American  
Election & Native & American & challenge  
Election & Native & American & reject  
Election & Native & American  
Ballot security & Native & American  
Native & American & & vote & suppression  
Native & American & vote & suppress  
Native & American & disenfranchisement  
Voter & deny & Asian  
Vote & deny & Asian  
Voter & Asian & challenge  
Voter & Asian & reject  
Vote & Asian & challenge  
Vote & Asian & reject  
Voter & Asian  
Vote & Asian  
Election & deny & Asian  
Election & Asian & challenge  
Election & Asian & reject  
Election & Asian  
Ballot & security & Asian  
Asian & & vote & suppression  
Asian & vote & suppress  
Asian & disenfranchisement  
Voter & deny & Indian  
Vote & deny & Indian  
Voter & Indian & challenge  
Voter & Indian & reject  
Vote & Indian & challenge  
Vote & Indian & reject  
Voter & Indian  
Vote & Indian  
Election & deny & Indian  
Election & Indian & challenge  
Election & Indian & reject  
Election & Indian  
Ballot & security & Indian  
Indian & & vote & suppression  
Indian & vote & suppress

Indian & disenfranchisement  
Poll & tax  
Voting & test  
Absentee & ballot  
Absentee & ballots  
Absentee & ballot & deny  
Absentee & ballots & deny  
Absentee & ballot & reject  
Absentee & ballots & reject  
Absentee & ballot & count  
Absentee & ballots & count  
Absentee & ballot & challenge  
Absentee & ballots & challenge  
Touch & screen & vote  
Touch & screen & voting  
Motor & Voter & Act  
Overseas & ballots  
Overseas & ballots & count  
Overseas & ballots & deny  
Overseas & ballots & reject  
Overseas & ballot  
Overseas & ballot & count  
Overseas & ballot & deny  
Overseas & ballot & reject  
Military & ballots  
Military & ballots & count  
Military & ballots & deny  
Military & ballots & reject  
Military & ballot  
Military & ballot & count  
Military & ballot & deny  
Military & ballot & reject  
Electioneering & polls  
Electioneering & within & polls  
Unregistered & voter  
Unregistered & vote  
Unregistered & votes  
Prevent & vote  
Prevent & voter  
Prevent & election  
Stop & election  
Stop & vote  
Stop & voter  
Delay & election  
Delay & vote  
Delay & voter

Close & polls  
Close & poll  
Open & poll  
Open & polls  
Prevent & close & polls  
Prevent & close & poll  
Prevent & open & polls  
Prevent & open & poll  
Vote & legal & challenge  
Voter & legal & challenge  
Election & legal & challenge  
Election & void  
Election & reverse  
Vote & void  
Vote & police  
Voter & police  
Poll & police  
Vote & law & enforcement  
Voter & law & enforcement  
Poll & law & enforcement  
Vote & deceptive & practices  
Voter & deceptive & practices  
Election & deceptive & practices  
Voter & deceive  
Voter & false & information  
Voter & eligibility  
Vote & felon  
Vote & ex & felon  
Vote & exfelon  
Disenfranchisement  
Disenfranchise  
Law & election & manipulation  
Vote & purging  
Vote & purge  
Registration & removal  
Registration & purging  
Registration & purge  
Vote & buying  
Vote & non & citizen  
Vote & noncitizen  
Voter & non & citizen  
Voter & noncitizen  
Vote & alien  
Voter & alien  
Vote & selective enforcement  
Identification & selective

Election & accessible  
Election & inaccessible  
Election & misinformation  
Registration & restrictions  
Election & administrator & fraud  
Election & official & fraud  
Provisional & ballot & deny  
Provisional & ballot & denial  
Affidavit & ballot & deny  
Affidavit & ballot & denial  
Absentee & ballot & coerce  
Absentee & ballot & coercion  
Registration & destruction  
Poll & worker & intimidation  
Poll & worker & intimidating  
Poll & worker & threatening  
Poll & worker & abusive  
Poll & inspector & intimidation  
Poll & inspector & intimidating  
Poll & inspector & threatening  
Poll & inspector & abusive  
Election & official & intimidation  
Election & official & intimidating  
Election & official & threatening  
Election & official & abusive  
Poll & judge & intimidation  
Poll & judge & intimidating  
Poll & judge & threatening  
Poll & judge & abusive  
Election & judge & intimidation  
Election & judge & intimidating  
Election & judge & threatening  
Election & judge & abusive  
Poll & monitor & intimidation  
Poll & monitor & intimidating  
Poll & monitor & threatening  
Poll & monitor & abusive  
Election & monitor & intimidation  
Election & monitor & intimidating  
Election & monitor & threatening  
Election & monitor & abusive  
Poll & observer & intimidation  
Poll & observer & intimidating  
Poll & observer & threatening  
Poll & observer & abusive  
Election & observer & intimidation

Election & observer & intimidating  
Election & observer & threatening  
Election & observer & abusive  
Voter & deter  
Vote & deterrence  
Voter & deterrence  
Ballot & integrity  
Ballot & security  
Ballot & security & minority  
Ballot & security & black  
Ballot & security & African & American  
Ballot & security & Latino  
Ballot & security & Hispanic  
Vote & suppression  
Minority & vote & suppression  
Black & & vote & suppression  
African & American & vote & suppression  
Latino & vote & suppression  
Hispanic & vote & suppression  
Vote & suppress  
Minority & vote & suppress  
African American & vote & suppress  
Latino & vote & suppress  
Black & vote & suppress  
Minority & disenfranchisement  
African & American & disenfranchisement  
Black & disenfranchisement  
Latino & disenfranchisement  
Hispanic & disenfranchisement  
Vote & disenfranchisement  
Voter & disenfranchisement  
Vote & discourage  
Voter & discourage  
Vote & depress  
Poll & watchers & challenge  
Poll & watchers & intimidate  
Poll & watcher & intimidating  
Poll & watchers & intimidation  
Poll & watcher & abusive  
Poll & watcher & threatening  
Jim & Crow  
Literacy & test  
Voter & harass  
Voter & harassment  
Vote & mail & fraud  
Poll & guards

Election & consent & decree

Vote & barrier

Voting & barrier

Voter & barrier



## Word Search Terms

When performing a case law word search please use this word list and search both federal and state cases. The & (and) is included as the word search connector. You may have to substitute w/5 (within five words) for example instead of &. I want cases after 2000.

Election & fraud  
Voter & fraud  
Vote & fraud  
Voter & challenge  
Vote & challenge  
Election & challenge  
Election & irregularity  
Election & irregularities  
Election & violation  
Election & statutory & violation  
Election & statute & violation  
Election & administration  
Stealing & election  
Election & stealing  
At & the & time & of & the & election  
After & the & election  
Before & the & election  
Election & commissioners  
Election & mandamus  
Election & mandamus & declaratory & judgment  
Election & declaratory & judgment  
Election & theft  
Ballot & box  
Ballot & box & tampering  
Ballot & box & theft  
Ballot & box & stealing  
Paper & ballot  
Paper & ballot & tampering  
Election & officers  
Election & Sheriff  
Over & vote  
Over & votes  
Under & vote  
Under & votes  
Vote & counting  
Vote & count  
Election & counting  
Election & count  
Miscount & votes  
Vote & optical & scan

Election & optical & scan  
Election & crime  
Election & criminal  
Vote & crime  
Vote & criminal  
Double & voting  
Multiple & voting  
Dead & voting  
Election & counting & violation  
Election & counting & error  
Vote & counting & violation  
Vote & counting & error  
Voter & intimidation  
Voter & intimidating  
Vote & intimidation  
Voter & registration  
Vote & registration  
Denial & voter & registration  
Voter & card  
Vote & card  
Voter & refuse & vote  
Voter & refuse  
Vote & refuse  
Voter & rolls  
Vote & rolls  
Voter & identification  
Vote & identification  
Voter & racial & profiling  
Vote & racial & profiling  
Voter & racial  
Voter & reject  
Vote & racial  
Vote & reject  
Voter & racial & challenge  
Vote & racial & challenge  
Voter & deny & racial  
Vote & deny & racial  
Voter & deny & challenge  
Voter & deny & reject  
Vote & deny & challenge  
Vote & deny & reject  
Voter & deny & black  
Vote & deny & black  
Voter & black & challenge  
Voter & black & reject  
Vote & black & challenge

Vote & black & reject  
Voter & black  
Vote & black  
Voter & deny & African & American  
Vote & deny & African & American  
Vote & African & American & reject  
Voter & African & American & challenge  
Voter & African & American & reject  
Vote & African & American & challenge  
Voter & African & American  
Vote & African & American  
Election & deny & black  
Election & black & challenge  
Election & black & reject  
Election & black  
Election & deny & African & American  
Election & African & American  
Election & African & American & challenge  
Election & African & American & reject  
Voter & deny & Hispanic  
Voter & deny & Latino  
Vote & deny & Hispanic  
Vote & deny & Latino  
Voter & Hispanic & challenge  
Voter & Latino & challenge  
Voter & Hispanic & reject  
Voter & Latino & reject  
Vote & Hispanic & challenge  
Vote & Latino & challenge  
Vote & Hispanic & reject  
Vote & Latino & reject  
Voter & Hispanic  
Voter & Latino  
Vote & Hispanic  
Vote & Latino  
Election & deny & Hispanic  
Election & deny & Latino  
Election & Hispanic & challenge  
Election & Latino & challenge  
Election & Hispanic & reject  
Election & Latino & reject  
Election & Hispanic  
Election & Latino  
Poll & tax  
Voting & test  
Absentee & ballot

Absentee & ballots  
Absentee & ballot & deny  
Absentee & ballots & deny  
Absentee & ballot & reject  
Absentee & ballots & reject  
Absentee & ballot & count  
Absentee & ballots & count  
Absentee & ballot & challenge  
Absentee & ballots & challenge  
Touch & screen & vote  
Touch & screen & voting  
Motor & Voter & Act  
Overseas & ballots  
Overseas & ballots & count  
Overseas & ballots & deny  
Overseas & ballots & reject  
Overseas & ballot  
Overseas & ballot & count  
Overseas & ballot & deny  
Overseas & ballot & reject  
Military & ballots  
Military & ballots & count  
Military & ballots & deny  
Military & ballots & reject  
Military & ballot  
Military & ballot & count  
Military & ballot & deny  
Military & ballot & reject  
Electioneering & polls  
Electioneering & within & polls  
Unregistered & voter  
Unregistered & vote  
Unregistered & votes  
Prevent & vote  
Prevent & voter  
Prevent & election  
Stop & election  
Stop & vote  
Stop & voter  
Delay & election  
Delay & vote  
Delay & voter  
Close & poll  
Open & poll  
Open & polls  
Close & polls

Prevent & close & polls  
Prevent & close & poll  
Prevent & open & polls  
Prevent & open & poll  
Vote & legal & challenge  
Voter & legal & challenge  
Election & legal & challenge  
Election & void  
Election & reverse  
Vote & void  
Vote & police  
Voter & police  
Poll & police  
Vote & law & enforcement  
Voter & law & enforcement  
Poll & law & enforcement  
Vote & deceptive & practices  
Voter & deceptive & practices  
Election & deceptive & practices  
Voter & deceive  
Voter & false & information  
Voter & eligibility  
Vote & felon  
Vote & exfelon  
Vote & ex & felon  
Disenfranchisement  
Disenfranchise  
Law & election & manipulation  
Vote & purging  
Vote & purge  
Registration & removal  
Registration & purging  
Registration & purge  
Vote & buying  
Vote & noncitizen  
Vote & non & citizen  
Voter & noncitizen  
Voter & non & citizen  
Vote & selective & enforcement  
Identification & selective  
Election & accessible  
Election & inaccessible  
Election & misinformation  
Registration & restrictions  
Election & administrator & fraud  
Election & official & fraud

Provisional & ballot & deny  
Provisional & ballot & denial  
Affidavit & ballot & deny  
Affidavit & ballot & denial  
Absentee & ballot & coerce  
Absentee & ballot & coercion  
Registration & destruction  
Poll & worker & intimidation  
Poll & worker & intimidating  
Poll & worker & threatening  
Poll & worker & abusive  
Poll & inspector & intimidation  
Poll & inspector & intimidating  
Poll & inspector & threatening  
Poll & inspector & abusive  
Election & official & intimidation  
Election & official & intimidating  
Election & official & threatening  
Election & official & abusive  
Voter & deter  
Vote & deterrence  
Voter & deterrence  
Ballot & integrity  
Ballot & security  
Ballot & security & minority  
Ballot & security & black  
Ballot & security & African & American  
Ballot & security & Latino  
Ballot & security & Hispanic  
Vote & suppression  
Minority & vote & suppression  
Black & vote & suppression  
African & American & vote & suppression  
Latino & vote & suppression  
Hispanic & vote & suppression  
Vote & suppress  
Minority & vote & suppress  
African & American & vote & suppress  
Latino & vote & suppress  
Minority & disenfranchisement  
African & American & disenfranchisement  
Black & disenfranchisement  
Latino & disenfranchisement  
Hispanic & disenfranchisement  
Vote & disenfranchisement  
Voter & disenfranchisement

Vote & discourage  
Voter & discourage  
Vote & depress  
Poll & watchers & challenge  
Poll & watchers & intimidate  
Poll & watcher & intimidating  
Poll & watchers & intimidation  
Poll & watcher & abusive  
Poll & watcher & threatening  
Jim & Crow  
Literacy & test  
Voter & harass  
Voter & harassment  
Vote & mail & fraud  
Poll & guards  
Election & consent & decree  
Vote & barrier  
Voting & barrier  
Voter & barrier

## Interviews

### Common Themes

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, “dead” voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.
- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate – including representatives from DOJ -- that for various reasons, the Department of Justice is bringing fewer voter intimidation and suppression cases now and is focusing on matters such as noncitizen voting, double voting and felon voting. While the civil rights section continues to focus on systemic patterns of malfeasance, the public integrity section is focusing now on individuals, on isolated instances of fraud.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.



Common Recommendations:

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.
  - With respect to the civil rights section, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one’s definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and the section has not pursued any such cases.
  - Craig Donsanto of the public integrity section says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases the department is investigating and the number of indictments the section is pursuing are both up dramatically. Since 2002, the department has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so it can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment
- Several people advocate passage of Senator Barak Obama’s “deceptive practices” bill
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected nonpartisanly they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas is a problem that must be addressed in some fashion. Suggestions included moving

election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots “for cause” only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the scheme contemplated in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

## **Interview with Douglas Webber, Assistant Indiana Attorney General**

February 15, 2006

### Background

Mr. Webber was an attorney for the Marion County Election Board and was also part of the Indianapolis Ballot Security Team (sometimes called the Goon Squad). This Team was a group of attorneys well trained in election law whose mission was to enforce ballot security.

### Litigation

Status of litigation in Indiana: On January 12 the briefing was completed. The parties are waiting for a decision from the U.S. district judge. The judge understood that one of the parties would seek a stay from the 7<sup>th</sup> Circuit Court of Appeals. The parties anticipate a decision in late March or early April. Mr. Webber did the discovery and depositions for the litigation. Mr. Webber feared the plaintiffs were going to state in their reply brief that HAVA's statewide database requirement would resolve the problems alleged by the state. However, the plaintiffs failed to do so, relying on a Motor Voter Act argument instead. Mr. Webber believes that the voter ID at issue will make the system much more user-friendly for the poll workers. The Legislature passed the ID legislation, and the state is defending it, on the basis of the problem of the *perception* of fraud.

### Incidents of fraud and intimidation

Mr. Webber thinks that no one can put his or her thumb on whether there has been voter fraud in Indiana. For instance, if someone votes in place of another, no one knows about it. There have been no prosecuted cases of polling place fraud in Indiana. There is no recorded history of documented cases, but it does happen. In the litigation, he used articles from around the country about instances of voter fraud, but even in those examples there were ultimately no prosecutions, for example the case of Milwaukee. He also stated in the litigation that there are all kinds of examples of dead people voting--totaling in the hundreds of thousands of votes across the country.

One interesting example of actual fraud in Indiana occurred when a poll worker, in a poll using punch cards, glued the chads back and then punched out other chads for his candidate. But this would not be something that would be addressed by an ID requirement.

He also believes that the perception that the polls are loose can be addressed by the legislature. The legislature does not need to wait to see if the statewide database solve the problems and therefore affect the determination of whether an ID requirement is necessary. When he took the deposition of the Republican Co-Director, he said he thought Indiana was getting ahead of the curve. That is, there have been problems around the country, and confidence in elections is low. Therefore Indiana is now in front of getting that confidence back.

Mr. Webber stated that the largest vote problem in Indiana is absentee ballots. Absentee ballot fraud and vote buying are the most documented cases. It used to be the law that applications for absentee ballots could be sent anywhere. In one, case absentee votes were exchanged for “a job on election day”---meaning one vote for a certain price. The election was contested and the trial judge found that although there was vote fraud, the incidents of such were less than the margin of victory and so he refused to overturn the election. Mr. Webber appealed the case for the state and argued the judge used the wrong statute. The Indiana Supreme Court agreed and reversed. Several people were prosecuted as a result – those cases are still pending.

### Process

In Indiana, voter complaints first come to the attorney for the county election board who can recommend that a hearing be held. If criminal activity was found, the case could be referred to the county prosecutor or in certain instances to the Indiana Attorney General’s Office. In practice, the Attorney General almost never handles such cases.

Mr. Webber has had experience training county of election boards in preserving the integrity and security of the polling place from political or party officials. Mr. Webber stated that the Indiana voter rolls need to be culled. He also stated that in Southern Indiana a large problem was vote buying while in Northern Indiana a large problem was based on government workers feeling compelled to vote for the party that gave them their jobs.

### Recommendations

- Mr. Webber believes that all election fraud and intimidation complaints should be referred to the Attorney General’s Office to circumvent the problem of local political prosecutions. The Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes. At the local level, everyone knows each other, making it harder prosecute.
- Indiana currently votes 6 am to 6 pm on a weekday. Government workers and retirees are the only people who are available to work the polls. Mr. Webber suggested that the biggest change should be to move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- Early voting at the clerk’s office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk’s office. This should be expanded to other polling places in addition to that of the county clerk.
- Finally, Mr. Webber believes polling places should be open longer, run more professionally but that there needs to be fewer of them so that they are staffed by only the best, most professional people.

**Interview with Commissioner Harry Van Sickle and Deputy Chief Counsel to the Secretary of State Larry Boyle, State of Pennsylvania**

March 1, 2006

As Commissioner Van Sickle has only been in office for about a year, Mr. Boyle answered most of our questions.

Fraud and Intimidation

Neither Van Sickle nor Boyle was aware of any fraud of any kind in the state of Pennsylvania over the last five years. They are not aware of the commission of any deceptive practices, such as flyers that intentionally misinform as to voting procedures. They also have never heard of any incidents of voter intimidation. With respect to the mayoral election of 2003, the local commission would know about that.

Since the Berks County case of 2003, where the Department of Justice found poll workers who treated Latino voters with hostility among other voting rights violations, the Secretary's office has brought together Eastern Pennsylvania election administrators and voting advocates to discuss the problems. As a result, other counties have voluntarily chosen to follow the guidance of the Berks County federal court order.

Regarding the allegations of fraud that surrounded the voter identification debate, Mr. Boyle said was not aware of any instances of fraud involving identity. He believes this is because Pennsylvania has laws in place to prevent this. For example, in 2002 the state legislature passed an ID law that is stricter than HAVA's – it requires all first time voters to present identification. In addition, the SURE System – the state's statewide voter registration database – is a great anti-fraud mechanism. The system will be in place statewide in the May 2006 election.

In addition, the state took many steps before the 2004 election to make sure it would be smooth. They had attorneys in the counties to consult on problems as well as staff at the central office to take calls regarding problems. In addition, in 2004 the state used provisional ballots for the first time. This resolved many of the problems that used to occur on Election Day.

Mr. Boyle is not aware of any voter registration fraud. This is because when someone registers to vote, the administrator does a duplicate check. In addition, under new laws a person registering to vote must provide their drivers license or Social Security number which are verified through the Department of Motor Vehicles and the Social Security Administration. Therefore, it would be unlikely that someone would be able to register to vote falsely.

Process

Most problems are dealt with at the local level and do not come within the review of the Secretary of State's office. For instance, if there is a complaint of intimidation, this is generally dealt with by the county courts which are specially designated solely to election cases on Election Day. The Secretary does not keep track of these cases. Since the passage of NVRA and HAVA counties will increasingly call the office when problems arise.

Recommendations

Mr. Boyle suggested we review the recommendations of the Pennsylvania Election Reform Task Force which is on the Secretary's website. Many of those recommendations have been introduced in the legislature.

**Interview with Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice**

January 13, 2006

Questions

*How are Prosecution Decisions Made?*

Craig Donsanto must approve all investigations that go beyond a preliminary stage, all charges, search warrant applications and subpoenas and all prosecutions. The decision to investigate is very sensitive because of the public officials involved. If a charge seems political, Donsanto will reject it. Donsanto gives possible theories for investigation. Donsanto and Noel Hillman will decide whether to farm out the case to an AUSA. Donsanto uses a concept called predication. In-other-words, there must be enough evidence to suggest a crime has been committed. The method of evaluation of this evidence depends on the type of evidence and its source. There are two types of evidence---factual (antisocial behavior) and legal (antisocial behavior leading to statutory violations). Whether an indictment will be brought depends on the likelihood of success before a jury. Much depends on the type of evidence and the source. Donsanto said he "knows it when he sees it." Donsanto will only indict if he is confident of a conviction assuming the worst case scenario – a jury trial.

A person under investigation will first receive a target letter. Often, a defendant who gets a target letter will ask for a departmental hearing. The defendant's case will be heard by Donsanto and Hillman. On occasion, the assistant attorney general will review the case. The department grants such hearings easily because such defendants are likely to provide information about others involved.

The Civil Rights Division, Voting Rights Section makes its own decisions on prosecution. The head of that division is John Tanner. There is a lot of cooperation between

*Does the Decision to Prosecute Incorporate Particular Political Considerations within a State Such as a One Party System or a System in which the Party in Power Controls the Means of Prosecution and Suppresses Opposition Complaints?*

Yes. Before, the department would leave it to the states. Now, if there is racial animus involved in the case, there is political bias involved, or the prosecutor is not impartial, the department will take it over.

*Does it Matter if the Complaint Comes from a Member of a Racial Minority?*

No. But if the question involves racial animus, that has also always been an aggravating factor, making it more likely the Department will take it over

*What Kinds of Complaints Would Routinely Override Principles of Federalism?*

Federalism is no longer big issue. DOJ is permitted to prosecute whenever there is a candidate for federal office.

*Are There Too Few Prosecutions?*

DOJ can't prosecute everything.

*What Should Be Done to Improve the System?*

The problem is asserting federal jurisdiction in non-federal elections. It is preferable for the federal government to pursue these cases for the following reasons: federal districts draw from a bigger and more diverse jury pool; the DOJ is politically detached; local district attorneys are hamstrung by the need to be re-elected; DOJ has more resources – local prosecutors need to focus on personal and property crimes---fraud cases are too big and too complex for them; DOJ can use the grand jury process as a discovery technique and to test the strength of the case.

In *U.S. v. McNally*, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to “fix” *McNally*, did not include voter fraud.

As a result, the department needs a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce. The department has drafted such legislation, which was introduced but not passed in the early 1990s. A federal law is needed that permits prosecution in any election where any federal instrumentality is used.

*Other Information*

The Department has held four symposia for DEOs and FBI agents since the initiation of the Ballot Access and Voting Integrity Initiative. In 2003, civil rights leaders were invited to make speeches, but were not permitted to take part in the rest of the symposium. All other symposia have been closed to the public. (Peg will be sending us the complete training materials used at those sessions. These are confidential and are the subject of FOIA litigation).

There are two types of attorneys in the division: prosecutors, who take on cases when the jurisdiction of the section requires it; the US Attorney has recused him or herself; or when the US Attorney is unable to handle the case (most frequent reason) and braintrust attorneys who analyze the facts, formulate theories, and draft legal documents.

Cases:



Donsanto provided us with three case lists: Open cases (still being investigated) as of January 13, 2006 – confidential; election fraud prosecutions and convictions as a result of the Ballot Access and Voting Integrity Initiative October 2002-January 13, 2006 and cases closed for lack of evidence as of January 13, 2006

If we want more documents related to any case, we must get those documents from the states. The department will not release them to us.

Although the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate complaints of fraud, *the number of cases that the department is investigating and the number of indictments the department is pursuing are both up dramatically.*

Since 2002, the department has brought more cases against alien voters, felon voters, and double voters than ever before. Previously, cases were only brought when there was a pattern or scheme to corrupt the process. Charges were not brought against individuals – those cases went un-prosecuted. This change in direction, focus, and level of aggression was by the decision of the Attorney General. The reason for the change was for deterrence purposes.

The department is currently undertaking three pilot projects to determine what works in developing the cases and obtaining convictions and what works with juries in such matters to gain convictions:

Felon voters in Milwaukee.

Alien voters in the Southern District of Florida. FYI – under 18 USC 611, to prosecute for “alien voting” there is no intent requirement. Conviction can lead to deportation. Nonetheless, the department feels compelled to look at mitigating factors such as was the alien told it was OK to vote, does the alien have a spouse that is a citizen.

Double voters in a variety of jurisdictions.

The department does not maintain records of the complaints that come in from DEOs, U.S attorneys and others during the election that are not pursued by the department. Donsanto asserted that U.S. attorneys never initiate frivolous investigations.

*According to the new handbook, the department can take on a case whenever there is a federal candidate on the ballot*

## **Interview with Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians**

March 22, 2006

### Background

Thompson is a member of the Cheyenne River Sioux tribe in South Dakota. For many years she worked locally on elections doing poll monitoring and legal work, from a nonpartisan perspective. In 2004, she headed the Native Vote Election Protection, a project run by the National Congress of American Indians, and was in charge of monitoring all Native American voting sites around the country, focusing on 10 or 15 states with the biggest Native populations. She is now permanently on staff of the National Congress of American Indians as the Director of Government relations. NCAI works jointly with NARF as well as the Election Protection Coalition.

### Recent trends

Native election protection operations have intensified recently for several reasons. While election protection efforts in Native areas have been ongoing, leaders realized that they were failing to develop internal infrastructure or cultivate locally any of the knowledge and expertise which would arrive and leave with external protection groups.

Moreover, in recent years partisan groups have become more aware of the power of the native vote, and have become more active in native communities. This has partly resulted in an extreme increase in voter intimidation tactics. As native communities are easy to identify, easy to target, and generally dominated by a single party, they are especially vulnerable to such tactics.

Initially, reports of intimidation were only passed along by word of mouth. But it became such a problem in the past 5 to 6 years that tribal leaders decided to raise the issue to the national level. Thompson points to the Cantwell election in 2000 and the Johnson election in South Dakota in 2002 as tipping points where many began to realize the Indian vote could matter in Senate and national elections.

Thompson stressed that Native Vote places a great deal of importance on being nonpartisan. While a majority of native communities vote Democratic, there are notable exceptions, including communities in Oklahoma and Alaska, and they have both parties engaging in aggressive tactics. However, she believes the most recent increase in suppression and intimidation tactics have come from Republican Party organizations.

### Nature of Suppression/Intimidation of Native Voters

Thompson categorizes suppression into judge related and poll-watcher related incidents, both of which may be purposeful or inadvertent, as well as longstanding legal-structural constraints.

### Structural problems

One example of inadvertent suppression built into the system stems from the fact that many Indian communities also include significant numbers of non-Indians due to allotment. Non-Indians tend to be most active in the state and local government while Indians tend to be more involved in the tribal government. Thus, the individuals running elections end up being non-Indian. Having Indians vote at polling places staffed by non-Indians often results in incidents of disrespect towards Native voters (Thompson emphasized the considerable racism which persists against Indians in these areas). Also, judges aren't familiar with Indian last names and are more dismissive of solving discrepancies with native voters.

Structural problems also arise from laws which mandate that the tribal government cannot run state or local elections. In places like South Dakota, political leaders used to make it intentionally difficult for Native Americans to participate in elections. For example, state, local and federal elections could not be held in the same location as tribal elections, leading to confusion when tribal and other elections are held in different locations. Also, it is common to have native communities with few suitable sites, meaning that a state election held in a secondary location can suddenly impose transportation obstacles.

### Photo ID Issues

Thompson believes both state level and HAVA photo ID requirements have a considerable negative impact. For a number of reasons, many Indian voters don't have photo ID. Poor health care and poverty on reservations means that many children are born at home, leading to a lack of birth certificates necessary to obtain ID. Also, election workers and others may assume they are Hispanic, causing additional skepticism due to citizenship questions. There is a cultural issue as well—historically, whenever Indians register with the federal government it has been associated with a taking of land or removal of children. Thus many Indians avoid registering for anything with the government, even for tribal ID.

Thompson also offered examples of how the impact of ID requirements had been worsened by certain rules and the discriminatory way they have been carried out. In the South Dakota special election of 2003, poll workers told Native American voters that if they did not have ID with them and they lived within sixty miles of the precinct, the voter had to come back with ID. The poll workers did not tell the voters that they could vote by affidavit ballot and not need to return, as required by law. This was exacerbated by the fact that the poll workers didn't know the voters—as would be the case with non-Indian poll workers and Indian voters. Many left the poll site without voting and did not return.

In Minnesota, the state tried to prohibit the use of tribal ID's for voting outside of a reservation, even though Minnesota has a large urban Native population. Thompson believes this move was very purposeful, and despite any reasonable arguments from the Secretary of State, they had to file a lawsuit to stop the rule. They were very surprised to find national party representatives in the courtroom when they went to deal with lawsuit, representatives who could only have been alerted through a discussion with the Secretary of State.

### Partisan Poll-Monitoring

Thompson believes the most purposeful suppression has been perpetrated by the party structures on an individual basis, of which South Dakota is a great example.

Some negative instances of poll monitoring are not purposeful. Both parties send in non-Indian, non-Western lawyers, largely from the East Coast, which can lead to uncomfortable cultural clashes. These efforts display a keen lack of understanding of these communities and the best way to negotiate within in them. But while it may be intimidating, it is not purposeful.

Yet there are also many instances of purposeful abuse of poll monitoring. While there were indeed problems during the 2002 Johnson election, it was small compared to the Janklow special election. Thompson says Republican workers shunned cultural understanding outreach, and had an extensive pamphlet of what to say at polls and were very aggressive about it. In one tactic, every time a voter would come up with no ID, poll monitors would repeat “You can’t vote” over and over again, causing many voters to leave. This same tactic appeared across reservations, and eventually they looked to the Secretary of State to intervene.

In another example, the head of poll watchers drove from poll to poll and told voters without IDs to go home, to the point where the chief of police was going to evict him from the reservation. In Minnesota, on the Red Lake reservation, police actually did evict an aggressive poll watcher—the fact that the same strategies are employed several hundred miles apart points to standardized instructions.

None of these incidents ever went to court. Thompson argues this is due to few avenues for legal recourse. In addition, it is inherently difficult to settle these things, as they are he said-she said incidents and take place amidst the confusion of Election Day. Furthermore, poll watchers know what the outline of the law is, and they are careful to work within those parameters, leaving little room for legal action.

Other seeming instances of intimidation may be purely inadvertent, such as when, in 2002, the U.S. Attorney chose Election Day to give out subpoenas, and native voters stayed in their homes. In all fairness, she believes this was a misunderstanding.

The effect of intimidation on small communities is especially strong and is impossible to ultimately measure, as the ripple effect of rumors in insular communities can’t be traced. In some communities, they try to combat this by using the Native radio to encourage people to vote and dispel myths.

She has suggestions for people who can describe incidents at a greater level of detail if interested.

### Vote Buying and Fraud

They haven’t found a great deal of evidence on vote-buying and fraud. When cash is offered to register voters, individuals may abuse this, although Thompson believes this is not necessarily

unique to the Native community, but a reflection of high rates of poverty. This doesn't amount to a concerted effort at conspiracy, but instead represents isolated incidents of people not observing the rules. While Thompson believes looking into such incidents is a completely fair inquiry, she also believes it has been exploited for political purposes and to intimidate. For example, large law enforcement contingents were sent to investigate these incidents. As Native voters tend not to draw distinctions between law enforcement and other officials, this made them unlikely to help with elections.

### Remedies

As far as voter suppression is concerned, Native Vote has been asking the Department of Justice to look into what might be done, and to place more emphasis on law enforcement and combating intimidation. They have been urging the Department to focus on this at least much as it is focusing on enforcement of Section 203. Native groups have complained to DOJ repeatedly and DOJ has the entire log of handwritten incident reports they have collected. Therefore, Thompson recommends more DOJ enforcement of voting rights laws with respect to intimidation. People who would seek to abuse the process need to believe a penalty will be paid for doing so. Right now, there is no recourse and DOJ does not care, so both parties do it because they can.

Certain states should rescind bars on nonpartisan poll watchers on Election Day; Thompson believes this is contrary to the nonpartisan, pro-Indian presence which would best facilitate voting in Native communities.

As discussed above, Thompson believes ID requirements are a huge impediment to native voters. At a minimum, Thompson believes all states should be explicit about accepting tribal ID on Election Day.

Liberalized absentee ballot rules would also be helpful to Native communities. As many Indian voters are disabled and elderly, live far away from their precinct, and don't have transportation, tribes encourage members to vote by absentee ballot. Yet obstacles remain. Some voters are denied a chance to vote if they have requested a ballot and then show up at the polls. Thompson believes South Dakota's practice of tossing absentee ballots if a voter shows up at the ED would serve as an effective built-in protection. In addition, she believes there should be greater scrutiny of GOTV groups requesting absentee ballots without permission. Precinct location is a longstanding issue, but Thompson recognizes that states have limited resources. In the absence of those resources, better absentee ballot procedures are needed.

Basic voter registration issues and access are also important in native communities and need to be addressed.

Thompson is mixed on what restrictions should be placed on poll watcher behavior, as she believes open elections and third party helpers are both important. However, she would be willing to explore some sort of stronger recourse and set of rules concerning poll watchers' behavior. Currently, the parties are aware that no recourse exists, and try to get away with what they will. This is not unique to a single party—both try to stay within law while shaking people up. The existing VRA provision is 'fluffy'—unless you have a consent decree, you have very

little power. Thompson thinks a general voter intimidation law that is left a bit broad but that nonetheless makes people aware of some sort of kickback could be helpful.

**Interview with Jason Torchinsky, former attorney with the Civil Rights Section of the Department of Justice, assistant general counsel for the American Center for Voting Rights (ACVR) and Robin DeJarnette, political consultant for C4 and C5 organizations and executive director for the ACVR.**

February 16, 2006

ACVR Generally

Other officers of the ACVR-Thor Hearne II-general counsel and Brian Lunde, former executive director of the Democratic National Committee.

Board of Directors of ACVR-Brian Lunde, Thor Hearne II, and Cameron Quinn

ACVR works with a network of attorneys around the country and has been recently involved with lobbying in PA and MO.

Regarding the August 2005 Report

ACVR has not followed up on any of the cases it cited in the 2005 report to see if the allegations had been resolved in some manner. Mr. Torchinsky stated that there are problems with allegations of fraud in the report and prosecution---just because there was no prosecution, does not mean there was no vote fraud. He believes that it is very hard to come up with a measure of voter fraud short of prosecution. Mr. Torchinsky does not have a good answer to resolve this problem.

P. 35 of the Report indicates that there were coordinated efforts by groups to coordinate fraudulent voter registrations. P. 12 of the Ohio Report references a RICO suit filed against organizations regarding fraudulent voter registrations. Mr. Torchinsky does not know what happened in that case. He stated that there was a drive to increase voter registration numbers regardless of whether there was an actual person to register. He stated that when you have an organization like ACORN involved all over the place, there is reason to believe it is national in scope. When it is the same groups in multiple states, this leads to the belief that it is a concerted effort.

Voting Problems

Mr. Torchinsky stated there were incidents of double voting---ex. a double voter in Kansas City, MO. If the statewide voter registration database requirement of HAVA is properly implemented, he believes it will stop multiple voting in the same state. He supports the HAVA requirement, if implemented correctly. Since Washington State implemented its statewide database, the Secretary of State has initiated investigations into felons who voted. In Philadelphia the major problem is permitting polling places in private homes and bars – even the homes of party chairs.

Mr. Torchinsky believes that voter ID would help, especially in cities in places like Ohio and Philadelphia, PA. The ACVR legislative fund supports the Real ID requirements suggested by the Carter-Baker Commission. Since federal real ID requirements will be in place in 2010, any objection to a voter ID requirement should be moot.

Mr. Torchinsky stated that there are two major poll and absentee voting problems---(1) fraudulent votes-ex. dead people voting in St. Louis and (2) people voting who are not legally eligible-ex. felons in most places. He also believes that problems could arise in places that still transport paper ballots from the voting location to a counting room. However, he does not believe this is as widespread a problem now as it once was.

Suggestions

Implement the Carter-Baker Commission recommendations because they represent a reasonable compromise between the political parties.



**Interview Sharon Priest, former Secretary of State, Arkansas  
January 24, 2006**

Process:

When there is an allegation of election fraud or intimidation, the county clerk refers it to the local district attorney. Most often, the DA does not pursue the claim. There is little that state administrators can do about this because in Arkansas, county clerks are partisanly elected and completely autonomous. Indeed, county clerks have total authority to determine who is an eligible voter.

Data:

There is very little data collected in Arkansas on fraud and intimidation cases. Any information there might be stays at the county level. This again is largely because the clerks have so much control and authority, and will not release information. Any statewide data that does exist might be gotten from Susie Storms from the State Board of Elections.

Most Common Problems

The perception of fraud is much greater than the actual incidence of fraud.

- The DMV does not implement NVRA in that it does not take the necessary steps when providing the voter registration forms and does not process them properly. This leads to both ineligible voters potentially getting on the voting rolls (e.g. noncitizens, who have come to get a drivers license, fill out a voter registration form having no intention of actually voting) and voter thinking they are registered to vote to find they are not on the list on Election Day. Also, some people think they are automatically registered if they have applied for a drivers license.
- Absentee ballot fraud is the most frequent form of election fraud.
- In Arkansas, it is suspected that politicians pay ministers to tell their congregations to vote for them
- In 2003, the State Board documented 400 complaints against the Pulaski County Clerk for engaging in what was at least borderline fraud, e.g. certain people not receiving their absentee ballots. The case went to a grand jury but no indictment was brought.
- Transportation of ballot boxes is often insecure making it very easy for insiders to tamper with the ballots or stuff the ballot boxes. Priest has not actually witnessed this happen, but believes it may have.
- Intimidation at the poll sites in court houses. Many voters are afraid of the county judges or county employees and therefore will not vote. They justifiably believe

their ballots will be opened by these employees to see who they voted for, and if they voted against the county people, retribution might ensue.

- Undue challenges to minority language voters at the poll sites
- Paid registration collectors fill out phony names, but these individuals are caught before anyone is able to cast an ineligible ballot.

Suggested Reforms for Improvement:

- Nonpartisan election administration
- Increased prosecution of election crimes through greater resources to district attorneys. In addition, during election time, there should be an attorney in the DA's office who is designated to handle election prosecution.
- There should be greater centralization of the process, especially with respect to the statewide database. Arkansas has a "bottom up" system. This means the counties still control the list and there is insufficient information sharing. For example, if someone lives in one county but dies in another, the county in which the voter lived – and was registered to vote – will not be notified of the death.

## **Interview with Joe Sandler, Counsel to the DNC**

February 24, 2006

### Background

Sandler is an election attorney. He worked for the DNC in 1986, was in-house counsel from 1993-1998, and currently is outside counsel to the DNC and most state Democratic Parties. Sandler was part of the recount team in Florida in both 2002 and 2004. He recruited and trained attorneys in voting issues---starting in 2002 Sandler recruited in excess of 15, 000 attorneys in twenty-two states. He is now putting together a national lawyers council in each state.

### 2004-Administrative Incompetence v. Fraud

Sandler believes the 2004 election was a combination of administrative incompetence and fraud. Sandler stated there was a deliberate effort by the Republicans to disenfranchise voters across the country. This was accomplished by mailing out cards to registered voters and then moving to purge from the voters list those whose cards were returned. Sandler indicated that in New Mexico there was a deliberate attempt by Republicans to purge people registered by third parties. He stated that there were intentional efforts to disenfranchise voters by election officials like Ken Blackwell in Ohio.

The problems with machine distribution in 2004 were not deliberate. However, Sandler believes that a large problem exists in the states because there are no laws that spell out a formula to allocate so many voting machines per voter.

Sandler was asked how often names were intentionally purged from the voter lists. He responded that there will be a lot of names purged as a result of the creation of the voter lists under HAVA. However, Sandler stated most wrongful purging results from incompetence. Sandler also said there was not much intimidation at the polls because most such efforts are deterred and that the last systematic effort was in Philadelphia in 2003 where Republicans had official looking cars and people with badges and uniforms, etc.

Sandler stated that deliberate dissemination of misinformation was more incidental, with individuals misinforming and not a political party. Disinformation did occur in small Spanish speaking communities.

Republicans point to instances of voter registration fraud but Sandler believes it did not occur, except for once in a blue moon. Sandler did not believe non-citizen voting was a problem. He also does not believe that there is voter impersonation at the polls and that Republicans allege this as a way of disenfranchising voters through restrictive voter identification rules.

## Fraud and Intimidation Trends

Sandler stated that over the years there has been a shift from organized efforts to intimidate minority voters through voter identification requirements, improper purging, failure to properly register voters, not allocating enough voting machines, failure to properly use the provisional ballot, etc., by voter officials as well as systematic efforts by Republicans to deregister voters.

At the federal level, Sandler said, the voting division has become so politicized that it is basically useless now on intimidation claims. At the local level, Sandler does not believe politics prevents or hinders prosecution for vote fraud.

## Sandler's Recommendations

Moving the voter lists to the state level is a good idea where carefully done

Provisional ballots rules should follow the law and not be over-used

No voter ID

Partisanship should be taken out of election administration, perhaps by giving that responsibility by someone other than the Secretary of State. There should at least be conflict of interest rules

Enact laws that allow private citizens to bring suit under state law

All suggestions from the DNC Ohio Report:

1. The Democratic Party must continue its efforts to monitor election law reform in all fifty states, the District of Columbia and territories.
2. States should be encouraged to codify into law all required election practices, including requirements for the adequate training of official poll workers.
3. States should adopt uniform and clear published standards for the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access. These standards should be based on set ratios of numbers of machines and pollworkers per number of voters expected to turn out, and should be made available for public comment before being adopting.
4. States should adopt legislation to make clear and uniform the rules on voter registration.
5. The Democratic Party should monitor the processing of voter registrations by local election authorities on an ongoing basis to ensure the timely processing of registrations and changes, including both newly registered voters and voters who move within a jurisdiction or the state, and the Party should ask state Attorneys General to take action where necessary to force the timely updating of voter lists.
6. States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle.
7. State and local jurisdictions should adopt clear and uniform rules on the use of, and the counting of, provisional ballots, and distribute them for public comment well in advance of each election day.

8. The Democratic Party should monitor the purging and updating of registered voter lists by local officials, and the Party should challenge, and ask state Attorneys General to challenge, unlawful purges and other improper list maintenance practices.
9. States should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.)
10. State Attorneys General and local authorities should vigorously enforce, to the full extent permitted by state law, a voter's right to vote without showing identification.
11. Jurisdictions should be encouraged to use precinct-tabulated optical scan systems with a computer assisted device at each precinct, in preference to touchscreen ("direct recording equipment" or "DRE") machines.
12. Touchscreen (DRE) machines should not be used until a reliable voter verifiable audit feature can be uniformly incorporated into these systems. In the event of a recount, the paper or other auditable record should be considered the official record.
13. Remaining punchcard systems should be discontinued.
14. States should ask state Attorneys General to challenge unfair or discriminatory distribution of equipment and resources where necessary, and the Democratic Party should bring litigation as necessary.
15. Voting equipment vendors should be required to disclose their source code so that it can be examined by third parties. No voting machine should have wireless connections or be able to connect to the Internet.
16. Any equipment used by voters to vote or by officials to tabulate the votes should be used exclusively for that purpose. That is particularly important for tabulating/aggregating computers.
17. States should adopt "no excuse required" standards for absentee voting.

18. States should make it easier for college students to vote in the jurisdiction in which their school is located.
19. States should develop procedures to ensure that voting is facilitated, without compromising security or privacy, for all eligible voters living overseas.
20. States should make voter suppression a criminal offense at the state level, in all states.
21. States should improve the training of pollworkers.
22. States should expend significantly more resources in educating voters on where, when and how to vote.
23. Partisan officials who volunteer to work for a candidate should not oversee or administer any elections.



**Interview with John Ravitz, Executive Director, New York City Board of Elections**  
February 16, 2006

Process

If there is an allegation of fraud or intimidation, the commissioners can rule to act on it. For example, in 2004 there were allegations in Queens that people had registered to vote using the addresses of warehouses and stores. The Board sent out teams of investigators to look into this. The Board then developed a challenge list that was to be used at the polls if any of the suspect voters showed up to vote.

If the allegation rises to a criminal level, the Board will refer it to the county district attorney. If a poll worker or election official is involved, the Board may conduct an internal investigation. That individual would be interviewed, and if there is validity to the claim, the Board would take action.

Incidences of Fraud and Intimidation

Mr. Ravitz says there have been no complaints about voter intimidation since he has been at the Board. There have been instances of over-aggressive poll workers, but nothing threatening. Voter fraud has also generally not been a problem.

In 2004, the problem was monitors from the Department of Justice intimidating voters. They were not properly trained, and were doing things like going into the booth with voters. The Board had to contact their Department supervisors to put a stop to it.

Charges regarding "ballot security teams" have generally just been political posturing.

The problem of people entering false information on voter registration forms is a problem. However, sometimes a name people allege is false actually turns out to be the voter's real name. Moreover, these types of acts do not involve anyone actually casting a fraudulent ballot.

With respect to the issue of voters being registered in both New York and Florida, the Board now compares its list with that of Florida and other places to address the problem. This will be less of an issue with the use of statewide voter registration databases, as information becomes easier to share. Despite the number of people who were on the voter registration lists of both jurisdictions, there was no one from those lists who voted twice.

Most of the problems at the polls have to do with poll workers not doing what they are supposed to do, not any sort of malfeasance. This indicates that improved training is the most important measure we can take.

There have been instances in which poll workers ask voters for identification when they shouldn't. However, the poll workers seem to do it when they cannot understand the name when the voter tells it to them. The Board has tried to train them that no matter what, the poll worker cannot ask for identification in order to get the person's name.



Absentee ballot fraud has also not been a problem in New York City. This is likely because absentee ballots are counted last – eight days after election day. This is so that they can be checked thoroughly and verified. This is a practice other jurisdictions might consider.

New York City has not had a problem with ex-felons voting or with ex-felons not knowing their voting rights. The City has not had any problems in recent years with deceptive practices, such as flyers providing misinformation about voting procedures.

Recommendations

- Better poll worker training
- Thorough inspection of absentee ballots subsequent to the election

**Interview with Joe Rich, former Chief of the Voting Section,  
US Department of Justice  
February 7, 2006**

Background

Mr. Rich went to Yale undergraduate and received his law degree from the University of Michigan. He served as Chief of the Voting Section from 1999-2005. Prior to that he served in other leadership roles in the Civil Rights Division and litigated several civil rights cases.

Data Collection and Monitoring

The section developed a new database before the 2004 election to log complaint calls and what was done to follow up on them. They opened many investigations as a result of these complaints, including one on the long lines in Ohio (see DOJ letter on website, as well as critical commentary on the DOJ letter's analysis). DOJ found no Section 2 violation in Ohio. John Tanner should be able to give us this data. However, the database does not include complaints that were received by monitors and observers in the field.

All attorney observers in the field are required to submit reports after Election Day to the Department. These reports would give us a very good sense of the scope and type of problems that arose on that day and whether they were resolved on the spot or required further action.

The monitoring in 2004 was the biggest operation ever. Prior to 2000, only certain jurisdictions could be observed – a VRA covered jurisdiction that was certified or a jurisdiction that had been certified by a court, e.g. through a consent decree. Since that time, and especially in 2004, the Department has engaged in more informal “monitoring.” In those cases, monitors assigned to certain jurisdictions, as opposed to observers, can only watch in the polling place with permission from the jurisdiction. The Department picked locations based on whether they had been monitored in the past, there had been problems before, or there had been allegations in the past. Many problems that arose were resolved by monitors on the spot.

Processes for Cases not Resolved at the Polling Site

If the monitor or observer believes that a criminal act has taken place, he refers it to the Public Integrity Section (PIN). If it is an instance of racial intimidation, it is referred to the Civil Rights Criminal Division. However, very few such cases are prosecuted because they are very hard to prove. The statutes covering such crimes require actual violence or the threat of violence in order to make a case. As a result, most matters are referred to PIN because they operate under statutes that make these cases easier to prove. In general, there are not a high number of prosecutions for intimidation and suppression.

If the act is not criminal, it may be brought as a civil matter, but only if it violated the Voting Rights Act – in other words, only if there is a racial aspect to the case. Otherwise the only recourse is to refer it to PIN.

However, PIN tends not to focus on intimidation and suppression cases, but rather cases such as alleged noncitizen voting, etc. Public Integrity used to only go after systematic efforts to corrupt the system. Now they focus on scattered individuals, which is a questionable resource choice. Criminal prosecutors over the past 5 years have been given more resources and more leeway because of a shift in focus and policy toward noncitizens and double voting, etc.

There have been very few cases brought involving African American voters. There have been 7 Section 2 cases brought since 2001 – only one was brought on behalf of African American voters. That case was initiated under the Clinton administration. The others have included Latinos and discrimination against whites.

#### Types of Fraud and Intimidation Occurring

There is no evidence that polling place fraud is a problem. There is also no evidence that the NVRA has increased the opportunity for fraud. Moreover, regardless of NVRA's provisions, an election official can always look into a voter's registration if he or she believes that person should no longer be on the list. The Department is now suing Missouri because of its poor registration list.

The biggest problem is with absentee ballots. The photo ID movement is a vote suppression strategy. This type of suppression is a bigger problem than intimidation. There has been an increase in vote suppression over the last five years, but it has been indirect, often in the way that laws are interpreted and implemented. Unequal implementation of ID requirements at the polls based on race would be a VRA violation.

The most common type of intimidation occurring is open hostility by poll workers toward minorities. It is a judgment call whether this is a crime or not – Craig Donsanto of PIN decides if it rises to a criminal matter.

Election Day challenges at the polls could be a VRA violation but such a case has never been formally pursued. Such cases are often resolved on the spot. Development of a pre-election challenge list targeted at minorities would be a VRA violation but this also has never been pursued. These are choices of current enforcement policy.

Long lines due to unequal distribution of voting machines based on race, list purges based on race and refusal to offer a provisional ballot on the basis of race would also be VRA violations.

#### Recommendations

Congress should pass a new law that allows the Department to bring civil actions for suppression that is NOT race based, for example, deceptive practices or wholesale challenges to voters in jurisdictions that tend to vote heavily for one party.

Given the additional resources and latitude given to the enforcement of acts such as double voting and noncitizen voting, there should be an equal commitment to enforcement of acts of intimidation and suppression cases.

There should also be increased resources dedicated to expanded monitoring efforts. This might be the best use of resources since monitors and observers act as a deterrent to fraud and intimidation.

## **Interview with Kevin Kennedy, State Elections Director, State of Wisconsin**

April 11, 2006

### Background

Kennedy is a nonpartisan, appointed official. He has been in this position since 1983.

Complaints of fraud and intimidation do not usually come to Kennedy's office. Kennedy says that complainants usually take their allegations to the media first because they are trying to make a political point.

### 2004 Election Incidents of Fraud

The investigations into the 2004 election uncovered some cases of double voting and voting by felons who did not know they were not eligible to vote, but found no concerted effort to commit fraud. There have been a couple of guilty pleas as a result, although not a number in the double digits. The task force and news reports initially referred to 100 cases of double voting and 200 cases of felon voting, but there were not nearly that many prosecutions. Further investigation since the task force investigation uncovered that in some instances there were mis-marks by poll workers, fathers and sons mistaken for the same voter, and even a husband and wife marked as the same voter. The double votes that are believed to have occurred were a mixture of absentee and polling place votes. It is unclear how many of these cases were instances of voting in two different locations.

In discussing the case from 2000 in which a student claimed – falsely – that he had voted several times, Kennedy said that double voting can be done. The deterrent is that it's a felony, and that one person voting twice is not an effective way to influence an election. One would need to get a lot of people involved for it to work.

The task force set up to investigate the 2004 election found a small number of illegal votes but given the 7,000 alleged, it was a relatively small number. There was no pattern of fraud.

The one case Kennedy could recall of an organized effort to commit fraud was in the spring of 2003 or 2004. A community service agency had voters request that absentee ballots be sent to the agency instead of to the voters and some of those ballots were signed without the voters' knowledge. One person was convicted, the leader of the enterprise.

In Milwaukee, the main contention was that there were more ballots than voters. However, it was found that the 7,000 vote disparity was tied to poll worker error. The task force found that there was no concerted effort involved. Kennedy explained that there are many ways a ballot can get into a machine without a voter getting a number. These include a poll worker forgetting to give the voter one; someone does Election Day registration and fills out a registration form but does not get a number because the

transaction all takes place at one table; and in Milwaukee, 20,000 voters who registered were not put on the list in time and as a short term solution the department sent the original registration forms to the polling places to be used instead of the list to provide proof of registration. This added another element of confusion that might have led to someone not getting a voter number.

The Republican Party used this original list and contracted with a private vendor to do a comparison with the U.S. postal list. They found initially that there were 5,000 bad addresses, and then later said there were 35,000 illegitimate addresses. When the party filed a complaint, the department told them they could force the voters on their list to cast a challenge ballot. On Election Day, the party used the list but found no actually voting from those addresses. Kennedy suspects that the private vendor made significant errors when doing the comparison.

In terms of noncitizen voting, Kennedy said that there is a Russian community in Milwaukee that the Republican Party singles out every year but it doesn't go very far. Kennedy has not seen much in the way of allegations of noncitizen voting.

However, when applying for a drivers license, a noncitizen could register to vote. There is no process for checking citizenship at this point, and the statewide registration database will not address this. Kennedy is not aware of any cases of noncitizen voting as a result, but it might have happened.

Kennedy said that the biggest concern seemed to be suspicions raised when groups of people are brought into the polling site from group homes, usually homes for the disabled. There are allegations that these voters are being told how to vote.

#### Incidents of Voter Intimidation

In 2004, there was a lot of hype about challenges, but in Wisconsin, a challenger must articulate a basis under oath. This acts as a deterrent, but at the same time it creates the potential that someone might challenge everyone and create long lines, keeping people from voting. In 2004, the Republican Party could use its list of suspect addresses as a legitimate basis for challenges, so there is the potential for abuse. It is also hard to train poll workers on that process. In 2004, there were isolated cases of problems with challengers.

In 2002, a flyer was circulated only in Milwaukee claiming that you had vote by noon. This was taken as an intimidation tactic by the Democrats.

#### Reforms

Wisconsin has had difficulty with its database because 1) they have had a hard time getting a good product out of the vendor and 2) until now there was no registration record for one-quarter of the voters. Any jurisdiction with fewer than 5000 voters was not required to have a registration list.

In any case, once these performance issues are worked out, Kennedy does believe the statewide voter registration database will be very valuable. In particular, it will mean that people who move will not be on more than one list anymore. It should also address the double voting issue by identifying who is doing it, catching people who do it, and identifying where it could occur.

Recommendations

Better trained poll workers

Ensure good security procedures for the tabulation process and more transparency in the vote counting process

Conduct post-election audits

## **Interview with Lori Minnite, Barnard College**

February 22, 2006

### Background

Ms. Minnite is an assistant professor of political science at Barnard College. She has done substantial research on voter fraud and wrote the report "Securing the Vote." Ms. Minnite also did work related to an election lawsuit. The main question that she was asked to address in the lawsuit was---did election-day registration increase the possibility of fraud?

### Securing the Vote

In Securing the Vote, Ms. Minnite found very little evidence of voter fraud because the historical conditions giving rise to fraud have weakened over the past twenty years. She stated that for fraud to take root a conspiracy was needed with a strong local political party and a complicit voter administration system. Since parties have weakened and there has been much improvement in the administration of elections and voting technology, the conditions no longer exist for large scale incidents of polling place fraud.

Ms. Minnite concentrates on fraud committed by voters not fraud committed by voting officials. She has looked at this issue on the national level and also concentrated on analyzing certain specific states. Ms. Minnite stressed that it is important to keep clear who the perpetrators of the fraud are and where the fraud occurs because that effects what the remedy should be. Often, voters are punished for fraud committed by voting officials.

### Other Fraud Issues

Ms. Minnite found no evidence that NVRA was leading to more voter fraud. She supports non-partisan election administration. Ms. Minnite has found evidence that there is absentee ballot fraud. She can't establish that there is a certain amount of absentee ballot fraud or that it is the major kind of voter fraud.

### Recommendations

Assure there are accurate voter records and centralize voter databases

Reduce partisanship in electoral administration.



**Interview with John Tanner, Director, Civil Rights Division, U.S. Department of Justice**

February 24, 2006

Note: Mr. Tanner's reluctance to share data, information and his perspective on solving the problems presented an obstacle to conducting the type of interview that would help inform this project as much as we would have hoped. Mr. Tanner would not give us any information about or data from the section's election complaint in-take phone logs; data or even general information from the Interactive Case Management (ICM) system-its formal process for tracking and managing work activities in pursuing complaints and potential violations of the voting laws; and would give us only a selected few samples of attorney-observer reports, reports that every Voting Section attorney who is observing elections at poll sites on Election Day is required to submit. He would not discuss in any manner any current investigations or cases the section is involved in. He also did not believe it was his position to offer us recommendations as to how his office, elections, or the voting process might be improved.

Authority and Process

The Voting Section, in contrast to the Public Integrity section as Craig Donsanto described it, typically looks only at systemic problems, not problems caused by individuals. Indeed, the section never goes after individuals because it does not have the statutory authority to do so. In situations in which individuals are causing problems at the polls and interfering with voting rights, the section calls the local election officials to resolve it.

Federal voting laws only apply to state action, so the section only sues local governments – it does not have any enforcement power over individuals. Most often, the section enters into consent agreements with governments that focus on poll worker training, takes steps to restructure how polls are run, and deals with problems on Election Day on the spot. Doing it this way has been most effective – for example, while the section used to have the most observers in the South, systematic changes forced upon those jurisdictions have made it so now the section does not get complaints from the South.

The section can get involved even where there is no federal candidate on the ballot if there is a racial issue under the 14<sup>th</sup> and 15<sup>th</sup> Amendments.

When the section receives a complaint, attorneys first determine whether it is a matter of individuals or systemic. When deciding what to do with the complaint, the section errs on the side of referring it criminally because they do not want civil litigation to complicate a possible criminal case.

When a complaint comes in, the attorneys ask questions to see if there are even problems there that the complainant is not aware are violations of the law. For example, in the Boston case, the attorney did not just look at Spanish language cases under section 203, but also brought a Section 2 case for violations regarding Chinese and Vietnamese voters.

When looking into a case, the attorneys look for specificity, witnesses and supporting evidence.

Often, lawsuits bring voluntary compliance.

#### Voter Intimidation

Many instances of what some people refer to as voter intimidation are more unclear now. For example, photographing voters at the polls has been called intimidating, but now everyone is at the polls with a camera. It is hard to know when something is intimidation and it is difficult to show that it was an act of intimidation.

The fact that both parties are engaging in these tactics now makes it more complicated. It makes it difficult to point the finger at any one side.

The inappropriate use of challengers on the basis of race would be a violation of the law. Mr. Tanner was unaware that such allegations were made in Ohio in 2004. He said there had never been an investigation into the abusive use of challengers.

Mr. Tanner said a lot of the challenges are legitimate because you have a lot of voter registration fraud as a result of groups paying people to register voters by the form. They turn in bogus registration forms. Then the parties examine the registration forms and challenge them because 200 of them, for example, have addresses of a vacant lot.

However, Mr. Tanner said the Department was able to informally intervene in challenger situations in Florida, Atkinson County, Georgia and in Alabama, as was referenced in a February 23 Op-Ed in USA Today. Mr. Tanner reiterated the section takes racial targeting very seriously.

Refusal to provide provisional ballots would be a violation of the law that the section would investigate.

Deceptive practices are committed by individuals and would be a matter for the Public Integrity Section. Local government would have to be involved for the voting section to become involved.

Unequal implementation of ID rules, or asking minority voters only for ID would be something the section would go after. Mr. Tanner was unaware of allegations of this in 2004. He said this is usually a problem where you have language minorities and the poll workers cannot understand the voters when they say their names. The section has never formally investigated or solely focused a case based on abuse of ID provisions. However, implementation of ID rules was part of the Section 2 case in San Diego. Mr. Tanner reiterated that the section is doing more than ever before.

When asked about the section's references to incidents of vote fraud in the documents related to the new state photo identification requirements, Mr. Tanner said the section only looks at retrogression, not at the wisdom of what a legislature does. In Georgia, for

example, everyone statistically has identification, and more blacks have ID than whites. With respect to the letter to Senator Kit Bond regarding voter ID, the section did refer to the perception of concern about dead voters because of reporting by the Atlanta Journal-Constitution. It is understandable that when you have thousands of bogus registrations that there would be concerns about polling place fraud. Very close elections make this even more of an understandable concern. Putting control of registration lists in the hands of the states will be helpful because at this higher level of government you find a higher level of professionalism.

It is hard to know how much vote suppression and intimidation is taking place because it depends on one's definition of the terms – they are used very loosely by some people. However, the enforcement of federal law over the years has made an astounding difference so that the level of discrimination has plummeted. Registration of minorities has soared, as can be seen on the section's website. Mr. Tanner was unsure if the same was true with respect to turnout, but the gap is less. That information is not on the section's website.

The section is not filing as many Section 2 cases as compared to Section 203 cases because many of the jurisdictions sued under Section 2 in the past do not have issues anymore. Mr. Tanner said that race based problems are rare now.

NVRA has been effective in opening up the registration process. In terms of enforcement, Mr. Tanner said they do what they can when they have credible allegations. There is a big gap between complaints and what can be substantiated. Mr. Tanner stated that given the high quality of the attorneys now in the section, if they do not investigate it or bring action, that act complained of did not happen.

#### Recommendations

Mr. Tanner did not feel it was appropriate to make recommendations.

## **Interview with Pat Rogers, private attorney**

March 3, 2006

### Background

In addition to his legal practice with *Modrall, Sperling, Roehl, Harris & Sisk*, Rogers also does some state-level lobbying for Verizon Wireless, GM, Dumont and other companies. His experience in election law goes back to 1988, where his first elections case was a defense against Bill Richardson, who had sued to get another candidate tossed off a ballot because of petition fraud. Since 1988, he has been involved in election cases at least once every two years.

### 2004 Litigation

In a case that ended before the New Mexico Supreme Court, Rogers represented the Green Party and other plaintiffs against the New Mexico Secretary of State for sending a directive telling local boards not to require ID for first time voters registering by mail. He argued that this watered-down ID check conflicted with what seemed fairly clear statutory requirements for first time voters. In 2004 these requirements were especially important due to the large presence of 3<sup>rd</sup> party organizations registering voters such as a 527 funded by Governor Richardson, ACORN, and others.

Plaintiffs were seeking a temporary restraining order requiring Secretary of State to follow the law. Yet the Supreme Court ultimately decided that, whether the directive was right or wrong, it was too late to require ID lest Bush v. Gore issues be raised.

Today, the issue is moot as the state legislature has changed the law, and the Secretary of State will no longer be in office. It seems unlikely they will send any policy directives to county clerks lest they violate due process/public notice.

### Major issues in NM w/ regard to vote fraud

Registration fraud seems to be the major issue, and while the legislature has taken some steps, Rogers is skeptical of the effect they will have, considering the history of unequal application of election laws. He also believes there are holes in the 3<sup>rd</sup> party registration requirement deadlines.

Rogers views a national law requiring ID as the best solution to registration problems. Rather than imposing a burden he contends it will enhance public confidence in the simplest way possible.

### Registration Fraud in 2004 election

It came to light that ACORN had registered a 13 year old. The father was an APD officer and received the confirmation, but it was sent to the next door address, a vacant house.

They traced this to an ACORN employee and it was established that this employee had been registering others under 18.

Two weeks later, in a crack cocaine bust of Cuban nationals, one of those raided said his job was registering voters for ACORN, and the police found signatures in his possession for fictitious persons.

In a suspicious break-in at an entity that advertised itself as nonpartisan, only GOP registrations were stolen.

In another instance, a college student was allegedly fired for registering too many Republicans.

Rogers said he believed these workers were paid by the registration rather than hourly.

There have been no prosecution or convictions related to these incidents. In fact, there have been no prosecutions for election fraud in New Mexico in recent history. However, Rogers is skeptical that much action can be expected considering the positions of Attorney General, Governor, and Secretary of State are all held by Democrats. Nor has there been any interest from the U.S. attorney—Rogers heard that U.S. attorneys were given instruction to hold off until after the election in 2004 because it would seem too political.

As part of the case against the Secretary of State regarding the identification requirement, the parties also sued ACORN. At a hearing, the head of ACORN, and others aligned with the Democratic Party called as witnesses, took the 5<sup>th</sup> on the stand as to their registration practices.

#### Other incidents

Very recently, there have been reports of vote buying in the town of Espanola. Originally reported by the *Rio Grande Sun*, a resident of a low-income housing project is quoted as saying it has been going on for 10-12 years. The Albuquerque Journal is now reporting this as well. So far the investigation has been extremely limited.

In 1996, there were some prosecutions in Espanola, where a state district judge found registration fraud.

In 1991, the chair of Democratic Party of Bertolino County was convicted on fraud. Yet she was pardoned by Clinton on same day as Marc Rich.

#### Intimidation/Suppression

Rogers believes the most notable example of intimidation in the 2004 election was the discovery of a DNC Handbook from Colorado advising Democratic operatives to widely report intimidation regardless of confirmation in order to gain media attention.

### In-person polling place fraud

There have only been isolated instances of people reporting that someone had voted in their name, and Rogers doesn't believe there is any large scale conspiracy. Yet he contends that perspective misses the larger point of voter confidence. Although there has been a large public outcry for voter ID in New Mexico, it has been deflected and avoided by Democrats.

In 2004, there were more Democratic lawyers at the polls than there are lawyers in New Mexico. Rogers believes these lawyers had a positive impact because they deterred people from committing bad acts.

### Counting Procedures

The Secretary of State has also taken the position that canvassing of the vote should be done in private. In NM, they have a 'county canvas' where they review and certify, after which all materials—machine tapes, etc.,—are centralized with the Secretary of State who does a final canvass for final certification. Conducting this in private is a serious issue, especially considering the margin in the 2000 presidential vote in New Mexico was only 366 votes. They wouldn't be changing machine numbers, but paper numbers are vulnerable.

On a related note, NM has adopted state procedures that will ensure their reports are slower and very late, considering the 2000 late discovery of ballots. In a close race, potential for fraud and mischief goes up astronomically in the period between poll closing and reporting. Rogers believes these changes are going to cause national embarrassment in the future.

Rogers attributes other harmful effects to what he terms the Secretary of State's incompetence and inability to discern a nonpartisan application of the law. In the 2004 election, no standards were issued for counting provisional ballots. Furthermore, the Secretary of State spent over \$1 million of HAVA money for 'voter education' in blatant self-promotional ads.

### Recommendations

Rogers believes it would be unfeasible to have nonpartisan election administration and favors transparency instead. To make sure people have confidence in the election, there must be transparency in the whole process. Then you don't have the 1960 vote coming down to Illinois, or the Espanola ballot or Dona Anna County (ballots found there in the 2000 election). HAVA funds should also be restricted when you have an incompetent, partisan Secretary of State.

There should be national standards for reporting voting results so there is less opportunity for fraud in a close race. Although he is not generally an advocate of national laws, he

does agree there should be more national uniformity into how votes are counted and recorded.

## **Interview with Rebecca Vigil-Giron, Secretary of State, New Mexico**

March 24, 2006

### Background

Vigil-Giron has been Secretary of State for twelve years and was the President of the National Association of Secretaries of State in 2004. Complaints of election fraud and intimidation are filed with the SOS office. She then decides whether to refer it to the local district attorney or the attorney general. Because the complaints are few and far between, the office does not keep a log of complaints; however, they do have all of the written complaints on file in the office.

### Incidents of Fraud and Intimidation

During the 2004 election, there were a couple of complaints of polling place observers telling people outside the polling place who had just voted, and then the people outside were following the voters to their cars and videotaping them. This happened in areas that are mostly second and third generation Latinos. The Secretary sent out the sheriff in one instance of this. The perpetrators moved to a different polling place. This was the only incident of fraud or intimidation Vigil-Giron was aware of in New Mexico.

There have not been many problems on Native reservations because, unlike in many other states, in New Mexico the polling place is on the reservation and is run by local Native Americans. Vigil-Giron said that it does not make sense to have non-Natives running those polls because it is necessary to have people there who can translate. Because most of the languages are unwritten, the HAVA requirement of accessibility through an audio device will be very helpful in this regard. Vigil-Giron said she was surprised to learn while testifying at the Voting Rights Act commission hearings of the lack of sensitivity to these issues and the common failure to provide assistance in language minority areas.

In 2004 the U.S. Attorney, a Republican, suddenly announced he was launching an investigation into voter fraud without consulting the Secretary of State's office. After all of that, there was maybe one prosecution. Even the allegations involving third party groups and voter registration are often misleading. People doing voter registration drives encourage voters to register if they are unsure if they are already registered, and the voter does not even realize that his or her name will then appear on the voter list twice. The bigger problem is where registrations do not get forwarded to election administrators and the voter does not end up on the voting list on Election Day. This is voter intimidation in itself, Vigil-Giron believes. It is very discouraging for that voter and she wonders whether he or she will try again.

Under the bill passed in 2004, third parties are required to turn around voter registration forms very quickly between the time they get them and when they must be returned. If



they fail to return them within 48 hours of getting them, they are penalized. This, Vigil-Giron believes, is unfair. She has tried to get the Legislature to look at this issue again. Regarding allegations of vote buying in Espanola, Vigil-Giron said that the Attorney General is investigating. The problem in that area of New Mexico is that they are still using rural routes, so they have not been able to properly district. There has, as a result, been manipulation of where people vote. Now they seem to have pushed the envelope too far on this. The investigation is not just about vote buying, however. There have also been allegations of voters being denied translators as well as assistance at the polls.

Vigil-Giron believes there was voter suppression in Ohio in 2004. County officials knew thirty days out how many people had registered to vote, they knew how many voters there would be. Administrators are supposed to use a formula for allocation of voting machines based on registered voters. Administrators in Ohio ignored this. As a result, people were turned away at the polls or left because of the huge lines. This, she believes, was a case of intentional vote suppression.

A few years ago, Vigil-Giron heard that there may have been people voting in New Mexico and a bordering town in Colorado. She exchanged information with Colorado administrators and it turned out that there were no cases of double voting.

### Recommendations

Vigil-Giron believes that linking voter registration databases across states may be a way to see if people who are registered twice are in fact voting twice.

The key to improving the process is better trained poll workers, who are certified, and know what to look for on Election Day. These poll workers should then work with law enforcement to ensure there are no transgressions.

There should be stronger teeth in the voter fraud laws. For example, it should be more than a fourth degree felony, as is currently the case.

**Interview with Nina Perales, Counsel, Mexican American Legal Defense and Education Fund**

March 7, 2006

Background

Ms. Perales is an attorney with the Mexican American Legal Defense Fund (MALDEF). MALDEF's mission is to foster sound public policies, laws and programs to safeguard the civil rights of the 40 million Latinos living in the United States and to empower the Latino community to fully participate in our society. One of the areas MALDEF works in is electoral issues, predominately centered on the Voting Rights Act. Ms. Perales did not seem to have a sense of the overall electoral issues in her working region (the southwest) effecting Hispanic voters and did not seem to want to offer her individual experiences and work activities as necessarily a perfect reflection of the challenges Hispanic voters face.

Largest Election Problems Since 2000

Santa Anna County, New Mexico-2004-intimidated voters by video taping them.

San Antonio-One African American voter subjected to a racial slur.

San Antonio-Relocated polling places at the last minute without Section 5 pre-clearance.

San Antonio-Closed polls while voters were still in line.

San Antonio-2003-only left open early voting polls in predominantly white districts.

San Antonio-2005-racially contested mayoral run-off election switched from touch screen voting to paper ballots.

Voter Fraud and Intimidation

In Texas, the counties are refusing to open their records with respect to Section 203 compliance (bilingual voting assistance), and those that did respond to MALDEF's request submitted incomplete information. Ms. Perales believes this in itself is a form of voter intimidation.

Ms. Perales said it is hard to say if the obstacles minorities confront in voting are a result of intentional acts or not because the county commission is totally incompetent. There have continuously been problems with too few ballots, causing long lines, especially in places that had historically lower turnout. There is no formula in Texas for allocating ballots – each county makes these determinations.

When there is not enough language assistance at the polls, forcing a non-English speaker to rely on a family member to vote, that can suppress voter turnout.

Ms. Perales is not aware of deceptive practices or dirty tricks targeted at the Latino community.

There have been no allegations of illegal noncitizen voting in Texas. Indeed, the sponsor of a bill that would require proof of citizenship to vote could not provide any documentation of noncitizen voting in support of the bill. The bill was defeated in part because of the racist comments of the sponsor. In Arizona, such a measure was passed. Ms. Perales was only aware of one case of noncitizen voting in Arizona, involving a man of limited mental capacity who said he was told he was allowed to register and vote. Ms. Perales believes proof of citizenship requirements discriminate against Latinos.

### Recommendations

Ms. Perales feels the laws are adequate, but that her organization does not have enough staff to do the monitoring necessary. This could be done by the federal government. However, even though the Department of Justice is focusing on Section 203 cases now, they have not even begun to scratch the surface. Moreover, the choices DOJ has made with respect to where they have brought claims do not seem to be based on any systematic analysis of where the biggest problems are. This may be because the administration is so ideological and partisan.

Ms. Perales does not believe making election administration nonpartisan would have a big impact. In Texas, administrators are appointed in a nonpartisan manner, but they still do not always have a nonpartisan approach. Each administrator tends to promote his or her personal view regardless of party.

**Interview with Steve Ansolobhere and Chandler Davidson**  
February 17, 2006

Methodology suggestions

In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that asks whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. Mr. Ansolobhere recommended Jonathan Krosnick, Doug Rivers, and Paul Sniderman at Stanford; Donald Kinder and Arthur Lupia at Michigan; Edward Carmines at Indiana; and Phil Tetlock at Berkeley. In the alternative, Mr. Ansolobhere suggested that the EAC might work with the Census Bureau to have them ask different, additional questions in their Voter Population Surveys.

Mr. Chandler further suggested it is important to talk to private election lawyers, such as Randall Wood, who represented Ciro Rodriguez in his congressional election in Texas. Mr. Ansolobhere also recommended looking at experiments conducted by the British Election Commission.

Incidents of Fraud and Intimidation

Mr. Davidson's study for the Lawyers Committee for Civil Rights on the Voting Rights Act documented evidence of widespread difficulty in the voting process. However, he did not attempt to quantify whether this was due to intentional, malevolent acts. In his 2005 report on ballot security programs, he found that there were many allegations of fraud made, but not very many prosecutions or convictions. He saw many cases that did go to trial and the prosecutors lost on the merits.

In terms of voter intimidation and vote suppression, Mr. Davidson said he believes the following types of activities do occur: videotaping of voters' license plates; poll workers asking intimidating questions; groups of officious-looking poll watchers at the poll sites who seem to be some sort of authority looking for wrongdoing; spreading of false information, such as phone calls, flyers, and radio ads that intentionally mislead as to voting procedures.

Mr. Ansolobhere believes the biggest problem is absentee ballot fraud. However, many of these cases involve people who do not realize what they are doing is illegal, for example, telling someone else how to vote. Sometimes there is real illegality occurring however. For example, vote selling involving absentee ballots, the filling out of absentee ballots en masse, people at nursing homes filling out the ballots of residents, and there are stories about union leaders getting members to vote a certain way by absentee ballot. This

problem will only get bigger as more states liberalize their absentee ballot rules. Mr. Chandler agreed that absentee ballot fraud was a major problem.

Recommendations

Go back to “for cause” absentee ballot rules, because it is truly impossible to ever ensure the security of a mail ballot. Even in Oregon, there was a study showing fraud in their vote by mail system.

False information campaigns should be combated with greater voter education. Los Angeles County’s voter education program should be used as a model.

## **Interview with Tracy Campbell, author**

March 3, 2006

### Background

Campbell's first book on election fraud looked at Ed Pritchard, a New Deal figure who went to jail for stuffing ballot boxes. While his initial goal in writing that book was to find out why Pritchard had engaged in vote stealing, his growing understanding of a pervasive culture of electoral corruption led him to consider instead how it was that Pritchard was ever caught. In 1998, he started working on a book regarding fraud in Kentucky, which quickly became a national study. He hoped to convey the 'real politics' which he feels readers, not to mention academics, have little sense about. While less blatant than in previous eras, fraud certainly still occurs, and he mentions some examples in his book. The major trend of the past 60-70 years has been that these tactics have grown more subtle.

While he hasn't conducted any scientific study of the current state of fraud, his sense as a historian is that it seems naive, after generations of watching the same patterns and practices influence elections, to view suspect election results today as merely attributable to simple error.

### Vote-buying and absentee fraud

Campbell sees fraud by absentee ballot and vote buying as the greatest threats to fair elections today. He says vote fraud is like real estate: location, location, location—the closer you can keep the ballots to the courthouse the better. Absentee ballots create a much easier target for vote brokers who can manage voting away from the polling place, or even mark a ballot directly, in exchange for, say, \$50—or even more if an individual can bring their entire family. He has noted some small counties where absentee ballots outnumber in-person ballots.

However, few people engaged in this activity would call it 'purchasing' a vote. Instead, it is candidate Jones' way of 'thanking' you for a vote you would have cast in any event. The issue is what happens if candidate Smith offers you more. Likewise, the politicians who engage in vote fraud don't see it as a threat to the republic but rather as a game they have to play in order to get elected.

### Regional patterns

Campbell suggests such practices are more prevalent in the South than the Northern states, and even more so compared to the West. The South has long been characterized as particularly dangerous in intimidation and suppression practices—throughout history, one can find routine stories of deaths at the polls each year. While he maintains that fraud seems less likely in the Western states, he sees the explosion of mail in and absentee ballots there as asking for trouble.

### Poll site closings as a means to suppress votes

Campbell points to a long historical record of moving poll sites in order to suppress votes. Polling places in the 1800s were frequently set-up on rail cars and moved further down the line to suppress black votes.

He would include door-to-door canvassing practices here, as well as voting in homes, which was in use in Kentucky until only a few years ago. All of these practices have been justified as making polling places 'more accessible' while their real purpose has been to suppress votes.

#### Purge lists

Purge lists are, of course, needed in theory, yet Campbell believes the authority to mark names off the voter rolls presents extensive opportunity for abuse. For this reason, purging must be done in a manner that uses the best databases, and looks at only the most relevant information. When voters discover their names aren't on the list when they go to vote, for example, because they are "dead," it has a considerable demoralizing effect. Wrongful purging takes place both because of incompetence and as a tool to intentionally disenfranchise.

Campbell believes transparency is the real issue here. An hour after the polls close, we tend to just throw up our hands and look the other way, denying voters the chance to see that discrepancies are being rectified. He believes the cost in not immediately knowing election outcomes is a small price to pay for getting results right and showing the public a transparent process.

#### Deceptive practices

Today's deceptive practices have are solidly rooted in Reconstruction-era practices—i.e. phony ballots, the Texas 'elimination' ballot. The ability to confuse voters is a powerful tool for those looking to sway elections.

#### Language minorities

Campbell argues there is a fine line between offering help to non-English speakers and using that help against them. A related issue, particularly in the South, is taking advantage of the illiterate.

#### Current intimidation

Another tactic Campbell considers an issue today is polling place layout: the further vote suppressers can keep people away from the polls, the better. Practices such as photographing people leaving a polling place may also tie into vote-buying, where photos are used to intimidate and validate purchased votes. A good way to combat such practices is by keeping electioneering as far from the polls as possible.

#### Recommendations

Specific voting administration recommendations Campbell advocates would include reducing the use of absentee ballots and improving the protective zone around polling places.

Campbell would also like to see enforcement against fraud stepped up and stiffer penalties enacted, as current penalties make the risk of committing fraud relatively low. He compares the risk in election fraud similar to steroid use in professional sports—the potential value of the outcome is far higher than the risk of being caught or penalized for the infraction, so it is hard to prevent people from doing it. People need to believe they will pay a price for engaging in fraud or intimidation. Moreover, we need to have the will to kick people out of office if necessary.

He is skeptical of the feasibility of nonpartisan election administration, as he believes it would be difficult to find people who care about politics yet won't lean one way or the other—such an attempt would be unlikely to get very far before accusations of partisanship emerged. He considers the judiciary the only legitimate check on election fraud.



## **Interview with Sarah Bell Johnson Interview**

April 19, 2006

### Procedures for Handling Fraud

Fraud complaints are directed first to the state Board of Elections. Unlike boards in other states, Kentucky's has no investigative powers. Instead, they work closely with both the Attorney General and the U.S. Attorney. Especially since the current administration took office, they have found the U.S. Attorney an excellent partner in pursuing fraud cases, and have seen many prosecutions in the last six years. She believes that there has been no increase in the incidence of fraud, but rather the increase in prosecutions is related to increased scrutiny and more resources.

### Major Types of Fraud and Intimidation

Johnson says that vote buying and voter intimidation go hand in hand in Kentucky. While historically fraud activity focused on election day, in the last 20 years it has moved into absentee voting. In part, this is because new voting machines aren't easy to manipulate in the way that paper ballots were open to manipulation in the past, especially in distant rural counties. For this reason, she is troubled by the proliferation of states with early voting, but notes that there is a difference between absentee ballot and early voting on machines, which is far more difficult to manipulate.

Among the cases of absentee ballot fraud they have seen, common practice involves a group of candidates conspiring together to elect their specific slate. Nursing homes are an especially frequent target. Elderly residents request absentee ballots, and then workers show up and 'help' them vote their ballots. Though there have been some cases in the Eastern district of election day fraud, most have been absentee.

Johnson argues that it is hard to distinguish between intimidation and vote buying. They have also seen instances where civic groups and church groups intimidate members to vote in a specific manner, not for reward, but under threat of being ostracized or even telling them they will go to hell.

While she is aware of allegations of intimidation by the parties regarding minority precincts in Louisville, the board hasn't received calls about it and there haven't been any prosecutions.

### Challengers

Challengers are permitted at the polls in Kentucky. Each party is allowed two per location, and they must file proper paperwork. There is a set list of defined reasons for which they can challenge a voter, such as residency, and the challengers must also fill out paperwork to conduct a challenge.

As for allegations of challengers engaging in intimidation in minority districts, Johnson notes that challengers did indeed register in Jefferson County, and filed the proper paperwork, although they ultimately did not show up on election day.

She finds that relatively few challengers end up being officially registered, and that the practice has grown less common in recent years. This is due more to a change of fashion than anything. And after all, those wishing to affect election outcomes have little need for challengers in the precinct when they can target absentee voting instead.

In the event that intimidation is taking place, Kentucky has provisions to remove disruptive challengers, but this hasn't been used to her knowledge.

### Prosecutions

Election fraud prosecutions in Kentucky have only involved vote buying. This may be because that it is easier to investigate, by virtue of a cash and paper trail which investigators can follow. It is difficult to quantify any average numbers about the practice from this, due in part to the five year statute of limitations on vote buying charges. However, she does not believe that vote-buying is pervasive across the state, but rather confined to certain pockets.

### Vote-hauling Legislation

Vote hauling is a common form of vote buying by another name. Individuals are legally paid to drive others to the polls, and then divide that cash in order to purchase votes. Prosecutions have confirmed that vote hauling is used for this purpose. While the Secretary of State has been committed to legislation which would ban the practice, it has failed to pass in the past two sessions.

### Paying Voter Registration Workers Legislation

A law forbidding people to pay workers by the voter registration card or for obtaining cards with registrations for a specific party was passed this session. Individuals working as part of a registration campaign may still be paid by hour. Kentucky's experience in the last presidential election illustrates the problems arising from paying individuals by the card. That contest included a constitutional amendment to ban gay marriage on the ballot, which naturally attracted the attention of many national groups. One group paying people by the card resulted in the registrar being inundated with cards, including many duplicates in the same bundle, variants on names, and variants on addresses. As this practice threatens to overwhelm the voter registration process, Kentucky views it as constituting malicious fraud.

### Deceptive practices

Other than general reports in the news, Johnson hasn't received any separate confirmation or reports of deceptive practices, i.e., false and misleading information being distributed to confuse voters.

### Effect of Kentucky's Database

Johnson believes Kentucky's widely praised voter registration database is a key reason why the state doesn't have as much fraud as it might, especially the types alleged elsewhere like double and felon voting. While no database is going to be perfect, the connections with other state databases such as the DMV and vital statistics have been invaluable in allowing them to aggressively purge dead weight and create a cleaner list. When parties use their database list they are notably more successful. Johnson wonders how other states are able to conduct elections without a similar system.

Some factors have made especially important to their success. When the database was instituted in 1973, they were able to make everyone in the state re-register and thus start with a clean database. However, it is unlikely any state could get away with this today.

She is also a big supporter of a full Social Security number standard, as practiced in Kentucky. The full Social Security, which is compared to date of birth and letters in the first and last name, automatically makes matching far more accurate. The huge benefits Kentucky has reaped make Johnson skeptical of privacy concerns arguing for an abbreviated Social Security number. Individuals are willing to submit their Social Security number for many lesser purposes, so why not voting? And in any event, they don't require a Social Security number to register (unlike others such as Georgia). Less than a percent of voters in Kentucky are registered under unique identifiers, which the Board of Elections then works to fill in the number through cross referencing with the DMV.

### Recommendations

Johnson believes the backbone of effective elections administration must be standardized procedures, strong record keeping, and detailed statutes. In Kentucky, all counties use the same database and the same pre election day forms. Rather than seeing that as oppressive, county officials report that the uniformity makes their jobs easier.

This philosophy extends to the provisional ballot question. While they did not have a standard in place like HAVA's at the time of enactment, they worked quickly to put a uniform standard in place.

They have also modified forms and procedures based on feedback from prosecutors. Johnson believes a key to enforcing voting laws is working with investigators and prosecutors and ensuring that they have the information they need to mount cases.

She also believes public education is important, and that the media could do more to provide information about what is legal and what is illegal. Kentucky tries to fulfill this role by information in polling places, press releases, and high profile press conferences before elections. She notes that they deliberately use language focusing on fraud *and* intimidation.

Johnson is somewhat pessimistic about reducing absentee ballot fraud. Absentee ballots do have a useful function for the military and others who cannot get to the polling place, and motivated

individuals will always find a way to abuse the system if possible. At a minimum, however, she recommends that absentee ballots should require an excuse. She believes this has helped reduce abuse in Kentucky, and is wary of no-excuse practices in other states.

**Interview with Bill Groth, Attorney for the Plaintiffs in Indiana Identification Litigation**

February 22, 2006

Fraud in Indiana

Indiana has never charged or prosecuted anyone for polling place fraud. Nor has any empirical evidence of *voter impersonation* fraud or dead voter fraud been presented. In addition, there is no record of any credible complaint about *voter impersonation* fraud in Indiana. State legislators signed an affidavit that said there had never been impostor voting in Indiana. At the same time, the Indiana Supreme Court has not necessarily required evidence of voter fraud before *approving* legislative attempts to address fraud.

The state attorney general has conceded that there is no concrete fraud in Indiana, but has instead referred to instances of fraud in other states. Groth filed a detailed motion to strike evidence such as John Fund's book relating to other states, arguing that none of that evidence was presented to the legislature and that it should have been in the form of sworn affidavits, so that it would have some indicia of verifiability.

Photo ID law

By imposing restrictive ID measures, Groth contends you will discourage 1,000 times more legitimate voters than illegitimate voters you might protect against. He feels the implementation of a REAL ID requirement is an inadequate justification for the law, as it will not affect the upcoming 2006 election where thousands of registered voters will be left without proper ID. In addition, he questions whether REAL ID will be implemented as planned in 2008 considering the backlash against the law so far. He also feels ID laws are unconstitutional because of inconsistent application.

Statewide database as remedy

Groth believes many problems will be addressed by the statewide database required under HAVA. To the extent that the rolls in Indiana are bloated, it is because state officials have not complied with NVRA list maintenance requirements. Thus, it is somewhat disingenuous for them to use bloated voter rolls as a reason for imposing additional measures such as the photo ID law. Furthermore, the state has ceded to the counties the obligation to do maintenance programs, which results in a hit or miss process (see discussion in reply brief, p 26 through p. 28).

Absentee fraud

To the extent that there has been an incidence of fraud, these have all been confined to absentee balloting. Most notably the East Chicago mayoral election case where courts found absentee voting fraud had occurred. See: *Pabey vs. Pastrick* 816 NE 2<sup>nd</sup> 1138 Decision by the Indiana Supreme Court in 2004.

### Intimidation and vote suppression

Groth is only aware of anecdotal evidence supporting intimidation and suppression activities. While he considers the sources of this evidence credible, it is still decidedly anecdotal. Instances he is aware of include police cars parked in front of African American polling places. However, most incidents of suppression which are discussed occurred well in the past. Trevor Davidson claims a fairly large scale intimidation program in Louisville.

### Challengers

There was widespread information that the state Republican Party had planned a large scale challenger operation in Democratic precincts for 2004, but abandoned the plan at the last minute.

Last year the legislature made a crucial change to election laws which will allow partisan challengers to be physically inside the polling area next to members of the precinct board. Previously, challengers at the polling place have been restricted to the 'chute,' which provides a buffer zone between voting and people engaging in political activity. That change will make it much easier to challenge voters. As there is no recorded legislative history in Indiana, it is difficult to determine the justification behind this change. As both chambers and the governorship are under single-party control, the challenger statute was passed under the radar screen.

### Photo ID and Challengers

Observers are especially concerned about how this change will work in conjunction with the photo ID provision. Under the law, there are at least two reasons why a member of the precinct board or a challenger can raise object to an ID: whether a presented ID conforms to ID standards, and whether the photo on an ID is actually a picture of the voter presenting it. The law does not require bipartisan agreement that a challenge is valid. All it takes is one challenge to raise a challenge to that voter, and that will lead to the voter voting by provisional ballot.

Provisional ballot voting means that voter must make a second trip to the election board (located at the county seat) within 13 days to produce the conforming ID or to swear out an affidavit that they are who they claim to be. This may pose a considerable burden to voters. For example, Indianapolis and Marion County are coterminous—anyone challenged under the law will be required to make second trip to seat of government in downtown Indianapolis. If the voter in question did not have a driver's license in the first place, they will likely need to arrange transportation. Furthermore, in most cases the election result will already be known.

The law is vague about acceptable cause for challenging a voter's ID. Some requirements for valid photo ID include being issued by state or fed gov't, w/ expiration date, and the names must conform exactly. The League of Women Voters is concerned about voters

with hyphenated names, as the Indiana DMV fails to put hyphens on driver's licenses potentially leading to a basis for challenge. Misspelling of names would also be a problem. The other primary mode of challenge is saying the photo doesn't look like the voter, which could be happen in a range of instances. Essentially, the law gives unbridled discretion to challengers to decide what conforms and what does not.

Furthermore, there is no way to determine whether a challenge is in good or bad faith, and *there is* little penalty for making a bad faith challenge. The fact that there are no checks on the challenges at the precinct level, or even a requirement of concurrence from an opposing party challenger leads to the concern that challenge process will be abused. The voter on the other hand, will need to get majority approval of county election board members to defeat the challenge.

Groth suggests the political situation in Indianapolis also presents a temptation to abuse this process, as electoral margins are growing increasingly close due to shifting political calculus.

#### Other cases

Groth's other election law work has included a redistricting dispute, a dispute over ballot format, NVRA issues, and a case related to improper list purging, but nothing else related to fraud or intimidation. The purging case involved the election board attempting to refine its voter list by sending registration postcards to everyone on the list. When postcards didn't come back they wanted to purge those voters. Groth blames this error more on incompetence, than malevolence, however, as the county board is bipartisan. (The Indiana Election Commission and the Indiana election division are both bipartisan, but the 92 county election boards which will be administering photo id are controlled by one political party or the other—they are always an odd number, with the partisan majority determined by who controls the clerk of circuit court office.)

#### Recommendations

Supports nonpartisan administration of elections. Indiana specific recommendations including a longer voting day, time off for workers to vote, and an extended registration period.

He views the central problem of the Indiana photo ID law is that the list of acceptable forms of ID is too narrow and provides no fallback to voters without ID. At the least, he believes the state needs to expand the list so that most people will have at least one. If not, they should be allowed to swear an affidavit regarding their identity, under penalty of perjury/felony prosecution. This would provide sufficient deterrence for anyone considering impersonation fraud. He believes absentee ballot fraud should be addressed by requiring those voters to produce ID as well, as under HAVA.

His personal preference would be signature comparison. Indiana has never encountered an instance of someone trying to forge a name in the poll book, and while this leaves

open the prospect of dead voters, that danger will be substantially diminished by the statewide database. But if we are going to have some form of ID, he believes we should apply it to everyone and avoid disenfranchisement, provided they swear an affidavit.



## **Interview with Neil Bradley, February 21, 2004**

### Voter Impersonation Cases (issue the Georgia ID litigation revolves around)

Mr. Bradley asserted that Georgia Secretary of State Cox stated in the case at issue: that she clearly would know if there had been any instances of voter impersonation at the polls; that she works very closely with the county and local officials and she would have heard about voter impersonation from them if she did not learn about it directly; and that she said that she had not heard of "any incident"---which includes acts that did not rise to the level of an official investigation or charges.

Mr. Bradley said that it is also possible to establish if someone has impersonated another voter at the polls. Officials must check off the type of voter identification the voter used. Voters without ID may vote by affidavit ballot. One could conduct a survey of those voters to see if they in fact voted or not.

The type of voter fraud that involves impersonating someone else is very unlikely to occur. If someone wants to steal an election, it is much more effective to do so using absentee ballots. In order to change an election outcome, one must steal many votes. Therefore, one would have to have lots of people involved in the enterprise, meaning there would be many people who know you committed a felony. It's simply not an efficient way to steal an election.

Mr. Bradley is not aware of any instance of voter impersonation anywhere in the country except in local races. He does not believe it occurs in statewide elections.

### Voter fraud and intimidation in Georgia

Georgia's process for preventing ineligible ex-felons from casting ballots has been improved since the Secretary of State now has the power to create the felon purge list. When this was the responsibility of the counties, there were many difficulties in purging felons because local officials did not want to have to call someone and ask if he or she was a criminal.

The State Board of Elections has a docket of irregularity complaints. The most common involve an ineligible person mailing in absentee ballots on behalf of another voter.

In general, Mr. Bradley does not think voter fraud and intimidation is a huge problem in Georgia and that people have confidence in the vote. The biggest problems are the new ID law; misinformation put out by elections officials; and advertisements that remind people that vote fraud is a felony, which are really meant to be intimidating. Most fraud that does occur involves an insider, and that's where you find the most prosecutions. Any large scale fraud involves someone who knows the system or is in the courthouse.

### Prosecution of Fraud and Intimidation

Mr. Bradley stated that fraud and intimidation are hard to prosecute. However, Mr. Bradley made contradictory statements. When asked whether the decision to prosecute on the county level was politically motivated, he first said "no." Later, Mr. Bradley reversed himself stating the opposite.

Mr. Bradley also stated that with respect to US Attorneys, the message to them from the top is that this is not a priority. The Georgia ACLU has turned over information about violations of the Voting Rights Act that were felonies, and the US Attorney has done nothing with the information. The Department of Justice has never been very aggressive in pursuing cases of vote suppression, intimidation and fraud. But, the Georgia ACLU has not contacted Craig Donsanto in DC with information of voter fraud.

Mr. Bradley believes that voter fraud and intimidation is difficult to prove. It is very hard to collect the necessary factual evidence to make a case, and doing so is very labor-intensive.

#### Recommendations

In Georgia, the Secretary of State puts a lot of work into training local officials and poll workers, and much of her budget is put into that work. Increased and improved training of poll workers, including training on how to respectfully treat voters, is the most important reform that could be made.

Mr. Bradley also suggested that increased election monitoring would be helpful.

**Interview with Douglas Webber, Assistant Attorney General, Indiana**

February 15, 2006

Background

Mr. Webber was an attorney for the Marion County Election Board and was also part of the Indianapolis Ballot Security Team (sometimes called the Goon Squad). This Team was a group of attorneys well trained in election law whose mission was to enforce ballot security.

Litigation

Status of litigation in Indiana: On January 12 the briefing was completed. The parties are waiting for a decision from the U.S. district judge. The judge understood that one of the parties would seek a stay from the 7<sup>th</sup> Circuit Court of Appeals. The parties anticipate a decision in late March or early April. Mr. Webber did the discovery and depositions for the litigation. Mr. Webber feared the plaintiffs were going to state in their reply brief that HAVA's statewide database requirement would resolve the problems alleged by the state. However, the plaintiffs failed to do so, relying on a Motor Voter Act argument instead. Mr. Webber believes that the voter ID at issue will make the system much more user-friendly for the poll workers. The Legislature passed the ID legislation, and the state is defending it, on the basis of the problem of the *perception* of fraud.

Incidents of fraud and intimidation

Mr. Webber thinks that no one can put his or her thumb on whether there has been voter fraud in Indiana. For instance, if someone votes in place of another, no one knows about it. There have been no prosecuted cases of polling place fraud in Indiana. There is no recorded history of documented cases, but it does happen. In the litigation, he used articles from around the country about instances of voter fraud, but even in those examples there were ultimately no prosecutions, for example the case of Milwaukee. He also stated in the litigation that there are all kinds of examples of dead people voting--totaling in the hundreds of thousands of votes across the country.

One interesting example of actual fraud in Indiana occurred when a poll worker, in a poll using punch cards, glued the chads back and then punched out other chads for his candidate. But this would not be something that would be addressed by an ID requirement.

He also believes that the perception that the polls are loose can be addressed by the legislature. The legislature does not need to wait to see if the statewide database solve the problems and therefore affect the determination of whether an ID requirement is necessary. When he took the deposition of the Republican Co-Director, he said he thought Indiana was getting ahead of the curve. That is, there have been problems around the country, and confidence in elections is low. Therefore Indiana is now in front of getting that confidence back.

Mr. Webber stated that the largest vote problem in Indiana is absentee ballots. Absentee ballot fraud and vote buying are the most documented cases. It used to be the law that applications for absentee ballots could be sent anywhere. In one case absentee votes were exchanged for "a job on election day"---meaning one vote for a certain price. The election was contested and the trial judge found that although there was vote fraud, the incidents of such were less than the margin of victory and so he refused to overturn the election. Mr. Webber appealed the case for the state and argued the judge used the wrong statute. The Indiana Supreme Court agreed and reversed. Several people were prosecuted as a result – those cases are still pending.

#### Process

In Indiana, voter complaints first come to the attorney for the county election board who can recommend that a hearing be held. If criminal activity was found, the case could be referred to the county prosecutor or in certain instances to the Indiana Attorney General's Office. In practice, the Attorney General almost never handles such cases.

Mr. Webber has had experience training county of election boards in preserving the integrity and security of the polling place from political or party officials. Mr. Webber stated that the Indiana voter rolls need to be culled. He also stated that in Southern Indiana a large problem was vote buying while in Northern Indiana a large problem was based on government workers feeling compelled to vote for the party that gave them their jobs.

#### Recommendations

- Mr. Webber believes that all election fraud and intimidation complaints should be referred to the Attorney General's Office to circumvent the problem of local political prosecutions. The Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes. At the local level, everyone knows each other, making it harder prosecute.
- Indiana currently votes 6 am to 6 pm on a weekday. Government workers and retirees are the only people who are available to work the polls. Mr. Webber suggested that the biggest change should be to move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- Early voting at the clerk's office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk's office. This should be expanded to other polling places in addition to that of the county clerk.
- Finally, Mr. Webber believes polling places should be open longer, run more professionally but that there needs to be fewer of them so that they are staffed by only the best, most professional people.

## **Interview with Wade Henderson, Executive Director, Leadership Conference for Civil Rights**

February 14, 2006

### Data Collection

Mr. Henderson had several recommendations as to how to better gather additional information and data on election fraud and intimidation in recent years. He suggested interviewing the following individuals who have been actively involved in Election Protection and other similar efforts:

- Jon Greenbaum, Lawyers Committee for Civil Rights
- Tanya Clay, People for the American Way
- Melanie, Campbell, National Coalition for Black Political Participation
- Larry Gonzalez, National Association of Latino Election Officers
- Jacqueline Johnson, National Congress of American Indians
- Chellie Pingree, Common Cause
- Jim Dickson, disability rights advocate
- Mary Berry, former Chair of the US Commission on Civil Rights, currently at the University of Pennsylvania
- Judith Browne and Eddie Hailes, Advancement Project (former counsel to the US Commission on Civil Rights)
- Robert Rubin, Lawyers Committee for Civil Rights – San Francisco Office
- Former Senator Tom Daschle (currently a fellow at The Center for American Progress)

He also recommended we review the following documents and reports:

- The 2004 litigation brought by the Advancement Project and SEIU under the 1981 New Jersey Consent Decree
- Forthcoming LCCR state-by-state report on violations of the Voting Rights Act
- Forthcoming Lawyers Committee report on violations of the Voting Rights Act (February 21)

### Types of Fraud and Intimidation Occurring

Mr. Henderson said he believed that the kinds of voter intimidation and suppression tactics employed over the last five years are ones that have evolved over many years. They are sometimes racially based, sometimes based on partisan motives. He believes the following types of activity have actually occurred, and are not just a matter of anecdote and innuendo, and rise to the level of either voter intimidation or vote suppression:

- Flyers with intentional misinformation, such as ones claiming that if you do not have identification, you cannot vote, and providing false dates for the election
- Observers with cameras, which people associate with potential political retribution or even violence

- Intimidating police presence at the polls
- Especially in jurisdictions that authorize challenges, the use of challenge lists and challengers goes beyond partisanship to racial suppression and intimidation
- Unequal deployment of voting equipment, such as occurred in Ohio. Also, he has seen situations in which historically Black colleges will have one voting machine while other schools will have more.

Mr. Henderson believes that these matters are not pursued formally because often they involve activities that current law does not reach. For example, there is no law prohibiting a Secretary of State from being the head of a political campaign, and then deploying voting machines in an uneven manner. There is no way to pursue that. Also, once the election is over, civil litigation becomes moot. Finally, sometimes upon reflection after the campaign, some of the activities are not as sinister as believed at the time.

Mr. Henderson believes government does not engage in a sustained investigation of these matters or pursue any kind of resolution to them. LCCR has filed a FOIA request with both the Civil Rights Division and the Criminal Division of the Department of Justice to examine this issue.

Election Protection activities will be intensified for the 2006 elections, although the focus may shift somewhat given the implementation of new HAVA requirements.

#### Recommendations for Reform

There was tremendous concern after the 2004 election about conflicts of interest – the “Blackwell problem” – whereby a campaign chair is also in charge of the voting system. We need to get away from that.

He also supports Senator Barak Obama’s bill regarding deceptive practices, and is opposed to the voter identification laws passing many state legislatures.

- States should adopt election-day registration, in order to boost turnout as well as to allow eligible voters to immediately rectify erroneous or improperly purged registration records
- Expansion of early voting & no-excuse absentee voting, to boost turnout and reduce the strain on election-day resources.
- Provisional ballot reforms:
  - Should be counted statewide – if cast in the wrong polling place, votes should still be counted in races for which the voter was eligible to vote (governor, etc.)
  - Provisional ballots should also function as voter registration applications, to increase the likelihood that voters will be properly registered in future elections
- Voter ID requirements: states should allow voters to use signature attestation to establish their identity

- The Department of Justice should increase enforcement of Americans with Disabilities Act and the accessibility requirements of the Help America Vote Act
- Statewide registration databases should be linked to social service agency databases
- Prohibit chief state election officials from simultaneously participating in partisan electoral campaigns within their states
- Create and enforce strong penalties for deceptive or misleading voting practices

## **Interview with Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center**

### Brennan Center findings on fraud

The Brennan Center's primary work on fraud is their report for the Carter Baker Commission with commissioner Spencer Overton, written in response to the Commission's ID recommendations. Brennan reviewed all existing reports and election contests related to voter fraud. They believe the contests serve as an especially good record of whether or not fraud exists, as the parties involved in contested elections have a large incentive to root out fraudulent voters. Yet despite this, the incidence of voter impersonation fraud discovered is extremely low—something on the order 1/10000<sup>th</sup> of a percentage of voters. See also the brief Brennan filed on 11<sup>th</sup> circuit in Georgia photo ID case which cites sources in Carter Baker report and argues the incidence of voter fraud too low to justify countermeasures.

Among types of fraud, they found impersonation, or polling place fraud, is probably the least frequent type, although other types, such as absentee ballot fraud are also very infrequent. Weiser believes this is because impersonation fraud is more likely to be caught and is therefore not worth the risk. Unlike in an absentee situation, actual poll workers are present to disrupt impersonation fraud, for instance, by catching the same individual voting twice. She believes perhaps one half to one quarter of the time the person will be caught. Also, there is a chance the pollworker will have personal knowledge of the person. Georgia Secretary of State Cathy Cox has mentioned that there are many opportunities for discovery of in person fraud as well. For example, if one votes in the name of another voter, and that voter shows up at the polls, the fraud will be discovered.

Weiser believes court proceedings in election contests are especially useful. Some are very extensive, with hundreds of voters brought up by each side and litigated. In both pre-election challenges and post-election contests, parties have devoted extraordinary resources into 'smoking out' fraudulent voters. Justin Leavitt at Brennan scoured such proceedings for the Carter Baker report, which includes these citations. Contact him for answers to particular questions.

### Countermeasures/statewide databases

Brennan has also considered what states are doing to combat impersonation fraud besides photo ID laws, although again, it seems to be the rarest kind of fraud, beyond statistically insignificant. In the brief Brennan filed in the Georgia case, the Center detailed what states are already doing to effectively address fraud. In another on the web site includes measures that can be taken that no states have adopted yet. Weiser adds that an effort to look at strategies states have to prevent fraud, state variations, effectiveness, ease of enforcement would be very useful.

Weiser believes the best defense against fraud will be better voter lists—she argues the fraud debate is actually premature because states have yet to fully implement the HAVA database requirement. This should eliminate a great deal of 'deadwood' on voter rolls and undermine the



common argument that fraud is made possible by this deadwood. This was the experience for Michigan, which was able to remove 600,000 names initially, and later removed almost 1 million names from their rolls. It is fairly easy to cull deadwood from lists due to consolidation at the state level—most deadwood is due to individuals moving within the state and poor communication between jurisdictions. (Also discuss with Chris Thomas, who masterminded the Michigan database for more information and a historical perspective.)

Regarding the question of whether the effect of this maintenance on fraud in Michigan can be quantified, Weiser would caution against drawing direct lines between list problems and fraud. Brennan has found various groups abusing the existence of list deadwood to make claims about fraudulent voting. This is analyzed in greater detail in the Brennan Center's critique of a purge list produced by the NJ Republican party, and was illustrated by the purge list produced by the state of Florida. When compiling such lists and doing comparisons, sound statistical methods must be utilized, and often are not.

The NJ GOP created a list and asked NJ election officials to purge names of ineligible voters on it. Their list assumed that people appearing on the list twice had voted twice. Brennan found their assumptions shoddy and based on incorrect statistical practices, such as treating individuals with the same name and birthdays as duplicates, although this is highly unlikely according to proper statistical methods. Simply running algorithms on voter lists creates a number of false positives, does not provide an accurate basis for purging, and should not be taken as an indicator of fraud.

Regarding the Florida purge list, faulty assumptions caused the list to systematically exclude Hispanics while overestimating African Americans. Matching protocols required that race fields match exactly, despite inconsistent fields across databases.

The kinds of list comparisons that are frequently done to allege fraud are unreliable. Moreover, even if someone is on a voter list twice, that does not mean that voter has voted twice. That, in fact, is almost never the case.

Ultimately, even matching protocols without faulty assumptions will have a 4 percent to 35 percent error rate—that's simply the nature of database work. Private industry has been working on improving this for years. Now that HAVA has introduced a matching requirement, even greater skepticism is called for in judging the accuracy of list maintenance.

### Intimidation and Suppression

Brennan does not have a specific focus here, although they do come across it and have provided assistance on bills to prevent suppression and intimidation. They happen to have an extensive paper file of intimidating fliers and related stories from before the 2004 election. (They can supply copies after this week).

### Challengers

Brennan has analyzed cases where challenger laws have been beneficial and where they have been abused. See the decision and record from the 1982 NJ vs. RNC case for some of the history of these laws. Brennan is currently working on developing a model challenger law.

Weiser believes challenge laws with no requirement that the challenger have any specific basis for the challenge or showing of ineligibility are an invitation to blanket harassing challenges and have a range of pitfalls. State laws are vague and broad and often involve arcane processes such as where voters are required to meet a challenge within 5 days. There are incentives for political abuse, potential for delaying votes and disrupting the polls, and they are not necessarily directed toward the best result. Furthermore, when a voter receives a mailer alleging vote fraud with no basis, even the mere fact of a challenge can be chilling. A voter does not want to have to go through a quasi-court proceeding in order to vote.

Brennan recommends challenge processes that get results before election, minimize the burden for voters, and are restricted at polling place to challenges by poll workers and election officials, not voters. They believe limitless challenges can lead to pandemonium—that once the floodgates are open they won't stop.

### Recommendations

Intimidation— Weiser believes Sen. Barak Obama's bill is a good one for combating voter harassment and deceptive practices. Many jurisdictions do not currently have laws prohibiting voter harassment and deceptive practices.

Fraud— Current state and federal codes seem sufficient for prosecuting fraud. Weiser doesn't consider them under-enforced, and sees no need for additional laws.

Voter lists— New legislation or regulations are needed to provide clear guidance and standards for generating voter lists and purging voters, otherwise states could wrongfully disenfranchise eligible voters.

Challengers—Challenge laws need to be reformed, especially ones that allow for pre-election mass challenges with no real basis. There is no one size fits all model for challenger legislation, but some bad models involving hurdles for voters lead to abuse and should be reformed. There should be room for poll workers to challenge fraudulent voters, but not for abuse.

Also useful would be recommendations for prosecutors investigating fraudulent activity, How should they approach these cases? How should they approach cases of large scale fraud/intimidation? While there is sufficient legislative cover to get at any election fraud activity, questions remain about what proper approaches and enforcement strategies should be.



**April 16, 2007**

**MEMORANDUM**

**To:** EAC Inspector General Curtis Crider  
**Fr:** EAC Chair Donetta Davidson  
**Cc:** Commissioners Rodriguez, Hillman and Hunter, Tom Wilkey, and Julie Hodgkins  
**RE:** EAC requests review of contracting procedures

On Friday, April 13, each of my three colleagues – Rosemary Rodriguez, Gracia Hillman, and Caroline Hunter -- agreed with my recommendation that we issue the following formal request to the Commission’s Office of Inspector General to review the circumstances surrounding two recent EAC research projects – vote fraud and voter intimidation and voter identification.

**Background**

The U.S. Election Assistance Commission (EAC) is an independent, bipartisan Commission created by the Help America Vote Act (HAVA) of 2002.

EAC develops guidance to meet HAVA requirements, adopts voluntary voting system guidelines, accredits voting system test laboratories, certifies voting systems and audits the use of HAVA funds. HAVA also directs EAC to maintain the national mail voter registration form developed in accordance with the National Voter Registration Act (NVRA) of 1993.

The Commission serves as a national clearinghouse and resource of information regarding election administration. It is under the Commission’s clearinghouse role that research projects are conducted with the goal of providing information that will lead to improvements in election administration, as well as inform the public about how, where and when we vote.

The voter identification research was conducted by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics (“Contractor”). The contract, awarded in May 2005, required the Contractor to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches. Last month, the commission voted

unanimously not to adopt the report, citing concerns with its methodology, but voted to release all of the data provided by the Contractor.

The vote fraud and voter intimidation research was conducted by Tova Wang and Job Serebrov ("Consultants"). The contracts, awarded in September 2005, issued to these Consultants tasked them with defining the terms vote fraud and voter intimidation and providing recommendations how to conduct extensive research in the future on these topics. The contract stated that the Consultants were responsible for "creating a report summarizing the findings of this preliminary research effort and Working Group deliberations. This report should include any recommendations for future EAC research resulting from this effort."

### **Review Request**

The actions taken by the Commission regarding both the voter identification and the vote fraud and voter intimidation research projects have been challenged. Specifically, Members of Congress, the media, and the public have suggested that political motivations may have been part of the Commission's decision making process regarding these two projects. Also, the Commission has been criticized for the amount of taxpayer dollars that were spent on these two projects, as well as how efficiently these projects were managed.

The Commission takes these allegations very seriously, and we request that you fully review the following issues and provide the Commission and the Congress with a report of your findings as soon as possible. The Commission stands ready to assist you in these efforts and will provide whatever information, including memos, emails and other documents you will need. Cooperating with your review will be the staff's top priority.

1. Current Commission policy regarding awarding and managing research contracts.
2. Issuance and management of the vote fraud and voter intimidation contract.
3. Circumstances surrounding the receipt of information from Consultants regarding the vote fraud and voter intimidation project.
4. Circumstances surrounding staff efforts to write a final report for Commission consideration.
5. Identification of staff members who assisted in the editing and collaboration of the final vote fraud and voter intimidation report for Commission consideration.
6. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the vote fraud and voter intimidation project.
7. Circumstances surrounding Commission discussion and deliberation of final adoption of *Election Crimes: An Initial Review and Recommendation for Further Study*.
8. Issuance and management of the voter identification contract.
9. Circumstances surrounding the receipt of information from Contractor regarding the voter identification report.
10. Identification of staff members who assisted in the editing, collaboration, and recommendation to the Commission regarding final adoption of the voter identification report.

11. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the voter identification project.
12. Circumstances surrounding Commission deliberation whether to adopt a final voter identification report.

For your information, I have attached statements and related correspondence from Members of Congress, and a statement issued by the Commission regarding the criticism.

It is our hope that your findings will instruct us how to move forward in a more efficient, effective and transparent manner. The Commission takes its mandates under HAVA very seriously, and this small Commission has an enormous amount of work to conduct, including testing and certifying voting equipment, providing guidance and assistance to election officials, and auditing the proper use of the \$3.1 billion that was distributed under HAVA.

We look forward to your findings so that we may take the actions necessary to improve the way we conceive research projects, manage research contracts, and make decisions regarding the final release of data provided to the Commission from a third party.

**United States Senate**  
WASHINGTON, DC 20510

April 12, 2007

The Honorable Donetta Davidson  
Chairman  
U.S. Election Assistance Commission  
1225 New York Avenue, N.W.  
Suite 1100  
Washington, DC 20005

Dear Commissioner Davidson:

We are writing to seek a response to very troubling news reports that included allegations that the Commission may have altered or delayed release of two taxpayer-funded studies of election issues for political purposes.

While the Commission is within its rights to decide what guidance it issues to election officials, it is critical that its actions are not perceived as politically motivated and it is imperative that you provide full documentation about the Commission's proceedings on these matters.

On Wednesday, the *New York Times* reported that a bipartisan team of election law experts hired by the Commission to research voter fraud in federal elections found that there was little such fraud around the nation, but the Commission revised the report to say that the pervasiveness of voter fraud was still open to debate.

On Monday, *Roll Call* reported that the Commission two weeks ago rejected the findings of a report, prepared as part of a \$560,000 contract with Rutgers University's Eagleton Institute and Ohio State University's Moritz College of Law. That report found that voter identification laws may reduce election turnout, especially by minorities.

010868

Commissioner Davidson

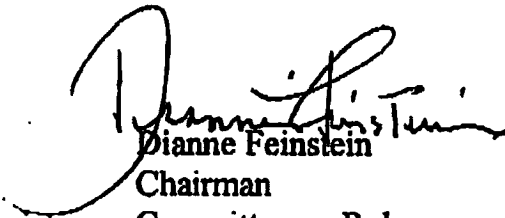
- 2 -

April 12, 2007


It is imperative that the Commission's actions and deliberations are unbiased, free from political influence and transparent. While the Commission does not have to agree with the experts who perform its research, it should make the research available unfettered and unfiltered.

Attached are a series of questions, we would like the Commission to address. We look forward to your timely response.

Sincerely,



Dianne Feinstein  
Chairman  
Committee on Rules  
and Administration



Richard J. Durbin  
Chairman  
Subcommittee on Financial  
Services and General  
Government  
Committee on Appropriations

We request information and documentation from the Commission that answer the following questions:

**COMMISSION'S OVERSIGHT ON EAGLETON CONTRACT TO PERFORM A STUDY ON VOTER IDENTIFICATION**

1. Did the Commissioners or Commission senior staff receive any outside communication or pressure to change or not release the entire draft report or portions of the draft language on the voter fraud report? If so, who made those requests?
2. Would you please provide a copy of the approved Request For Proposals, as well as any contract modifications that were agreed to between the Commission and Eagleton Institute and subcontractors?
3. Can you provide the names and qualifications of Election Assistance Commission staff that worked on the Eagleton Institute project?
4. Please indicate how many project meetings occurred during the term of the Eagleton contract, including in-person meetings, conference calls regarding the status of the report, and any meeting where Commissioners were present for at least part of the meeting. Please provide copies of any minutes from those meetings.
5. Please identify the names and affiliations of members of the Peer Review group or groups that examined the Eagleton Institute drafts. Please also indicate the dates upon which any such review of the Eagleton research was conducted, and the specific concerns or complaints that were raised by members of the Peer Review group as to either the analysis or statistical methodology, if any. Please provide copies of any minutes from those meetings.
6. If certain members of the Peer Review groups had concerns with the data or methodology of the Eagleton study, was that information communicated to Eagleton, and were any changes made to the study based on Peer Review group concerns with methodology or data?
7. Who were the individuals (and what were their academic qualifications) that advised the Commission that the data, methodology, or the results of the Eagleton Contract were so flawed that the Commission should reject the report? At what point did the Commission receive input from those individuals?



8. The Commission previewed its research on the Eagleton Institute's study on Provisional Voting at its May 2006 Advisory Board meetings—why was the Voter Identification Draft Study not discussed at that time? What is the status of the Provisional Voting report?
9. In rejecting the Eagleton report, the Commission indicated concerns that there was only one year's worth of data. Given that this was the first year that Commission had studied the results, isn't "one year" what was originally contemplated in the Eagleton contract? Isn't the reason for having a major research institute conduct this study is so they can draw initial assessments from that data—even though that data can be augmented in future years? Because of the rejected report, will the Commission start anew for research in the 2008 elections?
10. What was the final, total cost of the Eagleton contract, and what was produced or released by that Commission as a result of that contract?

#### **COMMISSION'S OVERSIGHT OVER VOTER FRAUD/INTIMIDATION STUDY**

1. Did the Commissioners or Commission senior staff receive any outside communication or pressure to change or not release the entire draft report or portions of the draft language on the voter fraud report? If so, who made those requests?
2. Given the bipartisan nature of the Working Group that guided the Voter Fraud/Intimidation report, and the bipartisan nature of the contracted experts who uniformly support the results of this report, what concerns lead the Commission to determine the report should not be released?
3. If there were points in the report that the Commission objected to, were there attempts to work with the contractors to deal with specific concerns? If there were such attempts, please describe them.

4. Who drafted the Commission summary (released in December, 2006) of the Voter Fraud/Intimidation report, and what were their credentials and involvement in the original research process? Were there instructions or guidance given from Commissioners or senior staff as to what portions of the research should be emphasized? Who at the Commission reviewed the summarized report? Since the contracted experts are referred to in the Commission's released report, were the contractors allowed a chance to review or edit that Commission's final report that was released in December, 2006?
5. Please provide copies of any electronic or written communications between Commission employees that relate to the editing of the Voter Fraud/Intimidation report.
6. Please explain what Mr. Job Serebrov was referring to in his email referenced in the *New York Times* article of April 11, 2007. Please provide any documents in the Commission's possession where employees or contracted experts discussed pressure, political sensitivities, or the failure of the Commission to adopt the Voter Fraud/Intimidation report from March 1, 2006 to present.
7. While we realize that the Commission voted to release its summary report in December 2006, was there a public vote taken to reject the Draft Voter Fraud/Intimidation report? Such a monumental decision to reject the contract experts' work is a policy decision, and one that should be done in public. When was the decision made to reject the original report, and what notice was provided to the public that the Commission would reject that report?
8. Prior to the Draft Voter Fraud/Intimidation report's release, had other organizations requested a copy of that original report? Please include copies of your responses to those organizations, if any.
9. Had any States requested that the Commission or staff provide guidance related to voter identification requirements in the Help America Vote Act, or identification requirements generally? Please provide those requests, and any responses from the Commission.
10. Please indicate what steps the Commission is taking to ensure that political considerations do not impact the agency's research and that decisions are handled in a public and transparent manner.

turning out to be accurate according to investigations by the newspapers themselves, elections officials and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking of voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person taking criminal advantage of that. In total, the San Francisco Chronicle found 5 such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### *Vote Buying*

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations in three particular jurisdictions as detailed in the vote buying summary. There were more official investigations, indictments and convictions/pleas in this area. All of these cases are concentrated in the Midwest and South.

### *Deceptive Practices*

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction

of voter registration forms. There were no reports of prosecutions or any other legal proceeding.

#### *Non-citizen Voting*

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case charges were filed against ten individuals. In one case a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this nexis search, remained just allegations of noncitizen voting.

#### *Felon Voting*

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem has the large number of ineligible felons that remained on the voting list.

#### *Election Official Fraud*

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.



**April 16, 2007**

**MEMORANDUM**

**To:** EAC Inspector General Curtis Crider  
**Fr:** EAC Chair Donetta Davidson  
**Cc:** Commissioners Rodriguez, Hillman and Hunter, Tom Wilkey, and Julie Hodgkins  
**RE:** EAC requests review of contracting procedures

On Friday, April 13, each of my three colleagues – Rosemary Rodriguez, Gracia Hillman, and Caroline Hunter -- agreed with my recommendation that we issue the following formal request to the Commission’s Office of Inspector General to review the circumstances surrounding two recent EAC research projects – vote fraud and voter intimidation and voter identification.

**Background**

The U.S. Election Assistance Commission (EAC) is an independent, bipartisan Commission created by the Help America Vote Act (HAVA) of 2002.

EAC develops guidance to meet HAVA requirements, adopts voluntary voting system guidelines, accredits voting system test laboratories, certifies voting systems and audits the use of HAVA funds. HAVA also directs EAC to maintain the national mail voter registration form developed in accordance with the National Voter Registration Act (NVRA) of 1993.

The Commission serves as a national clearinghouse and resource of information regarding election administration. It is under the Commission’s clearinghouse role that research projects are conducted with the goal of providing information that will lead to improvements in election administration, as well as inform the public about how, where and when we vote.

The voter identification research was conducted by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics (“Contractor”). The contract, awarded in May 2005, required the Contractor to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches. Last month, the commission voted

unanimously not to adopt the report, citing concerns with its methodology, but voted to release all of the data provided by the Contractor.

The vote fraud and voter intimidation research was conducted by Tova Wang and Job Serebrov ("Consultants"). The contracts, awarded in September 2005, issued to these Consultants tasked them with defining the terms vote fraud and voter intimidation and providing recommendations how to conduct extensive research in the future on these topics. The contract stated that the Consultants were responsible for "creating a report summarizing the findings of this preliminary research effort and Working Group deliberations. This report should include any recommendations for future EAC research resulting from this effort."

### **Review Request**

The actions taken by the Commission regarding both the voter identification and the vote fraud and voter intimidation research projects have been challenged. Specifically, Members of Congress, the media, and the public have suggested that political motivations may have been part of the Commission's decision making process regarding these two projects. Also, the Commission has been criticized for the amount of taxpayer dollars that were spent on these two projects, as well as how efficiently these projects were managed.

The Commission takes these allegations very seriously, and we request that you fully review the following issues and provide the Commission and the Congress with a report of your findings as soon as possible. The Commission stands ready to assist you in these efforts and will provide whatever information, including memos, emails and other documents you will need. Cooperating with your review will be the staff's top priority.

1. Current Commission policy regarding awarding and managing research contracts.
2. Issuance and management of the vote fraud and voter intimidation contract.
3. Circumstances surrounding the receipt of information from Consultants regarding the vote fraud and voter intimidation project.
4. Circumstances surrounding staff efforts to write a final report for Commission consideration.
5. Identification of staff members who assisted in the editing and collaboration of the final vote fraud and voter intimidation report for Commission consideration.
6. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the vote fraud and voter intimidation project.
7. Circumstances surrounding Commission discussion and deliberation of final adoption of *Election Crimes: An Initial Review and Recommendation for Further Study*.
8. Issuance and management of the voter identification contract.
9. Circumstances surrounding the receipt of information from Contractor regarding the voter identification report.
10. Identification of staff members who assisted in the editing, collaboration, and recommendation to the Commission regarding final adoption of the voter identification report.

11. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the voter identification project.
12. Circumstances surrounding Commission deliberation whether to adopt a final voter identification report.

For your information, I have attached statements and related correspondence from Members of Congress, and a statement issued by the Commission regarding the criticism.

It is our hope that your findings will instruct us how to move forward in a more efficient, effective and transparent manner. The Commission takes its mandates under HAVA very seriously, and this small Commission has an enormous amount of work to conduct, including testing and certifying voting equipment, providing guidance and assistance to election officials, and auditing the proper use of the \$3.1 billion that was distributed under HAVA.

We look forward to your findings so that we may take the actions necessary to improve the way we conceive research projects, manage research contracts, and make decisions regarding the final release of data provided to the Commission from a third party.

## Interview List

### **Academics**

Mike Alvarez  
Steve Ansolobohere  
Lorri Minnite  
Chandler Davidson

### **Judges**

Justice Tom Glaze, Supreme Court of Arkansas  
Justice Charles Talley Wells, Supreme Court of Florida  
Justice Evelyn Lundberg Stratton, Supreme Court of Ohio  
Justice Pamela B. Minzner, Supreme Court of New Mexico

### **Election Administrators**

Harry VanSickle, Commissioner of Elections, Pennsylvania  
Mike McCarthy, Supervisor of Elections, Minnesota  
John Ravitz, Board of Elections, New York City  
Kevin Kennedy, Director of Elections, Wisconsin  
Connie McCormick, Los Angeles County Registrar  
Trey Grayson, Kentucky Secretary of State  
Rebecca Vigil-Giron, New Mexico Secretary of State

### **Advocates**

Wade Henderson, Executive Director, Leadership Conference on Civil Rights  
Donna Brazile, Chair, Democratic National Committee's Voting Rights Institute  
Nina Perales, Regional Counsel, Mexican American Legal Defense and Educational Fund  
James A. Baker III (DC), Baker-Carter Commission  
Sharon Priest (AR), former Secretary of State of Arkansas, Baker-Carter Commission  
Robin DeJarnette, Executive Director, American Center for Voting Rights

### **Election Lawyers**

Laughlin McDonald, ACLU Voting Rights Project  
Wendy Weiser, Brennan Center  
Joseph Sandler, Sandler, Reif & Young  
Joseph Rich, former head of the Voting Section, DOJ



James Bopp, Bopp, Coleson & Bostrom  
Pat Rogers, Modrall, Sperling, Roehl, Harris and Sisk, P.A.  
Colleen McAndrews, Bell, McAndrews, Hiltachk, & Davidson  
Charles Bell Jr., Bell, McAndrews, Hiltachk, & Davidson

**Attorneys involved in the Georgia, Indiana, and Arizona Litigation**

**Georgia**

Thurbert Baker, Georgia Attorney General (Defendants)  
Laughlin McDonald and Danny Levitas, ACLU of Georgia (Plaintiffs)

**Indiana**

Bill Groth, Fillenwarth, Dennerline, Groth & Towe (Plaintiffs)

Thomas M. Fisher, Esq. and Douglas J. Webber, Esq. Indiana Attorney General's Office  
(Defendants)

**Arizona**

Steve Reyes and Nina Perales, MALDEF (Plaintiffs)  
Mary O'Grady, Arizona Assistant Attorney General

SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

**Voter Suppression & Intimidation:**

- Voter suppression efforts are sometimes racially based, and sometimes based on partisan considerations
- Hard to know how much vote suppression and intimidation is taking place because it depends on one's definition of the terms – they are used very loosely by some people. Many instances of what some people refer to as voter intimidation are more unclear now (e.g.; photographing voters at the polls has been called intimidating, but now everyone is at the polls with a camera). It is hard to know when something is intimidation and it is difficult to show that it was an act of intimidation
- The fact that both parties are engaging in these tactics now makes it more complicated. It makes it difficult to point the finger at any one side.
- Some advocates assert that, given the additional resources and latitude given to the DOJ enforcement of acts such as double voting and noncitizen voting, there should be an equal commitment to enforcement of acts of intimidation and suppression cases.
- Examples:
  - spreading of false information, such as phone calls, flyers, and radio ads that intentionally mislead as to voting procedures, such as claiming that if you do not have identification, you cannot vote, and providing false dates for the election
  - Observers with cameras, which people associate with potential political retribution or even violence
  - Intimidating police presence at the polls
  - open hostility by poll workers toward minorities (racial and language), or poll workers asking intimidating questions;
  - groups of officious-looking poll watchers at the poll sites who seem to be some sort of authority looking for wrongdoing;
  - challenges
    - There are cases where challenger laws have been beneficial and where they have been abused (Brennan is currently working on developing a model challenger law)
    - No way to determine whether a challenge is in good or bad faith, and there is little penalty for making a bad faith challenge. The fact that there are no checks on the challenges at the precinct level, or even a requirement of concurrence from an opposing party challenger leads to the concern that challenge process will be abused. The voter on the other hand, will need to get majority approval of county election board members to defeat the challenge.
    - Especially in jurisdictions that authorize challenges, the use of challenge lists and challengers goes beyond partisanship to racial suppression and intimidation
  - instances where civic groups and church groups intimidate members to vote in a specific manner, not for reward, but under threat of being ostracized or even telling them they will go to hell.(AR, KY)
  - moving poll sites
  - having Indians vote at polling places staffed by non-Indians often results in incidents of disrespect towards Native voters, judges aren't familiar with Indian last names and are more dismissive of solving discrepancies with native voters
  - intimidation at the poll sites in court houses. Many voters are afraid of the county judges or county employees and therefore will not vote. They justifiably believe their ballots will be opened by these employees to see who they voted for, and if they voted against the county people, retribution might ensue. (AR)

**Fraud in Voting:**

*NOTE: Many interviewees appear to have made claims regarding the quantity and type of voting fraud based on incomplete data, their personal experience, or their impressions (e.g.; voting fraud*

SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

*has been confined to absentee ballots; there is no in person assumption of others' voter identities to vote).*

- The most commonly cited example of voting fraud mentioned was absentee ballot fraud (e.g.; vote selling involving absentee ballots, the filling out of absentee ballots en masse, people at nursing homes filling out the ballots of residents, and union leaders getting members to vote a certain way by absentee ballot).
- Many assert that impersonation, or polling place fraud, is probably the least frequent type because:
  - impersonation fraud is more likely to be caught and is therefore not worth the risk
  - unlike in an absentee situation, actual poll workers are present to disrupt impersonation fraud, for instance, by catching the same individual voting twice
  - if one votes in the name of another voter, and that voter shows up at the polls, the fraud will be discovered
  - one half to one quarter of the time the person will be caught (there is a chance the pollworker will have personal knowledge of the person, Georgia Secretary of State Cathy Cox has mentioned that there are many opportunities for discovery of in person fraud as well).
  - deterrent is that it's a felony, and that one person voting twice is not an effective way to influence an election. One would need to get a lot of people involved for it to work
- Vote buying still occurs and, in some cases, it is hard to distinguish between intimidation and vote buying.
- Tampering with ballots in transit between poll and election office is a concern (AR)

**Voter Registration:**

- Some assert that registration fraud is the major issue (esp unsupervised voter registration drives by political parties and advocacy groups that pay workers to register voters)
- Some assert that various groups abuse the existence of list deadwood to make claims about fraudulent voting.
- Some assert that when compiling such lists and doing comparisons, which are used as the basis for challenges, sound statistical methods must be utilized, and often are not. Matching protocols without faulty assumptions will have a 4 percent to 35 percent error rate—that's simply the nature of database work. Private industry has been working on improving this for years.
- If someone is on a voter list twice, that does not mean that voter has voted twice.
- Many problems will be addressed by the statewide database required under HAVA

**Enforcement:**

- States vary in their authority to intervene in and track voter intimidation-voter suppression and voting fraud cases (e.g.; in AR, enforcement is the responsibility of counties, in IN it is responsibility of State AG).
- Voter fraud and intimidation is difficult to prove. It is very hard to collect the necessary factual evidence to make a case, and doing so is very labor-intensive
- Some believe that voter suppression matters are not pursued formally because often they involve activities that current law does not reach.
- Only two interviewees assert that current state and federal codes seem sufficient for prosecuting fraud, and are not under-enforced (no need for additional laws).
- Some advocacy groups assert that the government does not engage in a sustained investigation of voter suppression matters or pursue any kind of resolution to them. There is a perception that the Department of Justice has never been very aggressive in pursuing cases of vote suppression, intimidation and fraud, and that choices DOJ has made with respect to where they have brought claims do not seem to be based on any systematic analysis of where the biggest problems are.
- Some advocates point out that, once the election is over, civil litigation becomes moot.

SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

- The development of a pre-election challenge list targeted at minorities (some claim this has never been pursued, yet Mr. Tanner said the DOJ was able to informally intervene in challenger situations in Florida, Atkinson County, Georgia and in Alabama), long lines due to unequal distribution of voting machines based on race, list purges based on race, unequal application of voter ID rules, and refusal to offer a provisional ballot on the basis of race would be VRA violations.
- DOJ asserts there is a big gap between complaints and what can be substantiated
- DOJ Voting Rights Section - Federal Voting Rights Act only applies to state action, so the section only sues State and local governments – it does not have any enforcement power over individuals. Most often, the section enters into consent agreements with governments that focus on poll worker training, takes steps to restructure how polls are run, and deals with problems on Election Day on the spot. When deciding what to do with the complaint, the section errs on the side of referring it criminally because they do not want civil litigation to complicate a possible criminal case
- DOJ Election Crimes Branch – DOJ is permitted to prosecute whenever there is a candidate for federal office, but can't prosecute everything. Deceptive practices that are committed by individuals and would be a matter for the Public Integrity Section; local government would have to be involved for the voting section to become involved. The problem is asserting federal jurisdiction in non-federal elections. (In U.S. v. McNally, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to "fix" McNally, did not include voter fraud.)
- It is preferable for the federal government to pursue these cases for the following reasons:
  - federal districts draw from a bigger and more diverse jury pool;
  - the DOJ is politically detached; local district attorneys are hamstrung by the need to be re-elected;
  - DOJ has more resources – local prosecutors need to focus on personal and property crimes---fraud cases are too big and too complex for them;
  - DOJ can use the grand jury process as a discovery technique and to test the strength of the case.
- Some assert that election crimes are not high on the priority list of either district attorneys or grand juries; therefore, complaints of election crime very rarely are prosecuted or are indicted by the grand jury.
- Political parties have devoted extraordinary resources into 'smoking out' fraudulent voters

**Recommendations Re Laws & Procedures:**

- It is important to keep clear who the perpetrators of the fraud are and where the fraud occurs because that effects what the remedy should be.
- Support Senator Barak Obama's bill for combating voter harassment and deceptive practices. (Many jurisdictions do not currently have laws prohibiting voter harassment and deceptive practices.)
- Support a new law that allows the DOJ to bring civil actions for suppression that are not race based, for example, deceptive practices or wholesale challenges to voters in jurisdictions that tend to vote heavily for one party.
- Support a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce (DOJ has drafted such legislation, which was introduced but not passed in the early 1990s.)
- Put stronger teeth in the voter fraud laws; step up enforcement against fraud and provide stiffer penalties as current penalties make the risk of committing fraud relatively low
- There should be increased resources dedicated to expanded DOJ monitoring efforts. This might be the best use of resources since monitors and observers act as a deterrent to fraud and intimidation.
- Some advocate that all election fraud and intimidation complaints should be referred to the State Attorney General's Office to circumvent the problem of local political prosecutions. The

SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes

- Some advocate greater resources for district attorneys. In addition, during election time, there should be an attorney in the DA's office who is designated to handle election prosecution
- Would be useful to have recommendations for prosecutors investigating fraudulent activity
- Better trained poll workers
- Polling places should be open longer, run more professionally but there needs to be fewer of them so that they are staffed by only the best, most professional people (Voting Centers).
- Move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- A day should be given off of work without counting as a vacation day so that better poll workers are available.
- Early voting at the clerk's office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk's office. This should be expanded to other polling places in addition to that of the county clerk.
- Many assert that the best defense against fraud will be better voter lists.
  - States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle
  - Linking voter registration databases across states may be a way to see if people who are registered twice are in fact voting twice
  - New legislation or regulations are needed to provide clear guidance and standards for generating voter lists and purging voters, otherwise states could wrongfully disenfranchise eligible voters; purging must be done in a manner that uses the best databases, and looks at only the most relevant information
  - The process for preventing ineligible ex-felons from casting ballots needs to be improved
  - statewide registration databases should be linked to social service agency databases
- Challenge laws need to be reformed, especially ones that allow for pre-election mass challenges with no real basis. There is no one size fits all model for challenger legislation, but some bad models involving hurdles for voters lead to abuse and should be reformed. There should be room for poll workers to challenge fraudulent voters, but not for abuse. (KY has list of defined reasons for which they can challenge a voter, such as residency, and the challengers must also fill out paperwork to conduct a challenge) Last minute challenges should not be permitted
- False information campaigns should be combated with greater voter education, the media could do more to provide information about what is legal and what is illegal
- Improve the protective zone around polling places: the further vote suppressers can keep people away from the polls, the better.
- States should be encouraged to:
  - codify into law uniform and clear published standards for voter registration, challenges, voter ID, poll worker training, use and counting of provisional votes, the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access
  - standardize forms
  - modify forms and procedures based on feedback from prosecutors
- Ensure good security procedures for the tabulation process and more transparency in the vote counting process
- Conduct post-election audits
- Many advocate eliminating "no excuse" absentee voting.
- Some recommend reducing partisanship in election administration, but others are skeptical of the feasibility of this

SUMMARY OF INFO FROM INTERVIEWS  
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

---

- Some strongly recommend requiring voter ID, while others strongly oppose it as a voter suppression tactic, asserting that states should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.) and that states could use signature comparisons.
- Political parties should monitor the processing of voter registrations and purging of registered by local election authorities on an ongoing basis to ensure the timely processing of registrations and changes, including both newly registered voters and voters who move within a jurisdiction or the state, and the Party should ask state Attorneys General to take action where necessary to force the timely updating of voter lists or to challenge, unlawful purges and other improper list maintenance practices.

**Future Study Recommendations:**

- Just because there was no prosecution, does not mean there was no vote fraud; very hard to come up with a measure of voter fraud short of prosecution
- EAC should conduct a survey of the general public that asks whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data
- EAC should work with the Census Bureau to have them ask different, additional questions in their Voter Population Surveys
- EAC should talk to private election lawyers

August 2005

## CURRICULUM VITAE

**NAME:** Chandler Davidson

**TITLE:** Research Professor,  
Department of Sociology,  
Radoslav Tsanoff Professor  
of Public Policy Emeritus

**ADDRESS:** Department of Sociology MS 28  
Rice University  
6100 South Main Street  
Houston, Texas 77005-1892

**PHONE NUMBERS:** 713-348-3490  
[REDACTED]

**FAX NUMBER:** 713-348-5296

**DATE OF BIRTH:** 13 May 1936

**EDUCATION:**

|                      |       |      |
|----------------------|-------|------|
| University of Texas  | B.A.  | 1961 |
| Princeton University | M.A.  | 1966 |
| Princeton University | Ph.D. | 1969 |

**MILITARY SERVICE:** U.S. Navy (Honorable Discharge, 1962)

**TEACHING EXPERIENCE:**

- 1966-1968 Instructor, Rice University
- 1968-1973 Assistant Professor, Rice University
- 1973-1983 Associate Professor with tenure, Rice University
- 1983-2003 Professor, Rice University
- 2003- Professor Emeritus, Research Professor

**HONORS:**

- Senior Honors Program, Dept. of Philosophy, University of Texas, 1960-61
- Undergraduate Philosophy Scholarship, University of Texas, 1960-61

010885

Phi Beta Kappa, University of Texas, 1961  
Fulbright Scholar, University of Poitiers, Faculté des Lettres, 1961-62  
Woodrow Wilson Fellow, Princeton University, 1963-64  
Brown College (Rice University), Teaching Excellence Award in the Humanities  
1969-70  
Outstanding Texas author, 1972, Theta Sigma Phi, Austin Professional Chapter  
of Women in Communications (award given for Biracial Politics).  
Research Fellow, National Endowment for the Humanities, 1976-77  
Rice University Provost Lecturer, 1985  
Controversies in Minority Voting, co-edited with Bernard Grofman, chosen as an  
Outstanding Book on Human Rights in the United States by the Gustavus  
Myers Center for the Study of Human Rights, 1993  
Quiet Revolution in the South, co-edited with Bernard Grofman, chosen as the  
winner of the Richard F. Fenno Prize awarded annually by the Legislative  
Studies section of the American Political Science Association for the best book  
in legislative studies published in the previous year, 1995  
Ally Award, Center for the Healing of Racism (Houston), 1996  
George R. Brown Award for Superior Teaching, Rice University, 1997, 1999,  
2000, 2002  
George R. Brown Award for Excellence in Teaching, Rice University, 1998  
Philosophical Society of Texas, 1998-  
Minority Vote Dilution named to Howard University Press Classic Editions  
Library Series, 2004

#### ADVISORY PANELS, COMMISSIONS

Voting Rights Research Advisory Board, University of California, Berkeley, 2004-  
National Commission on the Voting Rights Act, 2005-

#### BIOGRAPHICAL ENTRIES:

Who's Who in America  
Who's Who in The Southwest  
Who's Who in American Education

#### JOINT APPOINTMENTS:

Professor, Department of Political Science, Rice University (1997-2003)

#### PROFESSIONAL ACTIVITIES AND MEMBERSHIPS:

American Political Science Association  
American Association of University Professors  
Advisory Committee, Democracy, Diversity, and Voice (The Democracy  
Collaborative, University of Maryland)



**SELECTED ADMINISTRATIVE SERVICE:**

- 1973-75 Chair, University Library Committee
- 1977-78 President, Rice Chapter, American Association of University Professors
- 1979-83 Chair, Department of Sociology
- 1986-89 Chair, Department of Sociology
- 1987-88 Chair, Rice Task Force on Substance Abuse
- 1988 Chair, Search Committee, Director of Office of Minority Affairs
- 1988-90 Co-founder and first coordinator of interdisciplinary teaching team for "Intellectual Foundations of the Social Sciences," core curriculum course
- 1993-96 Chair, Committee on Undergraduate Admission
- 1995-2003 Chair, Department of Sociology
- 1997 Chair, President's Ad Hoc Committee to Revise Faculty Dismissal Policy
- 1999-00 Chair, Committee on Teaching
- 1998-02 Chair, Inter-institutional Search Committee, University of Texas School of Public Health and Rice University Department of Sociology
- 2002-03 Chair, Athletic Subcommittee of Faculty Council

**AREAS OF SCHOLARLY ACTIVITY:**

- Politics and Society
- Social Stratification
- Race and Ethnic Relations
- Electoral Behavior
- Texas Politics
- Minority Voting Rights

**EXTERNAL RESEARCH SUPPORT:**

- National Endowment for the Humanities, full salary support for the year (1976-77)
- National Science Foundation, \$231,331 grant, "Collaborative Research on the Implementation and Effects of the 1965 Voting Rights Act," co-principal investigator with Bernard Grofman, University of California at Irvine (1988-92)
- National Science Foundation Law and Social Sciences Program, \$8,500 grant, "Supplementary Grant for Collaborative Research on the Voting Rights Act: The Effects of Changing Electoral Systems on the Election of Women" (NSF SES #88-09329), co-principal investigator with Bernard Grofman and Susan Welch (1989-90).
- Rockefeller Foundation, \$50,000 grant, "A Conference on the Voting Rights Act: A Twenty-five Year Perspective," with Thomas Mann and Bernard Grofman, under the auspices of the Brookings Institution (1989-90).

Ford Foundation, \$6,000 grant. "Newspaper Data Base on 1990s Redistricting," Bernard Grofman, principal investigator (1991-93).

#### CONGRESSIONAL TESTIMONY

"Prepared statement of Chandler Davidson, Chair, Department of Sociology, Rice University, Houston, Tex." Voting Rights Act: Hearings before the Subcommittee on the Constitution of the Committee on the Judiciary, United States Senate (Volume 2), Serial No. J-97-92; Washington, D.C.: U.S. Government Printing Office, 1983, pp. 293-303.

"Voting Rights Roundtable," Subcommittee on Civil and Constitutional Rights, Judiciary Committee, U.S. House of Representatives, May 25, 1994, invited participant.

#### U. S. SUPREME COURT CITATIONS OF PUBLICATIONS

Thornburg v. Gingles, 478 U.S. 30, 106 S. Ct. 2752 (1986).

Shaw v. Reno, 509 U.S. 630, 113 S. Ct. 2816 (1993).

Johnson v. De Grandy, 512 U.S. 997, 114 S. Ct. 2647 (1994).

Miller v. Johnson, 515 U.S. 900, 115 S. Ct. 2475 (1995).

Bush v. Vera, 517 U.S. 952, 116 S. Ct. 1941 (1996).

Shaw v. Hunt, 517 U.S. 899, 116 S. Ct. 1896 (1996).

Abrams v. Johnson, 521 U.S. 74, 117 S. Ct. 1925 (1997).

#### PUBLICATIONS:

##### I. Intended Primarily for a Professional Audience

###### Books:

Biracial Politics: Conflict and Coalition in the Metropolitan South, Louisiana State University Press, 1972.

Minority Vote Dilution (editor), Howard University Press, 1984 (paperback ed., 1989).

Race and Class in Texas Politics, Princeton University Press, 1990 (paperback ed. 1992).

Controversies in Minority Voting: The Voting Rights Act in Perspective (ed. with Bernard Grofman), The Brookings Institution, 1992 (hardcover and paperback).

Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990 (ed. with Bernard Grofman), Princeton University Press, 1994 (hardcover and paperback).

###### Commissioned Reports:

Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression—or Both? in co-authorship with Tanya Dunlap, Gale Kenny,

and Benjamin Wise, Center for Voting Rights and Protection, Washington, D.C. (2004).

Articles and Book Chapters:

- "A Summer Enrichment Program for Black Pre-Medical students," in co-authorship with Daniel Creson, M.D., Texas Reports on Biology and Medicine, 29 (1971), 443-50.
- "Houston Elects a Mayor," in co-authorship with Douglas Longshore, New South: A Quarterly Journal of Southern Affairs, 27 (1972), 47-61.
- "Ethnic Attitudes as a Basis for Minority Cooperation in a Southwestern Metropolis," in co-authorship with Charles Gaitz, Social Science Quarterly, 22 (1974), 738-48.
- "Are the Poor Different?," in co-authorship with Charles Gaitz, Social Problems, 22 (1974), 230-45.
- "Variations in Gender Roles Among Classes," in co-authorship with Virginia Davidson, M.D., Sex Roles: A Journal of Research, 3 (1977), 459-67.
- "At-Large Elections and Minority Representation," Social Science Quarterly, 60 (1979), 337-38.
- "The Effects of At-Large Elections on Minority Representation: A Review of Historical and Recent Evidence," in co-authorship with George Korbel, Journal of Politics, 43 (1981), 982-1005.
- "Reforming a Reform," in Merle Black and John Shelton Reed (eds.), Perspectives on the American South, London, New York, Paris: Gordon and Breach Science Publishers, 1981, 143-49.
- "Houston: The City Where the Business of Government is Business," in Wendell Bedichek and Neal Tannahill (eds.), Public Policy in Texas, Glenview, Ill.: Scott, Foresman and Company, 1982, 275-88.
- "The Democrats," in Wendell Bedichek and Neal Tannahill (eds.), Public Policy in Texas, Glenview, Ill.: Scott, Foresman and Company, 1982, 160-70.
- "Carter Wesley," in Rayford Logan and Jeremy Townsend (eds.), The Dictionary of American Negro Biography, New York and London: W. W. Norton and Company, 1983, 639-40.
- "Minority Vote Dilution: An Overview," in Chandler Davidson (ed.), Minority Vote Dilution, Washington, D.C.: Howard University Press, 1984, 1-23.
- "Nonpartisan Slating Groups in an At-Large Setting," in co-authorship with Luis Fraga, in Chandler Davidson, Minority Vote Dilution, Washington, D.C.: Howard University Press, 1984, 119-43.
- "Ethnic Jokes: An Introduction to Race and Nationality," Teaching Sociology, 15 (1987), 296-302.
- "Slating Groups as Parties in a 'Nonpartisan' Setting," in co-authorship with Luis Fraga, Western Political Quarterly, 41 (1988), 373-90.
- "The Voting Rights Act: A Brief History," in Grofman and Davidson (eds.), Controversies in Minority Voting (1992), 7-51.

- "Postscript: What is the Best Route to a Color-Blind Society?", with B. Grofman, in Grofman and Davidson (eds.), Controversies in Minority Voting (1992), 300-17.
- "The Voting Rights Act: Protecting the Rights of Racial and Language Minorities in the Electoral Process" (Introduction to special issue of journal on the Voting Rights Act), Chicano-Latino Law Review, 13 (1993), 1-14.
- "Editors' Introduction" (in co-authorship with B. Grofman), in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 3-17.
- "The Recent Evolution of Voting Rights Law Affecting Racial and Language Minorities," in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 21-37.
- "Texas" (with R. Brischetto, D. Richards, and B. Grofman), in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 233-70.
- "The Effect of Municipal Election Structure on Black Representation in Eight Southern States," (with B. Grofman) in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 301-34.
- "The Voting Rights Act and the Second Reconstruction" (with B. Grofman) in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 378-87.
- "African Americans and Politics," The New Handbook of Texas (1996). Vol. 1, 51-55.
- "Voting Rights Act of 1965 and its Amendments," in Leonard W. Levy and Kenneth L. Karst, eds., Supplement II, Encyclopedia of the American Constitution, 2d. ed. (2000) 2813-14.
- "Race and Voting," in Leonard W. Levy and Kenneth L. Karst, eds., Supplement II, Encyclopedia of the American Constitution, 2d. ed. (2000) 2093-94.
- "White Gerrymandering of Black Voters: A Response to Professor Everett," North Carolina Law Review 79 (2001), 1333-43.

#### Work in Preparation:

Report commissioned by the Lawyers Committee for Civil Rights Under Law (Washington, D.C.) on the status of minority voting rights since the last extension of the non-permanent features of the Voting Rights Act.

## II. Intended Primarily for a General Audience

#### Articles:

- "The Oil Patch," Harper's (August, 1964), 41-46.
- "Our 'Dirty War' in Vietnam," The Nation (November 2, 1964), 299-303.
- "A Case for Busing," The Texas Observer (July 16, 1971), 12-14.
- "Stalking the White Working Class," Dissent (Fall, 1972), 595-601.
- "Reply to Professor Lipset," Dissent (Winter, 1973), 128.
- "Wonder Bread and Hog Jowls: New Politics in the Old South," Dissent (September 29, 1974), 269-72.
- "The Texans' and Other Myths," The Texas Observer (June 18, 1976), 3-5.

- "The Culture of Shiftlessness," Dissent (Fall, 1976), 349-56.
- "A Night of Violence," The Texas Observer (September 9, 1977), 19-21.
- "Women and Minorities at Large," Houston Breakthrough (October, 1977), 1, 31.
- "Interview with Billie Carr," Houston Breakthrough (April, 1978), 1.
- "The Privileged Ones," The Texas Observer (June 9, 1978) 16-19.
- "Of That Time, of This Place," The Texas Observer (Twenty-Fifth Anniversary Edition) (December 28, 1979), 60-73.
- "In Texas, Electoral Changes," New York Times, Op-Ed Essay, (February 23, 1980).
- "A Painfully Narrow Set of Options," The Texas Observer (October 17, 1980), 3-14.
- "Beware No-pass, No-Play Red Herrings," Houston Post, Op-Ed Essay (June 3, 1985), B3.
- "Numbers Behind the Numbers in Black Progress," Houston Post, Op-Ed Essay (March 14, 1987), B3.
- "Texas judges can be elected without diluting ethnic vote," Houston Post, Op-Ed Essay (December 3, 1989), C3.
- "Lack of knowledge may top list of reasons babies are dying here," Houston Post (September 15, 1991), C-3 (with Victoria Soto).
- "The Color Line Reconsidered" (review essay of three books: Arthur Ashe, Days of Grace; John Hope Franklin, The Color Line; and Cornel West, Race Matters), The Texas Observer, (September 17, 1993), pp. 18-19.
- "Affirmative Action in Undergraduate Admissions: The Experience at Rice," Reconstruction 2 (1994), 45-54.
- "Voting Rights and the Second Reconstruction: the Rocky Road to the Present . . . and Beyond." Southern Changes, 16 (Winter 1994), 4-7.
- "Affirmative Action in Undergraduate Admissions: The Experience at Rice," Sallyport: The Magazine of Rice University, 52 (Winter 1996), 18-25.
- "Minority Representation in Congress: Reply to Professor Swain" (with Bernard Grofman), Chronicle of Higher Education (November 8, 1996).
- "Vouchers Only Serve to Balkanize Schools," Houston Chronicle Op-Ed Essay (April 21, 1999)

#### SELECTED PROFESSIONAL ACTIVITIES:

- "An Introduction to Sociology," ten-week seminar for resident psychiatrists, The University of Texas Medical Branch, Galveston, 1971.
- Invited response to two papers, Southern Historical Association annual meeting, Atlanta, 1974.
- "Roundtable on Peace Education: Regional Experiences and Resources," Southwestern Social Science Association annual meeting, San Antonio, 1975.
- "The Culture of Poverty and the Culture of Wealth," paper, Southwestern Social Science Association annual meeting, Dallas, 1976.

- Charter member, Board of Directors, Houston Metropolitan Research Center, Houston Public Library, 1977.
- "The Influence of Money on Elections: The Texas Case," jointly authored paper, Southwestern Social Science Association annual meetings, Dallas, 1977.
- "The Struggle for Control of the Democratic Party in Texas," paper, Eastern Sociological Association annual meeting, New York City, 1976.
- "The Mobilization of Bias in Houston City Politics," co-authored paper, Southwestern Social Science Association annual meeting, Houston, 1978.
- "The Political Economy of Contemporary Public Policy," Symposium participant, Department of Government, The University of Texas at Austin, 1978.
- Invited response to two papers, Southern Historical Association annual meeting, Atlanta, 1979.
- "Increasing Opportunities for Political Participation," invited panelist, Texas Advisory Committee to the U.S. Commission on Civil Rights, San Antonio, 1979.
- "A Model of Contemporary Houston Politics," paper, Social Sciences Faculty, Houston Community College, 1980.
- "At-Large Elections and Minority-Group Representation," co-authored paper, Texas Southern University Conference on Afro-American Studies, Houston, 1981.
- "At-Large Election Systems and the Dilution of the Black Vote: Historians as Expert Witnesses," panelist, Social Science History Association annual meeting, Nashville, 1981.
- "Minority Politics and Political Cultures," panelist, Southwestern Social Science Association annual meeting, San Antonio, 1982.
- "Continuity and Change in a Sunbelt City: Perspectives on Houston and Survey Research in the 1980s," panel chair, Southeastern Sociological Association Annual Meetings, Houston, 1983.
- "The Social Scientist as Expert Witness," panelist, Southwestern Political Science Association annual meetings, Houston, 1983.
- "Minority Vote Dilution," panel chair, Southern Political Science Association Annual Meeting, Birmingham, 1983.
- "Power, Influence, and Public Policy in Houston," panelist, Southwestern Political Science Association annual meeting, Houston, 1985.
- "Nonpartisan Slating Groups and Minority Representation," paper, American Political Science Association annual meeting, New Orleans, 1985.
- "Partisans in Sheep's Clothing: The Ambiguous Legacy of Municipal Reform," Rice University Provost's Lecture Series, 1985.
- "The Impact of the Voting Rights Act of 1965," co-organizer (with Bernard Grofman) planning conference, Rice University, 1988.
- "Municipal and Special District Elections," panelist, Southwestern Political Science Association annual meetings, 1988.

- "V. O. Key's Vision of Texas Politics," presentation , symposium on "The World of Texas Politics," sponsored by The Houston Post and the LBJ School of Public Affairs, Houston, 1988.
- "Texas Politics," invited panelist, Lee College Symposium on "Texas Politics in Transition," Baytown, 1988
- "Race and Class in Texas Politics," paper, Conference on Social Class, University of Kansas, 1989.
- "Race and Class in Texas Politics," paper, American Sociological Association, San Francisco, 1989.
- "The Impact of the Voting Rights Act," panel chair, American Political Science Association, Atlanta, 1989.
- "The Voting and Campaign Process," panel moderator, Symposium on Democracy in the 1990s: Voting in the United States, Lyndon Baines Johnson School of Public Affairs, Austin, 1990.
- "The Voting Rights Act and the Transformation of Urban Politics," panel chair, Western Political Science Association, Seattle, March 1991.
- "What is Election Discrimination? Argument and Proof in Voting Rights Cases," panelist, American Association of Black Political Scientists annual meeting, Houston, March 1992.
- "Recent Controversies over The Voting Rights Act," invited lecture, Seminar on Voting Rights, University of San Francisco School of Law, San Francisco, March 1992.
- "1990s Redistricting," panelist, Western Political Science Association annual meeting, San Francisco, March 1992.
- "Regulating the Electoral Process," invited panelist, Texas Law Review Symposium, University of Texas Law School, Austin, Texas, 1992.
- "The Impact of the Voting Rights Act in the South: The First Twenty-five Years," invited panelist, Southern Regional Council Voting Rights Conference, Atlanta, 1993.
- "Voting Rights After Shaw v. Reno," invited panelist, American Political Science Association annual meeting, New York City, 1994.
- "Response to Gary Orfield," invited panelist on "Educational Policy," Conference on the Impact of the Civil Rights Act of 1964, National Judicial Center, Washington, D.C., 1994.
- "Diversity and Democracy: Creating the Common Good," invited paper, 75th Anniversary of the Southern Regional Council, Atlanta, 1994.
- "The Voting Rights Act: The Accomplishments." Panel moderator, Conference on the Voting Rights Act, Thurgood Marshall School of Law, Texas Southern University, 1995.
- "Voting Rights in the Wake of Recent Supreme Court Decisions," panel moderator, American Political Science Association annual meeting, Chicago, 1995.
- "The Media and the Quiet Revolution: Public Opinion and Voting Rights," invited paper, Conference on "The Voting Rights After Thirty Years," co-sponsored

- by the Southern Regional Council and the Lawyers Committee for Civil Rights Under Law, New Orleans, 1995.
- "Mechanisms of Ethnic/Racial Conflict Resolution," invited panelist, "E Pluribus Unum" conference, Stanford University, 1996.
- "Tenth Anniversary Roundtable on Voting Rights Issues," invited panelist, The Citadel Symposium on Southern Politics, Charleston, March 7-8, 1996.
- "The Rise of Racial Gerrymandering in Texas," invited public lecture, Lamar University, Beaumont, March 25, 1997.
- "Contemporary Districting Challenges and Opportunities," invited panelist, conference on "Geographic Information Systems and Political Redistricting," National Center for Geographic Information and Analysis, SUNY at Buffalo, Oct. 26, 1997.
- "Perspectives on the 2000 Redistricting," invited panelist, Joint Center for Political and Economic Studies, Washington, D.C. , July 9, 1998.
- "Author Meets Critics," invited panelist responding to Morgan Kousser's Color Blind Injustice, Southern Sociological Society, Nashville, April 9, 1999.
- "Race and Redistricting," invited paper, Conference on "African Americans: Research and Policy Perspectives at the Turn of the Century," Stanford University, November 11-13, 1999.
- "And Then You Are Sued: Examining the Role of the U.S. Department of Justice and the Federal Courts in the Fifth Wave of Redistricting Since the Passage of the Voting Rights Act," invited chair, Conference on "Power Shift: Redrawing America's Political Boundaries After the 2000 Elections and Census," University of Houston Center for Public Policy, December 8, 2000.
- "White Gerrymandering of Black Voters: A Response to Professor Everett," invited paper, "Democracy in a New America: A Symposium," sponsored by the University of North Carolina Law Review, Chapel Hill, February 2001.
- "Urban Disfranchisement," invited organizer and chair, plenary session of American Sociological Association annual meeting, Anaheim, California, August 20, 2001.
- "Author Meets Critics: S.M. Lipset and Gary Marks's Why There is No Socialism in the United States," organizer of panel, American Sociological Association annual meeting, Anaheim, California, August 18-21, 2001.
- Invited participant, "The Future of the Voting Rights Act," a conference at Columbia University, September 20-21, 2003.
- Invited participant, "Protecting Democracy: Defining the Research Agenda for the 2007 Voting Rights Act Reauthorization," Harvard Civil Rights Project, Harvard University, May 9-12, 2004.
- Invited participant, "Protecting Our Voices: The Significance of the Voting Rights Act," June 17-18, 2004, Washington, D.C. (sponsored by the Mexican American Legal Defense Fund, the Lawyers Committee for Civil Rights Under Law, and the NAACP Legal Defense Fund.)



Invited participant, "One Nation with Many Voices," conference on the Voting Rights Act and minority language provisions, Arizona State University, Phoenix, April 6, 2005.

Invited panelist, "Lessons From the Past, Prospects for the Future: Honoring the 40th Anniversary of the Voting Rights Act of 1965," Yale University, April 21-23, 2005.

Invited panelist, "Past and Prologue," National Conference Commemorating the 40<sup>th</sup> Anniversary of the Voting Rights Act of 1965" (Sponsored by the Lawyers Committee for Civil Rights, LDF, MALDEF, ACLU, and Native American Rights Fund), July 25-26, 2005, Washington, D.C.

#### CONSULTING:

- 1971 Sparks v. Griffin, U.S. District Court, Marshall, Texas. Expert witness for plaintiffs, black school teachers who were fired when Upshur Independent School District was required to desegregate.
- 1973-74 USA v. Griggs, U.S. District Court, Gainesville, Florida. Consultant to defendants in their efforts to demonstrate that the jury selection procedure in Florida was unfair.
- 1973-74 Sabala v. Western Gillette, Inc. and Ramirez v. Western Gillette, Inc., U.S. District Court, Houston, Texas (Case Nos. 71-H-961 and 71-H-1336). Consultant to plaintiffs in class-action employment discrimination suit.
- 1975-76 Greater Houston Civic Council v. Mann, U.S. District Court, Houston (Case No. 73-H-1650). Expert witness for plaintiffs, who alleged minority vote dilution as a result of the City of Houston's at-large election system.
- 1978 Three-judge panel, U.S. District Court, Houston. Expert witness for plaintiffs-intervenors attempting to enjoin the City of Houston from holding elections until it complied with Section 5 pre-clearance requirements of the Voting Rights Act.
- 1979-80 Whitfield v. City of Taylor, Texas U.S. District Court, Austin, Texas (Case No. A-79-CA-0015). Consultant to plaintiffs, who alleged unconstitutional dilution of their vote.
- 1979-83 Jones v. City of Lubbock, Texas, U.S. Court of Appeals, Fifth Circuit, Unit A (No. 79-2744). Consultant and expert witness for plaintiffs-appellants, who alleged unconstitutional dilution of their votes.

- 1979-86 Velasquez v. City of Abilene, Texas, U.S. District Court, Abilene (Case No. CA-1-80-57). Consultant and expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1980 City of Port Arthur, Texas v. United States of America, U.S. District Court for the District of Columbia (Case No. 80-064P). Expert witness for USA, who contended that a consolidation election by the city illegally diluted the votes of minorities under the Voting Rights Act.
- 1980-81 Oxford Place Welfare Rights Organization v. Jerome Chapman, U.S. District Court, Houston (Case No. 79-H-1283). Consultant to plaintiffs, welfare recipients who alleged that long delays in receipt of their welfare payments were unconstitutional.
- 1981 At the request of the Legal Aid Society of Central Texas, analyzed voting data for the City of Austin, Texas, relevant to a preclearance submission the city made to the Justice Department under the Voting Rights Act.
- 1981 Brown v. Board of School Commissioners of Mobile County, U.S. District Court, Mobile, Alabama (Case No. CV-75-298-P). Expert witness for USA, intervenors in the rehearing of a vote-dilution suit, remanded by the Supreme Court.
- 1981 Bolden v. City of Mobile, U.S. District Court, Mobile, Alabama (Case No. 75-297-P). Expert witness for plaintiffs in the rehearing of a vote-dilution case, remanded by the Supreme Court.
- 1981 Walton v. Henson, U.S. District Court, Paris, Texas (Case No. P-80-39-CA). Expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1981 Seaman v. Upham. Three-judge panel, U.S. District Court, Austin, Texas (Case No. P-81-49-CA). Expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1982 Texas v. Martin, 104th District Court of Taylor County, Texas. Consultant to defendant, Dee Dee Martin, indicted on capital murder charges, who claimed the jury selection system discriminated against blacks.
- 1982 Harris v. City of Hopewell, Virginia, U.S. District Court, Richmond, Virginia (Case No. 82-0036-R). Consultant to plaintiffs, who claimed unconstitutional dilution of their votes.

- 1983-84 Kirksey v. Danks, Mayor of Jackson, Mississippi, U.S. District Court, Jackson (Civil Action No. J83-0077-C). Expert witness for plaintiffs, who claimed dilution of their votes under Section 2 of the Voting Rights Act.
- 1985 Sumbry v. Russell County, Alabama. Consultant to plaintiffs, who claimed dilution of their voting strength under Section 2 of the Voting Rights Act.
- 1985 Lee County Branch of the NAACP v. City of Opelika, Alabama, (Case No. 83-7275). Consultant to plaintiffs, who claimed dilution of their voting strength under Section 2 of the Voting Rights Act.
- 1985 Tallahassee NAACP v. Leon County, Florida. Consultant to plaintiffs alleging dilution of their votes in county commission elections.
- 1985 Harris v. Graddick, U.S. District Court, Birmingham (C.A. No. 84-T-595-N). Expert witness for plaintiffs alleging that the state of Alabama employed a system for appointing poll officials that denied blacks equal access to the political process.
- 1985-86 LULAC v. Midland Independent School District, U.S. District Court, Midland, Texas (MO-85-CA-001). Expert witness for plaintiffs alleging vote dilution.
- 1985-86 United States of America v. Dallas County (Alabama) Commission, U.S. District Court, Selma (C.A. No. 78-578-H). Expert witness for U.S.A. in case alleging the dilution of minority votes in Dallas County.
- 1986-87 Martin v. Allain, Governor of Mississippi, U.S. District Court, Jackson (C.A. No. J84-0708 (W)) Expert witness for plaintiffs alleging vote dilution.
- 1985-87 McNeil v. City of Springfield, U.S. District Court, Springfield, Ill. (C.A. No. 85-2365). Expert witness for plaintiffs alleging minority vote dilution.
- 1987 Martin v. Allain (see above) consolidated with Kirksey v. Allain, U.S. District Court, Jackson (C.A. No. J85-0960 (W)). Expert witness for plaintiffs.
- 1987 Metropolitan Pittsburgh Crusade for Votes v. City of Pittsburgh (C.A. No. 86-173). Consultant to plaintiffs alleging vote dilution.
- 1988-89 Badillo v. City of Stockton, California (C.A. No. 87-1726 U.S. District Court, Eastern District of California). Consultant to plaintiffs alleging vote dilution.
- 1988-89 Russell Yarbrough v. City of Birmingham, Alabama (C.A. No. CV87-PT-1947-S). Consultant to defendants, a racially-mixed city council elected at large in a system white plaintiffs claimed diluted their votes.

- 1988-89 League of United Latin American Citizens (LULAC) v. Clements, U.S. District Court, Western District of Texas (No. 88-CA-154) Consultant to plaintiffs alleging vote dilution in multi-member district state judicial elections.
- 1994 Vera v. Richards, U.S. District Court, Southern District of Texas (C.A. No. H-94-0227). Expert for State of Texas, which was alleged to have violated the U.S. Constitution in creating majority-minority districts in the 1990s round of congressional redistricting.
- 2004 Center for Voting Rights and Protection, Inc.. Washington, D.C. Director of research on ballot security programs as instruments of minority vote suppression.
- 2004- Lawyers Committee for Civil Rights Under Law, Washington, D.C. Director of research on the status of minority voting rights in the U.S.; member, National Commission on the Voting Rights Act.

## REFERENCES

## Bernard Grofman

Professor of Political Science and  
Adjunct Professor of Economics  
School of Social Sciences  
University of California, Irvine  
3151 Social Science Plaza  
Irvine CA 92697-5100  
949-824-6394  
FAX: 949-824-8762  
Past President, Public Choice Society  
Fellow, American Academy of Arts and Sciences

## Lani Guinier

Bennett Boskey Professor of Law  
Harvard Law School  
lguinier@law.harvard.edu

## J. Gerald Hebert

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## Samuel Issacharoff

Harold R. Medina Professor in Procedural Jurisprudence  
Columbia Law School  
212-854-2527  
212-854-7946 (fax)

Pamela S. Karlan  
Kenneth and Harle Montgomery Professor of Public Interest Law  
Stanford Law School  
559 Nathan Abbott Way  
Stanford, CA 94305-8610  
650-725-4851

Peyton McCrary, Ph.D.  
U.S. Department of Justice  
Civil Rights Division: Voting Section  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
202-307-6263

CRAIG DON SANTO MEETING  
CRIMINAL DIVISION, PUBLIC INTEGRITY SECTION, US DEPARTMENT OF  
JUSTICE

January 13, 2006

Tova Wang's notes

Other contacts:

Cynthia Mitchell, 202-305-4932

Noel Hillman, Chief of Division

We will be receiving by mail the new handbook, the draft mail fraud legislation and the Ballot Access and Voting Integrity Symposia training materials

I. Process and Structure:

- Mr. Donsanto must approve all investigations that go beyond a preliminary stage, all charges, search warrant applications and subpoenas. If a charge seems political, he will reject it. If there is still a dispute, it may be reviewed by the assistant attorney general. Often the department will not bring a case, but will rather refer it to a different law enforcement agency or the voting section.
- Often, a defendant who gets a target letter will ask for a departmental hearing. The defendant's case will be heard by Mr. Donsanto and Ms. Hillman. On occasion, the assistant attorney general will review the case. The department grants such hearings easily because such defendants are likely to provide information about others involved.
- The Department has held four symposia for DEOs and FBI agents since the initiation of the Ballot Access and Voting Integrity Initiative. In 2003, civil rights leaders were invited to make speeches, but were not permitted to take part in the rest of the symposium. All other symposia have been closed to the public. (Peg will be sending us the complete training materials used at those sessions. These are confidential and are the subject of FOIA litigation).
- There are two types of attorneys in the division
  - Prosecutors, who take on cases when the jurisdiction of the section requires it; the US Attorney has recused him or herself; or when the US Attorney is unable to handle the case (most frequent reason)
  - Braintrust attorneys

II. Cases:

Mr. Donsanto provided us with three case lists:

- Open cases (still being investigated) as of January 13, 2006 – confidential
- Election fraud prosecutions and convictions as a result of the Ballot Access and Voting Integrity Initiative October 2002-January 13, 2006
- Cases closed for lack of evidence as of January 13, 2006

010900

If we want more documents related to any case, we must get those documents from the states. The department will not release them to us.

Although the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate complaints of fraud, *the number of cases that the department is investigating and the number of indictments the department is pursuing are both up dramatically.* {Future query: Is this similarly true in the voting section?}

Since 2002, the department has brought more cases against “alien voters,” felon voters, and double voters than ever before. Previously, cases were only brought when there was a pattern or scheme to corrupt the process. Charges were not brought against individuals – those cases went un-prosecuted.

This change in direction, focus, and level of aggression was by the decision of the Attorney General. The reason for the change was for deterrence purposes.

The department is currently undertaking three pilot projects to determine what works in developing the cases and obtaining convictions; what works with juries in such matters to gain convictions:

1. Felon voters in Milwaukee
2. Alien voters in the Southern District of Florida
  - a. FYI – under 18 USC 611, to prosecute for “alien voting” there is no intent requirement. Conviction can lead to deportation. Nonetheless, the department feels compelled to look at mitigating factors such as was the alien told it was OK to vote, does the alien have a spouse that is a citizen.
3. Double voters in a variety of jurisdictions

The department does not maintain records of the complaints that come in from DEOs, U.S attorneys and others during the election that are not pursued by the department. Mr. Donsanto asserted that U.S. attorneys never initiate frivolous investigations.

### III. Process for Making Prosecution Decisions:

Mere suspicion of a crime is insufficient. The division needs enough evidence to suggest a crime to go forward. Much depends on the type of matter and the source. Mr. Donsanto said he “knows it when he sees it.” They will only indict if they are confident of a conviction assuming the worst case scenario – a jury trial.

Political considerations, such as whether the state has a one party system or the party in power controls the means of prosecution and suppresses minority complaints are factors in the decision. Before, the department would leave it to the states. Now, if there is racial animus involved in the case, there is political bias involved, or the prosecutor is not impartial, the department will take it over.

Racial animus is an “aggravating factor” that would lead the department to be more likely to take over the case. This is also because in such a case there is likely to be more federal law involved.

*According to the new handbook, the department can take on a case whenever there is a federal candidate on the ballot*

#### IV. Recommendations for Improvements

- Since most fraud takes place in local elections, it needs to be easier to assert federal jurisdiction in non-federal elections. It is preferable for the federal government to pursue these cases for the following reasons:
  - It draws from a bigger and more diverse jury pool
  - The Feds are politically detached
  - Local district attorneys are hamstrung by the need to be re-elected
  - The Feds have more resources – local prosecutors need to focus on personal and property crimes, fraud cases are too big and too complex for them
  - The Feds can use the grand jury process as a discovery technique and to test the strength of the case

In *U.S. v. McNally*, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to “fix” the decision in the *McNally* case, did not include voter fraud.

As a result, the department needs a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce. The department has drafted such legislation, which was introduced but not passed in the early 1990s.



## LORRAINE CAROL MINNITE

Department of Political Science  
Barnard College, Columbia University  
3009 Broadway, New York, New York 10027  
lcm25@columbia.edu  
Tel. 212-854-4385

### EDUCATION

#### **The Graduate School and University Center of the City University of New York**

**Ph.D.** in Political Science, 2000

*Dissertation:* "Identity, Voting Rights and the Remapping of Political Representation in New York City"

*Honors:* Distinction

**M.Phil.** in Political Science, 1994

*Major field:* American Politics

*Minor field:* Public Policy

**M.A.** in Political Science, 1992

*Master's Thesis:* "The Ecology of the Underclass: William Julius Wilson and the Chicago School"

#### **Boston University, College of Liberal Arts**

**B.A.** in History, 1983

*Area of Concentration:* American Civilization

*Honors:* Cum Laude

### ACADEMIC EXPERIENCE

#### **Assistant Professor**

*Barnard College, Columbia University, January 2000 to present.*

Teach undergraduate courses in American politics and urban studies.

#### **Associate Director**

*The Center for Urban Research and Policy, Columbia University, December 1993 to 2000.*

Responsible for the day-to-day management of the Center; wrote grant proposals and helped secure funding from government and private sources for all activities totaling nearly \$2,000,000.

#### **Instructor and Research Associate**

*Metropolitan Studies Department, New York University, Spring 1991.*

Designed and taught a core course for undergraduates on the political and economic development of post-war American cities.

#### **Assistant Program Director**

*Borough of Manhattan Community College, City University of New York, 1987 to 1990.*

Assisted the Director in all administrative aspects of the BMCC Summer Immersion Program, a non-traditional, intensive, remedial education program.

#### **Research Assistant and Data Analyst**

*CUNY Data Service, The Graduate School, City University of New York, 1987 to 1991.*

Programmed and analyzed large data sets from the 1980 STF and PUMS (microdata) Census files, and the New York City Housing and Vacancy Surveys.

#### **Research Assistant**

*Department of Political Science, The Graduate School, City University of New York, 1985 to 1987.*

## **OTHER EMPLOYMENT**

### **Issues Director**

*The Committee for David N. Dinkins, II, New York City, 1991 to 1993.*

Conducted research for Mayor David N. Dinkins' campaign committee on a wide range of public policy issues and problems facing New York City.

### **Campaign Manager**

*McCabe for City Council, Brooklyn, New York, 1991.*

Organized and administered the successful campaign for the Democratic Party nomination and the New York City Council seat in the 38th Council District.

### **Union Organizer**

*District 65/UAW, (AFL-CIO), Northeast Regional Office, Boston, Massachusetts, 1984 to 1985, Summer 1986.*

Participated in the planning and implementation of a union organizing campaign; served as editor of union local's newsletter; assisted negotiating committee in contract negotiations.

## **ACADEMIC AND PROFESSIONAL HONORS**

Faculty Fellow, Institute for Social and Economic Research and Policy, Columbia University, 2002-to present

Member, Working Group on New York's Recovery from 9-11, Russell Sage Foundation, 2002 to 2005

Curriculum Development Award, Barnard Project on Diaspora and Migration, 2000

CUNY Graduate School Dissertation Year Fellowship, 1996-1997

CUNY Graduate Assistantship, 1987-1991

Boston University Student Scholarship, 1979-1983 (Dean's List)

## **PROFESSIONAL AFFILIATIONS**

American Political Science Association

American Sociological Association

Law and Society Association

Urban Affairs Association

## **COURSES**

### ***Taught at Barnard College***

American Urban Politics

Contemporary Urban Problems and Solutions

Dynamics of American Politics

Independent Study in American Politics

Political Participation and Democracy

Senior Research Seminar in American Politics

Urban Myths and the American City

### ***Taught at New York University***

The Crisis of the Modern American City

### ***Graduate Committees***

*Examiner*, CUNY Graduate Center Ph.D. Program in Political Science, Dissertation Committee, Antoinette Pole, April 2005.

*Examiner*, Columbia University Ph.D. Program in Political Science, Dissertation Committee, David Park, December 2003

*Examiner*, CUNY Graduate Center Ph.D. Program in Political Science, Oral Doctoral Exam, John Flateau, December 2000.

*Examiner*, Columbia University Ph.D. Program in Political Science, Dissertation Committee, Natasha Hritzuk, May 2000

## PUBLICATIONS

### *Journal Articles*

"Model Assumptions, and Model Checking in Ecological Regressions," *Journal of the Royal Statistical Society* 164, Part 1 (2001): 101-118; co-authored with Andrew Gelman, David K. Park, Stephen Ansolabehere, and Phillip N. Price.

### *Book Chapters*

"Outside the Circle: The Impact of Post-9/11 Responses on the Immigrant Communities of New York City," in John H. Mollenkopf, ed., *The Politics of the 9/11 Recovery Effort in New York City*, New York: Russell Sage Foundation, *forthcoming*.

"Between Anglo and Black: Asian and Latina/o Political Participation in New York City," in William E. Nelson and Jessica Perez-Monforti, eds., *Black and Latino/a Political Development in the United States*, Miami: Barnhardt and Ash, *in press*; co-authored with John Mollenkopf.

"Environmental Risk and Childhood Disease in an Urban Working Class Caribbean Neighborhood," in Barbara Deutsch Lynch and Sherrie L. Bayer, eds., *Caribbean Environmental Issues: Beyond Sun and Sand*, New Brunswick, NJ: Rutgers University Press, *in press*; co-authored with Immanuel Ness.

"The Changing Arab New York Community," in Kathleen Benson and Philip M. Kayal, eds., *A Community of Many Worlds: Arab Americans in New York City*, Syracuse: Syracuse University Press, 2002; co-authored with Louis Abdellatif Cristillo.

"Social Capital, Political Participation and the Urban Community," in Susan Saegert, J. Phillip Thompson, and Mark Warren, eds., *Social Capital and Poor Communities*, New York: Russell Sage Foundation, 2001; co-authored with Ester R. Fuchs and Robert Y. Shapiro.

"The Political Incorporation of Immigrants in New York," in *In Defense of the Alien: Proceedings of the 23<sup>rd</sup> Annual National Legal Conference on Immigration and Refugee Policy*, New York: Center for Migration Studies, 2001; co-authored with Jennifer Holdaway and Ronald Hayduk.

"The Working Families Party," in Immanuel Ness, ed. *The Encyclopedia of American Third Parties*, Armonk, New York: M.E. Sharpe, Inc., 2000.

"Patterns of Neighborhood Change," in John H. Mollenkopf and Manuel Castells, eds., *Dual City: Restructuring New York*, New York: Russell Sage, 1991; co-authored with Frank F. DeGiovanni.

### *Book Reviews*

*Governing From Below: Urban Regions and the Global Economy* by Jefferey M. Sellers, Cambridge University Press, 2002, in *Political Science Quarterly* Vol. 118, No. 4 (Winter 2003-2004).

*Social Class, Politics, and Urban Markets: The Makings of Bias in Policy Outcomes* by Herman L. Boschken, Stanford, CA: Stanford University Press, 2002, in *The International Journal of Urban and Regional Research*, Vol. 27, No. 4 (December 2003).

*The Miami Fiscal Crisis: Can a Poor City Regain Prosperity?* by Milan J. Dluhy and Howard A. Frank, Westport, Connecticut: Praeger Publishers, 2002, in *Political Science Quarterly* Vol. 117, No. 4 (Winter 2002-2003).

### *Research Reports*

*Securing the Vote: An Analysis of Election Fraud*, New York: Demos, A Network for Ideas and Action, 2003; co-authored with David Callahan.

### *Journalism*

"Albany's Making Bad Elections Worse," *New York Daily News*, New York, August 22, 2004.

## UNPUBLISHED PAPERS, PRESENTATIONS AND REPORTS

### *Conference Participation, Papers and Presentations*

"Immigrant Politics in an Age of Terror," paper presented at the 101<sup>st</sup> Annual Meeting of the American Political Science Association, Washington, D.C., September 1 – September 4, 2005.

Panel Discussant, "Immigrants As Local Political Actors," 100<sup>th</sup> Annual Meeting of the American Political Science Association, Chicago, September 1–4, 2004.

Invited Lecturer, "Literature of Immigration," New Jersey Council for the Humanities Teacher Institute, Monmouth University, Long Branch, New Jersey, August 5, 2004.

"The Impact of 9/11 on Immigrant Politics in New York, With a Focus on Arab, Muslim, and South Asian Immigrant Communities," Columbia University Seminar on the City, New York City, March 23, 2004.

Invited Participant, "The Impact of Post-9/11 Immigration and Law Enforcement Policies," The Century Foundation, New York City, February 4, 2004.

Workshop Participant, Multi-race Study Group, *Harvard CAPS Workshop on Methodologies to Study Immigrant Political Incorporation*, Harvard University, Cambridge, October 30-31, 2003.

Invited Lecturer, "Literature of Immigration," New Jersey Council for the Humanities Teacher Institute, Monmouth University, Long Branch, New Jersey, July 10, 2003.

Panelist, "Rebuilding Post-War Iraq: Domestic and International Implications;" Community Forum, Barnard College, New York City, April 21, 2003.

"Political Participation and the Neglected Role of Spatial Form;" paper presented at the 33<sup>rd</sup> Annual Meeting of the Urban Affairs Association, Cleveland, Ohio, March 27-30, 2003.

Invited Speaker, "Teach-In on Iraq;" Barnard College, New York City, November 8, 2002.

Panelist, "Colloquium on Responding to Violence," in honor of Virginia C. Gildersleeve Lecturer, Jody Williams, Barnard Center for Research on Women, Barnard College, New York City, October 25, 2002.

Panel Moderator, "Who is Brooklyn?" at *The Future of Brooklyn* Conference, Brooklyn College, June 7, 2002.

"Asian and Latino Participation in New York City: The 2000 Presidential Election," co-authored with John H. Mollenkopf; paper presented at the 97<sup>th</sup> Annual Meeting of the American Political Science Association, San Francisco, August 29 – September 2, 2001.

Organizer and Panelist, *The Changing Face of New York's Electorate: The Immigrant Vote in 2000 and Beyond*, A Panel Discussion and Media Briefing sponsored by the New York Immigration Coalition and Barnard College, New York City, May 2, 2001.

Organizer and Panelist, *The Muslim Communities in New York City Project; A One-Day Conference*, sponsored by the Center for Urban Research and Policy and the Middle East Institute at the School of International and Public Affairs, Columbia University, New York City, April 30, 2001.

Panelist, *Democratizing New York City; Reimagining City Government*, sponsored by the Center for Humanities, CUNY Graduate Center, New York City, March 27, 2001.

Organizer and Panel Moderator, *Independent Politics in A Global World*, sponsored by the Independent Politics Group, CUNY Graduate Center, New York City, October 6-7, 2000.

"Political Capital and Political Participation," co-authored with Ester R. Fuchs and Robert Y. Shapiro; paper presented at the 96<sup>th</sup> Annual Meeting of the American Political Science Association, Washington, D.C., August 31 – September 3, 2000.

"The Political Participation of Immigrants in New York," at *Immigrant Political Participation in New York City; A One-Day Working Conference*, sponsored by the Center for Urban Research/CUNY and the International Center for Migration, Ethnicity, and Citizenship, New York City, June 16, 2000

"The Muslim Community in New York City Project," with Louis Abdellatif Cristillo; *Muslims in New York: An Educational Program for Religious Leaders in New York City*, seminar on faith traditions in New York; sponsored by the Interfaith Center of New York and the Imans Council of New York, New York City, June 14, 2000.

"The Political Participation of Immigrants in New York," Session VI on "Integration of Immigrants and Their Descendants," Center for Migration Studies 23<sup>rd</sup> Annual National Legal Conference on Immigration and Refugee Policy, Washington, D.C., March 30-31, 2000.

"The Changing Arab New York Community," with Louis Abdellatif Cristillo; *A Community of Many Worlds: Arab Americans in New York City*, symposium sponsored by the Museum of the City of New York, New York City, February 5-6, 2000.

"Model Assumptions, and Model Checking in Ecological Regressions," co-authored with Andrew Gelman, Stephen Ansolabehere, Phillip N. Price and David K. Park; paper presented at the Royal Statistical Society conference on the Analysis and Interpretation of Disease Clusters and Ecological Studies, London, December 16-17, 1999.

"The Political Incorporation of Immigrants in New York," co-authored with Jennifer Holdaway and Ronald Hayduk; paper presented at the 95<sup>th</sup> Annual Meeting of the American Political Science Association, Atlanta, September 1-4, 1999.

"Political Capital and Political Participation," co-authored with Ester R. Fuchs and Robert Y. Shapiro; paper presented at the 58<sup>th</sup> Annual Meeting of the Midwest Political Science Association, Chicago, April 15-17, 1999.

"Racial and Ethnic and Urban/Suburban Differences in Public Opinion and Policy Priorities," co-authored with Ester R. Fuchs, Robert Y. Shapiro, and Gustavo Cano; paper presented at the 58<sup>th</sup> Annual Meeting of the Midwest Political Science Association, Chicago, April 15-17, 1999.

"The Importance of Full Disclosure of Nonresponse Due to Refusals and the Nature of Potential Bias in Phone Surveys," with Robert Y. Shapiro, evening workshop presentation to the New York City chapter of the American Association for Public Opinion Research, New York City, March 9, 1999.

"White, Black and Latino Voter Turnout in the 1993 New York City Mayoral Election: A Comparison of Ecological Regression Techniques and Exit Poll Data," co-authored with David K. Park and Daniel M. Slotwiner; paper presented at the 94<sup>th</sup> Annual Meeting of the American Political Science Association, Boston, September 4, 1998.

Panel Discussant, "Race, Rights, and American Politics;" panel at the 27<sup>th</sup> Annual Meeting of the Northeastern Political Science Association and International Studies Association-Northeast, Newark, New Jersey, November 9-11, 1995.

"Assessing the Quality of Political Reform: Redistricting and the Case of New York City," paper presented at the Annual Meeting of the New York State Political Science Association, Albany, New York, April 22, 1994.

### **Research Reports**

*The Myth of Voter Fraud*, A Report to Demos: A Network for Action and Ideas, May 2002.

*Evaluation of the New York Immigration Coalition's '200,000 in 2000: New Americans Pledging to Strengthen Democracy and New York' Initiative*, Final Report to the New York Foundation, with John H. Mollenkopf, August 2001.

*A Study of Attitudes Among Low-Income Parents Toward Environmental Health Risks and Childhood Disease: The Brooklyn College COPC Survey*, with Immanuel Ness, June 2001.

*Political Participation and Political Representation in New York City; With a Special Focus on Latino New Yorkers*, Report of the Columbia University/Hispanic Education and Legal Fund Opinion Research Project, co-authored with Ester R. Fuchs and Robert Y. Shapiro, December 1997.

## RESEARCH GRANTS

### *Prior Grants*

*Principal Investigator*, "2002 New Americans Exit Poll," December 2002 to March 2003 (\$1,800). Funded by the Faculty Research Fund of Barnard College.

*Principal Investigator*, "Evaluation of the New York Immigration Coalition's '200,000 in 2000' Campaign," July 2000 to July 2001 (\$40,000). Barnard College, Columbia University. Funded by the New York Foundation.

*Co-Principal Investigator*, "Muslim Communities in New York City," July 1998 to July 2001 (\$350,000). The Center for Urban Research and Policy, Columbia University. Funded by the Ford Foundation.

*Co-Principal Investigator*, "New York State and City Public Opinion Research Project," May 1997 to November 1998 (\$100,000). The Center for Urban Research and Policy, Columbia University. Funded by Local 1199, National Health and Human Services Employees Union, AFL-CIO.

### *Active Grants*

*Recipient*, Special Assistant Professor Leave Travel Grant, September 2003 to September 2005 (\$7,700). Funded by the Provost's Office, Winston Fund, Barnard College.

*Recipient*, Conference Grant, September 2003 to September 2005 (\$3,000). Funded by the Provost's Office, Forman Fund, Barnard College.

*Member*, Working Group on New York's Recovery from September 11<sup>th</sup>, June 2002 to June 2005 (\$30,000). Funded by the Russell Sage Foundation.

## SERVICE

### *College and University*

Member, Medalist Committee, Barnard College, 2004-2005.

Member, Columbia University Seminar in Political and Social Thought, 2004 to present.

Faculty Mentor, Francene Rodgers Scholarship Program, Barnard College, Summer 2004.

Panel Moderator, "Governance by the Media: Feminists and the Coming Election," at the Twenty-ninth Annual The Scholar and the Feminist Conference, Barnard College, New York City, April 3, 2004.

Member, Ph.D. Subcommittee in Urban Planning, Columbia University School of Architecture, Planning and Preservation, 2003 to present.

Member, Columbia University Seminar on Globalization, Labor, and Popular Struggles, 2001 to present.

Member, Columbia University Seminar on the City, 2001 to present.

Faculty Mentor, Columbia University Graduate School of Arts and Sciences Summer Research Program, 2001.

Advisory Board Member, Center for Research on Women, 2000 to present.

First Year Adviser, Barnard College, 2000 to 2004.

One-Year Replacement Member, Committee on Programs and Academic Standing, Barnard College, 2000-2001.

### *Professional*

Editorial Board Member, , *Working USA: The Journal of Labor and Society*, 2004 to present.

Manuscript Reviewer, *Working USA: The Journal of Labor and Society*, 2004 to present.

Manuscript Reviewer, *Urban Affairs Review*, 2004.

Manuscript Reviewer, *Political Science Quarterly*, 2004.

Grant Reviewer, Research Award Program, The City University of New York, 2003.

Manuscript Reviewer, *American Political Science Review*, 2001.

Member, New York Colloquium on American Political Development, 2001 to present.

## **Community**

Speaker, "The Immigrant Voter in New York City," New York Voter Assistance Commission, New York City, May 19, 2005.  
Speaker, "The Immigrant Voter in New York City," Citizens Union, New York City, May 18, 2005.  
Speaker, "The Immigrant Voter in New York City," New York Immigration Coalition, New York City, February 17, 2005.  
Speaker, "The Immigrant Voter in New York City," New York City Central Labor Council, New York City, April 28, 2004.  
Speaker, "The Post-9/11 Crackdown on Immigrants," Coney Island Avenue Project, Brooklyn, New York, March 25, 2004.  
Volunteer, *New York Immigration Coalition*, Voter Registration at INS Naturalization Ceremonies, 1998 to present.

## **CONSULTANTSHIPS**

### ***Brennan Center for Justice at New York University School of Law, 2004-2005.***

Provided expert report on voter fraud and testified as a fact witness in *ACORN, et al. v. Bysiewicz* (Civil Action No. 3:04-CV-1624 (MRK)).

### ***Howard Samuels State Management and Policy Center, Graduate School and University Center of CUNY, 2002.***

Consulted on survey design for a project on the efficacy of community-based organizations.

### ***Demos, New York, New York, 2001 to 2002.***

Researched and wrote a study of voter fraud in contemporary American politics.

### ***1199 Child Care Fund, New York, New York, 2000 to 2002.***

Prepare demographic data for Fund-eligible union members and their children.

### ***Brooklyn College, Brooklyn, New York, 1998 to 2000.***

Developed survey instrument and devised sampling strategy to measure respondents' knowledge of relationships between indoor and outdoor environmental risks, and childhood disease.

### ***National Association of Social Workers, New York City Chapter, 1998.***

Designed survey instrument and analyzed findings of a survey of the organization's membership.

### ***Primary Care Development Corporation, New York, New York, 1997 to 2002.***

Developed project maps for this organization, which builds health care clinics in New York City.

### ***Service Employees International Union, AFL-CIO, Washington, D.C., 1997.***

Prepared tables for a report from raw data collected for a political opinion survey.

### ***Committee to Elect Sal F. Albanese, New York, New York, 1997.***

Wrote economic development position paper and consulted on campaign strategy for Democratic mayoral primary candidate.

### ***1199 National Health and Human Service Employees Union, AFL-CIO, New York, New York, 1996 to 1997.***

Advised the Political Action Director on the development of a political action plan for union members; advised on the management of the union's telecommunications center.

### ***New York City Districting Commission, March to June 1991.***

Assisted individuals and organizations gain access to Census and electoral data, construct viable plans for new City Council districts, and operate the public access computer provided by the Commission.

(5/05)

© Lorraine C. Minnite

**Lorraine C. Minnite**

has taught American and urban politics at Barnard College, Columbia University, since January 2000. Prior to that she was the Associate Director of the Center for Urban Research and Policy at Columbia's School of International and Public Affairs. Her research is concerned with issues of equality, social and racial justice, political conflict and institutional change. Dr. Minnite has consulted with various labor, advocacy, and governmental organizations, and political campaigns which relied on her expertise in public policy and demographic patterns in New York City. An experienced survey researcher, she has published on various aspects of political participation, voting behavior and urban politics, among other things. Currently, she is working on a book on the contemporary immigrant rights movement in the U.S.



**List of Experts Interviewed**

Wade Henderson, Executive Director, Leadership Conference for Civil Rights

Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

William Groth, attorney for the plaintiffs in the Indiana voter identification litigation

Lori Minnite, Barnard College, Columbia University

Neil Bradley, ACLU Voting Rights Project

Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

Pat Rogers, attorney, New Mexico

Rebecca Vigil-Giron, Secretary of State, New Mexico

Sarah Ball Johnson, Executive Director of the State Board of Elections, Kentucky

Stephen Ansolobhere, Massachusetts Institute of Technology

Chandler Davidson, Rice University

Tracey Campbell, author, *Deliver the Vote*

Douglas Webber, Assistant Attorney General, Indiana, (defendant in the Indiana voter identification litigation)

Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

Jason Torchinsky, Assistant General Counsel, American Center for Voting Rights

Robin DeJarnette, Executive Director, American Center for Voting Rights

Joseph Rich, former Director of the Voting Section, Civil Rights Division, U.S. Department of Justice

Joseph Sandler, Counsel to the Democratic National Committee

John Ravitz, Executive Director, New York City Board of Elections

John Tanner, Director, Voting Section, Civil Rights Division, U.S. Department of Justice

Kevin Kennedy, Executive Director of the State Board of Elections, Wisconsin

Evelyn Stratton, Justice, Supreme Court of Ohio

Tony Sirvello, Executive Director, International Association of  
Clerks, Recorders, Election Officials and Treasurers

Harry Van Sickle, Commissioner of Elections, Pennsylvania

Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice

Sharon Priest, former Secretary of State, Arkansas

### **Biographical Sketch**

R. Michael Alvarez, Ph.D.  
Professor of Political Science  
Division of the Humanities and Social Sciences  
California Institute of Technology  
rma@hss.caltech.edu  
<http://www.hss.caltech.edu/rma/home.html>  
626-395-4422

R. Michael Alvarez was selected by *Scientific American* magazine to be on the 2004 "Scientific American 50" for his outstanding scientific and technological contributions to help improve the U.S. voting system. He has taught political science at Caltech since December 1992. He received his B.A. in political science in 1986 from Carleton College; he received his M.A. and Ph.D. from Duke University in 1990 and 1992, respectively. Alvarez was named an Associate Professor in April 1995, received tenure in June 1997, and was promoted to Professor in March 2002. Alvarez has focused most of his research and teaching on the study of electoral politics in the United States. His first book, *Information and Elections*, was published in the spring of 1997: This project examined the question of how much American voters know about presidential candidates and how they obtain that information. His second book, *Hard Choices, Easy Answers* (with John Brehm), is a study of American public opinion about divisive social and political issues. His recent book (published January 2004), *Point, Click, and Vote: The Future of Internet Voting* (with Thad E. Hall), published by Brookings Institution Press, examines the controversies swirling around the Internet voting in the United States. He has also published many articles on electoral behavior and public opinion in the United States and other advanced industrial democratic nations.

Alvarez has received a number of honors and grants for his work. He was named the "Emerging Scholar" by the American Political Science Association's Voting Behavior and Public Opinion Section in 2002. He was a John M. Olin Faculty Fellow (1994-95) as well as a John Randolph Haynes and Dora Haynes Faculty Fellow (1994, 1997, 1999, 2002). Alvarez received the Sprague Award with John Brehm for their work on public opinion, and the Durr Award with Jonathan Nagler for their work on modeling elections. Also, Alvarez has received financial support for his research from the National Science Foundation, The IBM Corporation, the Carnegie Corporation of New York, and the Knight Foundation. Alvarez edits the Analytical Methods for Social Research book series and is on the editorial boards of a number of academic journals: *American Journal of Political Science*, *American Politics Quarterly*, *Election Law Journal*, *Political Behavior*, *The Journal of Politics* and *Political Research Quarterly*. He was the editor of *The Political Methodologist*, 1993-96.

Professor Alvarez is Co-Director of the Caltech-MIT Voting Technology Project, researching technological solutions to electoral problems, and is the Principal Investigator of the "Secure Electronic Registration and Voting Experiment" Evaluation. He has been an expert witness in a series of recent court cases, including California's defense of the blanket primary (*California Democratic Party v. Jones*), *Bradley v. Compton*, and *Cano v. Davis*. He has testified before a number of organizations, including the U.S. Senate. He was an outside consultant for Knight Ridder on their 2000 Hispanic Voter Poll, and in 2004 is a consultant to Greenberg, Quinlan, Rosner Research Inc. in their research on the Hispanic electorate. Alvarez is a frequent guest on Pasadena's National Public Radio affiliate, KPCC-FM, and writes opinion pieces for local newspapers. He has been interviewed for National Public Radio, Jim Lehrer's NewsHour, CNN, ABC, NBC News, and for many state, national and international newspapers.

# Curriculum Vitae Ramon Michael Alvarez

## Address

Division of the Humanities and Social Sciences  
Mail Code 228-77  
California Institute of Technology  
Pasadena, CA 91125  
626-395-4422  
e-mail: rma@hss.caltech.edu

## Academic Background

Professor of Political Science with tenure, California Institute of Technology, February 2002 to present.

Associate Professor of Political Science with tenure, California Institute of Technology, June 1997 to February 2002.

Associate Professor of Political Science, California Institute of Technology, April 1995 to June 1997.

Assistant Professor of Political Science, California Institute of Technology, December 1992 to April 1995.

Robert S. Rankin Instructor of American Politics, Duke University, 1991-1992.

Duke University, Ph.D., December 1992 (Political Science). M.A., with distinction on Ph.D. Preliminary Examination, May 1990, (Political Science).

Carleton College, B.A., *magna cum laude*, 1986 (Political Science).

## Grants and Fellowships

Carnegie Corporation of New York, "Electronic Elections", 2005-2006, Co-principal Investigator, (\$50,000).

IBM Center for The Business of Government, "Database Integration for Election Administration", 2004-2005, Co-principal Investigator, (\$15,000).

John S. and James L. Knight Foundation, "Internet and Electronic Voting", 2003 – 2006, Co-principal Investigator, (\$650,000).

U.S. Department of Defense, "Evaluation of the Secure Electronic Registration and Voting (SERVE) Project", November 2002 – December 2005, Principal Investigator, (\$1,700,000).

Carnegie Corporation, "Internet Voting", 2003 – 2005, Co-principal Investigator, (\$273,000).

U.S. Department of Defense, "Evaluation of the Secure Electronic Registration and Voting (SERVE) Project", DASW01-02-C-0027, (\$236,140), Principal Investigator.

John Randolph Haynes and Dora Haynes Foundation Faculty Fellowship, 2002. Project title: "California's Voting Systems", May 2002 – October 2002, (\$10,000).

Carnegie Corporation, Project title: "MIT-Caltech Voting Technology Initiative", 2000 – 2001, Co-principal Investigator, (\$450,000).

USC-Caltech Center for the Study of Law and Politics, Associate Director, 2000 (\$150,000) 2001 (\$150,000), 2002 (\$150,000).

USC Center for Law, Communications, and Public Policy, "Manufacturing a Gender Gap", 1999, Co-principal Investigator (\$8,500).

John Randolph Haynes and Dora Haynes Foundation Faculty Fellowship, Project title: "An Experiment in Democracy: The Blanket Primary in California", 1999, (\$8,000).

National Science Foundation, Project title: "Issues and Economics in Multiparty Elections", 1997-99, Co-principal Investigator, (\$85,000).

IBM University Equipment Matching Grants Program, 1998, (\$25,000).

John Randolph Haynes and Dora Haynes Foundation Faculty Fellowship, Project title: "Who Governs Southern California: Will the Rise of Latino Political Power Continue?" 1997, (\$8,000).

IBM University Equipment Grants Program, Project title: "Individuals and Aggregates: New Computational Techniques for Resolving Ecological Relationships", 1996 – 97, Co-principal Investigator, (\$134,000).

John M. Olin Faculty Fellowship, 1994 – 95, (\$45,000).

John Randolph Haynes and Dora Haynes Foundation Faculty Fellowship, Project title: "Information in State-Level Political Campaigns: An Examination of the 1994 Senate and Gubernatorial Races in California", 1994, (\$8,000).

Duke Endowment Fellow, 1987 – 89.

## **Professional Honors**

Named and recognized by *Scientific American* magazine for outstanding acts of leadership in science and technology as a Policy Leader in the computing category of the 2004 "Scientific American 50".

Emerging Scholar Award, Elections, Public Opinion, and Voting Behavior Section of the American Political Science Association, for the top scholar within ten years of Ph.D. receipt in the field, 2002.

Robert H. Durr Award for the best paper applying quantitative methods to a substantive problem in political science at the 1997 Annual Meeting of the Midwest Political Science Association.

Sprague Award for the best paper applying quantitative methods to a substantive problem in political science at the 1995 Annual Meeting of the Midwest Political Science Association.

Brooks/Cole Award for the best paper written by a graduate student in the 1991 Annual Meeting of the Midwest Political Science Association.

Distinction in the Department of Political Science, Carleton College, 1986, awarded for thesis titled *Latin American Revolutions: Going Beyond Skocpol*.

## **Publications**

### **Books**

*Electronic Elections*. With Thad E. Hall. Princeton University Press, forthcoming 2006.

*Point, Click and Vote*. With Thad E. Hall. Brookings Institution Press, 2004.

*Hard Choices, Easy Answers*. With John Brehm. Princeton University Press, 2002.

*Information and Elections*. Revised Edition. University of Michigan Press, 1998.

*Information and Elections*. University of Michigan Press, 1997.

### **Journal Articles**

"Strategic Voting in British Elections." With Fred Boehmke and Jonathan Nagler. *Electoral Studies*, forthcoming.

"A Natural Experiment of Race-Based and Issue Voting: The 2001 City of Los Angeles Elections." With Marisa A. Abrajano and Jonathan Nagler. *Political Research Quarterly*, forthcoming.

"Voting Behavior and the Electoral Context of Government Formation: The 1994 Dutch Parliamentary Election and the 'Purple Coalition'." With Garrett Glasgow. *Electoral Studies*, forthcoming.

"Web-Based Surveys." With Carla VanBeselaere. *Encyclopedia of Social Measurement*, Vol. 3, 2005, 955-962.

"Studying Elections: Data Quality and Pitfalls in Measuring the Effects of Voting Technologies." With Stephen Ansolabehere and Charles Stewart III. *Policy Studies Journal*, Vol. 33, No. 1 (February 2005), 15-24.

"Latinos, Anglos, Voters, Candidates, and Voting Rights." With Jonathan Nagler. *University of Pennsylvania Law Review*. Vol. 153, No. 1 (November 2004), 393-432.

"Party System Compactness: Measurement and Consequences." With Jonathan Nagler. *Political Analysis*, Vol. 12, No. 1 (Winter 2004), 46-62.

"The Race Gap in Student Achievement Scores: Longitudinal Evidence from a Racially Diverse Environment." With Valentina Bali, *Policy Studies Journal*, Vol. 32, No. 3 (August 2004), 393-416.

"The Revolution Against Affirmative Action in California: Politics, Economics, and Proposition 209." With Lisa García Bedolla. *State Politics and Policy Quarterly*, Vol. 4, No. 1 (Spring 2004), 1-17.

"Who Overvotes, Who Undervotes, Using Punchcards? Evidence from Los Angeles County." With Betsy Sinclair. *Political Research Quarterly*, Vol. 57, No. 1 (March 2004), 15-25.

"The Complexity of the California Recall Election." With Melanie Goodrich, Thad E. Hall, D. Roderick Kiewiet, and Sarah M. Sled. *PSOnline*, ([www.apsanet.org](http://www.apsanet.org)), January 2004.

"Schools and Educational Outcomes: What Causes the "Race Gap" in Student Test Scores?" With Valentina A. Bali. *Social Science Quarterly*, September 2003, vol. 84, no. 3, 485-507.

"Are There Sex Differences in Fiscal Political Preferences?" With Edward J. McCaffery. *Political Research Quarterly*, March 2003, vol. 56, no. 1, 5-17.

"The Foundations of Latino Voter Partisanship: Evidence from the 2000 Election." With Lisa García Bedolla. *Journal of Politics*, February 2003, vol. 65, no. 1, 31-49.

"Subject Acquisition for Web-Based Surveys." With Robert Sherman and Carla VanBeselaere. *Political Analysis*, vol. II, no. 1, Winter 2003.

"The Likely Consequences of Internet Voting for Political Representation." With Jonathan Nagler. *Loyola Law Review*, April 2001, vol. 34, no. 3, 1115-1153.

"Issues, Economics and the Dynamics of Multi-Party Elections: The British 1987 General Election." With Jonathan Nagler and Shaun Bowler. *American Political Science Review*, March 2000, vol. 94, no. 1, 131-150.

"The Resurgence of Nativism in California? The Case of Proposition 187 and Illegal Immigration." With Tara Butterfield. *Social Science Quarterly*, March 2000, vol. 81, no. 1, 167-179.

"Two-Stage Estimation of Non-Recursive Choice Models." With Garrett Glasgow. *Political Analysis*, Spring 2000, vol. 8, no. 2, 147-166.

"Measuring the Relative Impact of Issues and the Economy in Democratic Elections." With Jennifer Niemann and Jonathan Nagler. *Electoral Studies*, June-September, 2000, vol. 19, no. 2-3, 237-253.

"A New Approach for Modeling Strategic Voting in Multiparty Elections." With Jonathan Nagler. *British Journal of Political Science*, January 2000, vol. 30, no. 1, 57-75.

"Uncertainty and Candidate Personality Traits." With Garrett Glasgow. *American Politics Quarterly*, January 2000, vol. 28, no. 1, 26-49.

"Citizenship and Political Representation in Contemporary California." With Tara L. Butterfield. *Pacific Historical Review*, May 1999, vol. 68, no. 2, 293-308.

"Explaining the Gender Gap in U.S. Presidential Elections, 1980-1992." With Carole Chaney and Jonathan Nagler. *Political Research Quarterly*, June 1998, vol. 51, no. 2, 311-339.

"Speaking in Two Voices: American Equivocation about the Internal Revenue Service." With John Brehm. *American Journal of Political Science*, April 1998, vol. 42, no. 2, 418-452.

"Economics, Entitlements and Social Issues: Voter Choice in the 1996 Presidential Election." With Jonathan Nagler. *American Journal of Political Science*, October 1998, vol. 42, no. 4, 1349-1363.

"When Politics and Models Collide: Estimating Models of Multicandidate Elections." With Jonathan Nagler. *American Journal of Political Science*, January 1998, vol. 42, no. 1, 55-96.

"Deficits, Democrats, and Distributive Benefits: Congressional Elections and the Pork Barrel in the 1980s." With Jason Saving. *Political Research Quarterly*, December 1997, vol. 50, no. 4, 809-832.

"Congressional Committees and the Political Economy of Federal Outlays." With Jason Saving. *Public Choice*, August 1997, vol. 92, no. 1-2, 55-73.

"Are Americans Ambivalent Towards Racial Policies?" With John Brehm. *American Journal of Political Science*, April 1997, vol. 40, no. 2, 345-374.

"Constituents and Legislators: Learning About the Persian Gulf War Resolution." With Paul W. Gronke. *Legislative Studies Quarterly*, February 1996, vol. 21, no. 1, 105-127.

"American Ambivalence Towards Abortion Policy: Development of a Heteroskedastic Probit Model of Competing Values." With John Brehm. *American Journal of Political Science*, November 1995, vol. 39, no. 4, 1055-1082.

"Voter Choice in 1992: Economics, Issues and Anger." With Jonathan Nagler. *American Journal of Political Science*, August 1995, vol. 39, no. 3, 714-744.

"Issues and the Presidential Primary Voter." With John Aldrich. *Political Behavior*, September 1994, vol. 16, no. 3, 289-317.

"Uncertainty and Political Perceptions." With Charles Franklin. *Journal of Politics*, August 1994, vol. 56, no. 4, 671-689.

"Government Partisanship, Labor Organizations and Macroeconomic Performance, A Corrigendum." With Nathaniel Beck, Jonathan N. Katz, Geoffrey Garrett, and Peter Lange. *American Political Science Review*, December 1993, vol. 87, no. 4, 945-948.

"Policy Moderation or Conflicting Expectations: Testing the Intentional Models of Ticket-Splitting." With Matthew M. Schousen. *American Politics Quarterly*, October 1993, vol. 21, no. 4, 410-438.



"Government Partisanship, Labor Organization and Macroeconomic Performance, 1967-1984." With Geoffrey Garrett and Peter Lange. *American Political Science Review*, June 1991, vol. 85, no. 2, 539-556. Reprinted in: Carlos Boix (ed.), *Modelos Politico-Institucionales de Politica Economica* (Madrid: Instituto de Estudios Fiscales, 1994), and Ronald Rogowski (ed.), *Comparative Politics and the International Political Economy* (Cheltenham: Edward Elgar, 1994).

"The Puzzle of Party Identification: Dimensionality of an Important Concept." *American Politics Quarterly*, October 1990, vol. 18, no. 4, 476-491.

### **Research Reports and Monographs**

*Making Voting Easier: Election Day Registration in New York.* With Jonathan Nagler and Catherine Wilson. Prepared for Demos, May 2004.

*California Votes: Election Day Registration in California.* With Stephen Ansolabehere. Prepared for Demos, May 2002.

*Voting: What is, What Could Be.* Caltech/MIT Voting Technology Project, June 2001.

*Bush's Tax Cut.* With Edward J. McCaffery. Prepared for the USC-Caltech Center for the Study of Law and Politics, 2001.

*American Opinion About Election Reform.* Prepared for USC-Caltech Center for the Study of Law and Politics, 2001.

*California's Blanket Primary.* With Jonathan Nagler. Prepared for the California Secretary of State, 1998.

### **Unrefereed Publications**

"Rational Voters and the Recall Election." With D. Roderick Kiewiet and Betsy Sinclair, in Shawn Bowler and Bruce Cain, *Clicker Politics*, Prentice-Hall, forthcoming.

"And now for something completely different for California elections: Other views: Commission would ease politicking" With Thad E. Hall, Special to *The Sacramento Bee*, published Tuesday, February 22, 2005.

"Ambivalence as Internal Conflict." With Bethony Albertson and John Brehm, in Stephen C. Craig and Michael D. Martinez, *Ambivalence and the Structure of Political Opinion*, Palgrave Macmillan, December 2004.

"Online Voting." With Thad Hall, in William Sims Bainbridge, *Berkshire Encyclopedia of Human-Computer Interaction*, Berkshire Publishing Group, 2004, 526-527.

"Counting Ballots and the 2000 Election: What Went Wrong?" With Betsy Sinclair and Catherine H. Wilson, in A. Crigler et. al., "Rethinking the Vote", Oxford University Press, 2004, 34-50.

"Uncertainty and American Public Opinion", with John Brehm and Catherine Wilson, in B. Burden, *Uncertainty and American Politics*, Cambridge University Press, 2003.

Review of *The Initiative and Referendum in California, 1898-1998*, *Pacific Historical Review*, 2002.

"Should I Stay or Should I Go? Crossover Voting in Assembly Races." With Jonathan Nagler, in B. Cain and E. Gerber, *California's Blanket Primary*, University of California Press, 2002.

"Gender and Tax." With Edward J. McCaffery. In S. Tolleson-Rinehart and J. J. Josephson, editors, *Gender and American Politics*, M. E. Sharpe, 2000.

Book review in *American Political Science Review*, 2000 (98:2), 463-464 of Cambridge University Press, *The Democratic Dilemma: Can Citizens Learn What They Need to Know?* 1998. Arthur Lupia and Mathew D. McCubbins.

"Gender and Tax", with Edward J. McCaffery. 2000. In S. Tolleson-Ronhart and J. J. Josephson, editors, *Gender and American Politics*, M. E. Sharpe.

Review of *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction*, *Engineering and Science*, vol. LXII, no. 1-2, 1999, 54-55.

Review of *Change and Continuity in the 1996 Elections*, *Political Science Quarterly*, Summer 1999, vol. 114, no. 2, 331.

Review of *Political Analysis, Volume 5*. *American Political Science Review*, vol. 91, no. 3, 721-722.

"Polmeth -- You've Come a Long Way, Baby." *The Political Methodologist*, Spring 1996, vol. 7, no. 2, 10-12.

"The Role of Replication," in *Mistakes That Social Scientists Make*, edited by Richard Seltzer. New York: St. Martins Press, 1996.

"Can Bush Hit a Home Run?" With Brian Loynd. *The Political Methodologist*, Spring-Summer 1994, vol. 5, no. 2, 2-4.

"Methods Madness: Graduate Training and the Political Methodology Conferences." *The Political Methodologist*, Spring 1992, vol. 5, no. 1, 2-3.

## **Working Papers**

### **Papers Under Review or Revision**

"Where the Good Signatures Are: The Number and Validity Rates of Initiative Petition Signatures Gathered in California Counties." With Frederick J. Boehmke.

"Why Everything That Can Go Wrong Often Does: An Analysis of Election Administration Problems." With Thad E. Hall.

“Election Day Voter Registration in the United States: How One-Step Voting Can Change the Composition of the American Electorate.” With Stephen Ansolabehere and Catherine H. Wilson.

“Similar Yet Different? Latino and Anglo Party Identification.” With Lisa García Bedolla.

“A Comparative Evaluation of Economic and Issue Voting.” With Catherine Wilson and Jonathan Nagler.

“Whose Absentee Votes Are Counted?” With Thad Hall and Betsy Sinclair.

### **Papers under Preparation for Submission**

“Campaign Effects in the 2004 Presidential Election.” With Jonathan Nagler.

“Instigation by Initiative: The Influence of Signature Gathering Campaigns on Political Participation.” With Frederick J. Boehmke.

“Machines Versus Humans: The Counting and Recounting of Pre-scored Punchcard Ballots.” With Sarah A. Hill and Jonathan N. Katz.

“Detecting Election Fraud: The Case of Georgia.” With Jonathan N. Katz.

“California’s Latino Electorate and the Davis Recall Election.” With D. Roderick Kiewiet.

“Rationality and the Recall Election.” With D. Roderick Kiewiet.

“Political Competition, Partisanship, and Contemporary Election Fraud.” With Fred Boehmke.

“An Experimental Study of the Adequacy of Voter Registration Lists and the Effectiveness of Official Get-Out-The-Vote Mail.” With Stephen Ansolabehere and Mary King Sikora.

“How Widespread Is Voting Fraud in California?”

“Does Being First on the Ballot Matter?” With Richard Hasen and Melanie Goodrich.

“Abortion and the Latino Vote in the 2000 Presidential Election.” With Marisa A. Abrajano and Jonathan Nagler.

“Aggregation and Dynamics of Survey Responses: The Case of Presidential Approval.” With Jonathan Katz.

“Economic Voting in the United States: Methodological Issues and Research Agendas.” With Jonathan Nagler.

“Understanding the Political Response to Affirmative Action: Antagonism and Social Context in a Multi-Ethnic World.” With Claudine Gay.

“Binding the Frame: Do Frames Matter for Survey Response?” With John Brehm.

“Is the Sleeping Giant Awakening? Latinos and California Politics in the 1990’s.” With Jonathan Nagler.

“Electoral Institutions and Strategic Voting: California’s Experiment with the Blanket Primary.” With Jonathan Nagler.

“Modeling Voter Support in the 1989 and 1994 Dutch Elections.” With Garrett Glasgow.

“The “Ham and Eggs” Movement in Southern California: Public Opinion on Economic Redistribution in the 1938 Campaign.” With William Deverell and Elizabeth Penn.

“Does That Mariachi Band Make a Difference? Latino Public Opinion and Party Identification.” With Lisa García Bedolla.

“The Dynamics of Issue Emphasis: Campaign Strategy and Media Coverage in Statewide Races.”

“Identification in Discrete Choice Models.” With Eric Lawrence and Jonathan Nagler.

“Efficient Estimation of Models with Discrete Endogenous Regressors.” With Tara Butterfield and Garrett Glasgow.

“Hamilton’s Political Economy and the National Bank.” Duke University Program in Political Economy, Papers in American Politics, Working Paper Number 84, August 23, 1989.

“The New Republic and The New Institutionalism: Hamilton’s Plan and Extra-Legislative Organization.” Duke University Program in Political Economy, Papers in American Politics, Working Paper Number 85, August 23, 1989.

“Attributions of Responsibility and Priming in Economic Perception Survey Questions.” With Garrett Glasgow and Carla VanBeselaere.

“Do Voters Learn from Presidential Election Campaigns?” With Garrett Glasgow.

“Attitudes, Uncertainty, and the Survey Response.” With Charles Franklin.

“Correlated Disturbances in Discrete Choice Models: A Comparison of Multinomial Probit Models and Logit Models.” With Jonathan Nagler.

## **Professional Presentations**

San Gabriel Valley Young Presidents Organization, Pasadena, October 2004 (presentation).

“The 2004 Election: What Does It Mean for Campaigns and Governance?” USC Law School Conference, October 2004 (presentation).

Caltech/MIT Voting Technology Project Symposium, “Voting Technology: Innovations for Today and Tomorrow”, presentation and session leader, MIT, October 2004.

JustDemocracy workshop presentation, Harvard University, October 2004.

League of Women Voters of Los Angeles Forum, September 10, 2004. Keynote speaker.

Annual Meetings of the American Political Science Association, August 2004 (roundtable presentation).

The National Academies workshop on "A Framework for Understanding Electronic Voting", Washington DC, July 2004 (paper presentation).

Annual Meetings of the Midwest Political Science Association, April 2004 (paper presentation).

University of Michigan, Department of Political Science, January 2004 (presentation).

"Digital Divide, Global Development and the Information Society", World Forum on Information Society, International Research Foundation for Development, Geneva, Switzerland, December 2003 (paper presentation).

Internet Survey Workshop, Pacific Chapter of American Association for Public Opinion Research, October 2003 (Presentation).

Modeling the Constitution Conference. California Institute of Technology, May 2003 (Discussant).

Earnest C. Watson Lecture, "Voting: Where We Have Been, Where We Are Going", California Institute of Technology, April 2003 (presentation).

Annual Meetings of the Midwest Political Science Association, April 2003 (two paper presentations).

Election Reform, Cantigny Conference, November 2002 (presentation).

Annual Meetings of the American Political Science Association, August 2002 (three paper presentations).

Election Law Summit, Washington D.C., June 2002 (presentation).

American Empirical Seminar Series, Stanford University, Stanford Institute for the Quantitative Study of Society, May 2002 (presentation).

Annual Meetings of the Midwest Political Science Association, April 2002 (paper presentation).

California Association of Election Officials, Los Angeles, April 2002 (presentation).

Southern California Political Methodology Program, University of California, Riverside, October 2001 (paper presentation).

City Clerk Summit III, Los Angeles County Registrar-Recorder, October 2001 (presentation).

Annual Meetings of the American Political Science Association, September 2001 (two paper presentations).

Democratic Caucus Special Committee on Election Reform, "Making Every Vote Count!" Los Angeles, CA, August 2001 (testimony).

United States Senate, Committee on Governmental Affairs, Hearings on Election Reform, May 3, 2001 (written and oral testimony).

Election Reform: 2000 and Beyond. USC-Caltech Center for the Study of Law and Politics, University of Southern California, April 2001 (paper presentation, panel session moderator).

Annual Meetings of the Midwest Political Science Association, April 2001 (paper presentation).

National Commission on Election Reform, April 2001 (testimony on new technology for elections).

Pasadena Rotary, March 28, 2001 (presentation).

Voting Technology Conference, Caltech-MIT Voting Technology Project, March 2001 (panel session moderator).

Annual Meetings of the Western Political Science Association, March 2001 (paper presentation).

Internet Voting and Democracy, Loyola Law School, October 2000 (paper presentation).

e-Voting Workshop, Internet Policy Institute, Sponsored by the National Science Foundation, conducted in cooperation with the University of Maryland and hosted by the Freedom Forum, October 2000 (panel discussion chair and research presentation).

Annual Meetings of the American Political Science Association, August 2000 (two paper presentations).

California Voting in the 21st Century, Los Angeles, May 2000 (research presentation on Internet voting).

Southern California Political Methodology Program, University of California, Santa Barbara, May 2000 (paper presentation).

Annual Meetings of the Midwest Political Science Association, April 2000 (paper presentation).

University of New Mexico, Political Science Department, April 2000.

Annual Meetings of the Western Political Science Association, March 2000 (paper presentation, roundtable presentation).

Southern California Political Methodology Program, UCLA Lake Arrowhead Conference Center, December 1999 (paper presentation).

Annual Meetings of the American Political Science Association, September 1999 (paper presentation, discussant).

Southern California Political Methodology Program, California State Polytechnic University, San Luis Obispo, May 1999 (paper presentation).

Center for Basic Research in the Social Sciences, Harvard University, April 1999.

Annual Meetings of the Midwest Political Science Association, April 1999 (paper presentation, discussant).

Annual Meetings of the Western Political Science Association, March 1999 (paper presentation).

Public Policy Institute of California, March 1999.

University of Southern California, March 1999.

Yale Law School, Yale University, February 1999.

“Campaign 1998: The California Governor’s Race”, The Institute of Governmental Studies, University of California, Berkeley, January 1999 (paper presentation).

“Proposition 227”, Center for U.S. – Mexican Studies, University of California, San Diego, January 1999 (paper presentation).

Emory University, October 1998. Annual Meetings of the Southern Political Science Association, October 1998 (paper presentation, discussant).

University of California, Irvine, Institute for Mathematical Behavioral Sciences, October 1998.

Annual Meetings of the American Political Science Association, September 1998 (two paper presentations, discussant).

Fifteenth Political Methodology Conference, July 1998 (discussant).

“California’s Blanket-Open Primary: A Natural Experiment in Election Dynamics”, University of California at Berkeley, June 1998 (participant).

Annual Meetings of the Midwest Political Science Association, April 1998 (four paper presentations, roundtable discussant, poster presentation).

University of California at Santa Barbara, April 1998.

Annual Meetings of the Western Political Science Association, March 1998 (two paper presentations, discussant).

“Orange Empires: Miami and Los Angeles” Conference. The Huntington Library, San Marino, California, February 27-28, 1998 (paper presentation).

University of California at Riverside, February 1998 (Southern California Political Methodology Group).

The Annenberg School of Communication, University of Pennsylvania, October 1997.

Duke University, October 1997.

Annual Meetings of the American Political Science Association, August 1997 (two paper presentations).

Fourteenth Political Methodology Conference, July 1997 (discussant).

University of California at Los Angeles, April 1997 (Southern California Political Methodology Group).

Annual Meetings of the Midwest Political Science Association, April 1997.

University of Michigan, March 1997.

University of Arizona, December 1996.

Annual Meetings of the Southern Political Science Association, November 1996 (three paper presentations.)

University of Minnesota, October 1996 (Second CIC Interactive Video Methods Seminar broadcast to the University of Wisconsin--Madison, the University of Illinois, and Ohio State University).

Annual Meetings of the American Political Science Association, August 1996 (three paper presentations, discussant).

Annual Meetings of the Midwest Political Science Association, April 1996 (four paper presentations).

National Election Studies Research & Development Conference on Congressional Elections, Chicago, IL, March 1996 (paper presentation).

Southern California Political Economy Seminar, University of California-Irvine, September 1995 (paper presentation).

Annual Meetings of the American Political Science Association, August 1995 (one paper presentation, chair-discussant).

Twelfth Political Methodology Conference, July 1995 (paper presentation).

Annual Meetings of the Midwest Political Science Association, April 1995 (three paper presentations).

Annual Meeting of the Public Choice Society, April 1995 (paper presentation, discussant).

Hoover Institution, Stanford University, February 1995.

National Election Study Conference on the Impact of the Presidential Campaign, University of Pennsylvania, November 1994 (discussant).

Southern California Political Economy Seminar, University of California-Irvine, October 1994 (discussant).

Annual Meetings of the American Political Science Association, August 1994 (two paper presentations).

Eleventh Political Methodology Conference, July 1994 (discussant).



Annual Meetings of the Midwest Political Science Association, April 1994 (two paper presentations and chair of panel).

Southern Political Science Association Annual Meeting, November 1993 (paper presentation).

Annual Meetings of the American Political Science Association, September 1993 (two paper presentations).

Tenth Political Methodology Conference, Florida State University, July 1993 (paper presentation).

University of California at San Diego, June 1993.

University of California at Riverside, May 1993.

Annual Meeting of the Midwest Political Science Association, April 1993 (two paper presentations).

Western Political Science Association Annual Meeting, April 1993 (chair of panel and discussant).

Annual Meetings of the American Political Science Association, August 1992 (chair of roundtable and paper presentation).

Ninth Political Methodology Conference, Harvard University, July 1992 (paper presentation).

Midwest Political Science Association Annual Meetings, Chicago, IL., April 1992 (two paper presentations).

The Political Consequences of War, The Brookings Institution, Washington, D.C., February 1992 (paper presentation).

Annual Meetings of the American Political Science Association, August 1991 (two paper presentations).

Midwest Political Science Association Annual Meeting, April 1991 (two paper presentations).

Annual Meetings of the American Political Science Association, August 1990 (paper presentation and discussant).

Midwest Political Science Association Annual Meeting, April 1990 (paper presentation).

Conference on Political Economics, National Bureau of Economic Research, February, 1990 (paper presentation).

Annual Meetings of the American Political Science Association, August 1989 (paper presentation).

Southern Political Science Association Annual Meeting, September 1988 (discussant).

## Other Professional Activities

HAVA Section 301 Task Force member (State of California), November 2004 to present.

Committee member, National Commission on Elections and Voting, 2004-present.

Committee member, National Research Council Computer Science and Telecommunications Board Committee, National Academy of Sciences, "A Framework for Understanding Electronic Voting", 2004-present.

Political Research Quarterly (PRQ) Editor Search Committee, 2004-present.

Steering Committee member, The Commonwealth Club of California, 2004-present.

Board of Scholars of the Initiative and Referendum Institute (IRI), University of Southern California, Winter 2002-present.

Chair, Durr Award Committee, Midwest Political Science Association, 2003, 2004, 2005.

Recall Election Symposium, Caltech-USC Center for the Study of Politics, September 2003.

State Plan Advisory Committee member, Help America Vote Act (HAVA), Spring 2003-present.

Co-director, Caltech/MIT Voting Technology Project, Fall 2002-present.

Advisory Board, The Reform Institute, Advisory Board, 2001-present.

Participant, Federal Voting Assistance Program, Voting Over the Internet, Peer Review Workshop, March 14, 2001.

USC-Caltech Center for the Study of Law and Politics, Associate Director, 2001-present; Advisory Board, 2000-present.

American Political Science Association Research Support Advisory Committee, 2000-2002.

Advisory/Editorial board, *Encyclopedia of Social Science Research Methods* [2001 to present], Editorial board, *American Journal of Political Science* [2001 to present]; *Election Law Journal* [2001 to present]; *Journal of Politics* [2001 to present]; *Political Research Quarterly* [2000 to present]; *Political Analysis* [1998 to 2003]; *American Politics Research* formerly *American Politics Quarterly* [1997 to 2004]; *Political Behavior* [1997 to present].

Executive Council Representative, Western Political Science Association, 1998-2001.

Book series co-editor, *Techniques of Political Analysis*, published by the University of Michigan Press, 1998-2003.

Book series co-editor, *Analytical Methods for Social Research*, Cambridge University Press, 2003-present.

Best paper prize committee chair, *Political Research Quarterly*, 2002.

Program Committee and Comparative Politics Section Chair, 2000 Midwest Political Science Association Annual Meeting.

Program Committee and Issues in Methodology Section Chair, 1999 Western Political Science Association Annual Meeting.

Political Methodology Section (APSA) Publications Committee, 1997 to present.

Political Methodology Section (APSA) Nominations Committee chair, 1998.

ICPSR Summer Program Advisory Committee, 1998.

Political Methodology Section (APSA) delegate-at-large to the American Political Science Association, 1996 to 1998.

Instructor, American Political Science Association Annual Meetings Short Course, "Models of Political Choice", 1997.

Instructor, ICPSR Summer Program in Quantitative Methods, Advanced Maximum Likelihood, August 1998; August 1997.

Instructor, ICPSR Summer Program in Quantitative Methods, Maximum Likelihood, July 1996.

National Election Studies 1996 Planning Committee Member.

"Campaigns and the Study of Congressional Elections". Memorandum to the NES Board of Overseers, September 5, 1995.

"Survey Measures of Uncertainty: A Report to the NES Board on the Use of 'Certainty' Questions to Measure Uncertainty About Candidate Traits and Issue Positions," Memorandum to the NES Board of Overseers, January 1996.

Program Committee and Political Methodology Section Chair, 1996 Midwest Political Science Association Annual Meeting.

Co-editor, *The Political Methodologist*, Newsletter of the Political Methodology Section of the American Political Science Association, 1993-1996.

Co-organizer, Southern California Political Economy Seminars, 1993 to 1995.

Participant in the Annual Political Methodology Summer Conferences, 1989, 1990, 1991, 1996, 2000.

Participant in the Methodological Advances in Comparative Political Economy Conference, April 1991.

Manuscript reviews: *American Journal of Political Science*; *American Political Science Review*; *American Politics Review*; *American Politics Research*; *British Journal of Political Science*; *Canadian Journal of Political Science*; *The Harvard International Journal of Press/Politics*; *Journal of Law, Economics and Organization*; *Journal of Politics*; *Journal of Theoretical Politics*; *Pacific Historical Review*; *Political Analysis*; *Political Behavior*; *Political*

*Research Quarterly; Polity; Public Opinion Quarterly; Social Science Quarterly; State Politics and Political Quarterly.*

Book manuscript review, University of Michigan Press, Harvard University Press, Princeton University Press, University of Chicago Press, University of Pittsburg Press, Quantitative Analysis in the Social Sciences (Sage Publications), Cambridge University Press, State University of New York Press.

Project proposal reviewer, National Science Foundation, Carnegie Corporation of New York.

Member of American Political Science Association, Midwest Political Science Association, Western Political Science Association, Southern Political Science Association, The Econometric Society, California Historical Society.

Columnist (biweekly), *Pasadena Weekly*, "From the Ivory Tower", 1999-2000.

Panelist, Pasadena Mayor Forum, March 3, 1999.

Panelist, "Measuring Progress in Our Schools", March 21, 2000.

Member, Internet Voting Task Force, California Secretary of State's Office, 1999.

Panelist, National Science Foundation National Workshop on Internet Voting, October 2000.

Consultant to: Duke University, Dean of Undergraduate Admissions (1988-90); Duke University, Law School Admissions (1990-91); State of California, Office of the Attorney General, *California Democratic Party vs. Jones* (1997); State of California, Secretary of State's Office, *Open Primary Analysis* (1998); Knight-Ridder Newspapers, *Hispanic Voter Poll 2000*; O'Melveny & Myers, LLP, *Righeimer vs. Jones* (2000); City of Compton, *Bradley vs. Compton* (2001); State of California, Senate Democratic Caucus, *Cano vs. Davis* (2001); Demos, *California Votes: Election Day Registration in California* (2002); Greenberg, Quinlan, Rosner, (*Hispanic Voter Surveys*) (2004); Greenberg, Quinlan, Rosner (NARAL Pro-Choice American) (2004); The Mellman Group (*Hispanic Voter Surveys*) (2004).

Media relations (partial list): Guest, KPCC-FM *Airtalk*, *Talk of the City*; 2000 Super Tuesday Analysis, *National Public Radio*; Science Friday, *National Public Radio*, Latino Politics and the DNC, KNX Radio; Special on Latino Politics 2000, *CBC Radio-Canada*; Editorial, *Pasadena Star-News*; Interviews, *US News and World Report*, *Financial Times*, *PC Week*, KQED-FM's "California Report", *Dallas Business Journal*, *Associated Press-Sacramento*, *Wired Magazine*, *CQ Weekly Review*, *Los Angeles Times*, *New York Times*, *Chronicle of Higher Education*, *Glendale News Press*, *Reforma (Mexico City)*, *Sacramento Bee*, *USA Today*, *San Jose Mercury News*, *CBS News*, *Swedish National Public Radio*, *KCET Life and Times*, *The New Republic*, *The NewsHour with Jim Lehrer*, *CNN*, *CNN Moneyline*, *CNN-Online*, *San Francisco Chronicle*, *The Dallas Morning News*, *Business Week*, *CASH Magazine*, *Pasadena Star-News*, *Pasadena Weekly*, *Fresno Bee*, *Contra Costa Times*, *ABC News*, *California Journal*, *Orange County Register*, *Fox News*, *San Diego Union Tribune*; *Chicago Tribune*; *Los Angeles Business Journal*; *Sunday London Times*; *Fusion Magazine*, *Kiplinger's Personal Finance Magazine*, *Scripps-Howard News Service*, *Washington Post*, *Wall Street Journal*.

## Institute Service

The Friends of the Caltech Library “Focal Presentation”, September 27, 2004. “Voter Registration: Past, Present, and Future”.

Division of Humanities and Social Sciences, California Institute of Technology, Political Science Search Committee Chair, 1993, 1994, 1998, 1999, 2000.

Division of Humanities and Social Sciences, California Institute of Technology, Political Science Search Committee, 2001 to present.

Division of Humanities and Social Sciences, California Institute of Technology, Social Sciences Strategic Planning Committee Political Science Search Committee, 2004 to present.

FACS Science Reporting Institute, Research presentations, June 2001, June 2002.

SURF Seminar presentation, August 7, 1996; July 25, 2001.

Research presentations to the Executive Council of the Caltech Board of Trustees, December 2, 1996; July 12, 2001.

Discovery Weekend presentation, March 16, 2001.

Division of Humanities and Social Sciences, California Institute of Technology, Division Library Committee, 1993 to present.

Hazardous Chemical Safety Committee, California Institute of Technology, 2000 to present.

Computational Science and Engineering Committee, California Institute of Technology, 2000 to present.

Chair, Caltech Women’s Center Advisory Board, 1998 to 2001. Women’s Center Advisory Committee Member, California Institute of Technology, 1994 to 1998. Women’s Center Advisor Board, Chair, 1998-2001.

Dissertation Committee Chair, California Institute of Technology:

Fang Wang (Political Science, 1998), currently at First Quadrant, Inc.

Garrett Glasgow (Political Science, 1999), currently at the University of California, Santa Barbara.

Fred Boehmke (Political Science, 2000), currently at the University of Iowa.

Tara Butterfield (Political Science, 2001).

Catherine Wilson (Political Science, 2002), currently at Northwestern University.

Carla VanBeselaere (Political Science and Economics, 2004).

Betsy Sinclair (Political Science 2007).

Dissertation Committee Member, California Institute of Technology, Mark Fey (Political Science, 1994), Jason Saving (Economics, 1995), Michael Udell (Economics, 1995), Micah Altman (Political Science, 1998), Reginald Roberts (Political Science, 2001), Valentina Bali

(Political Science and Economics, 2001), Elizabeth Penn (Political Science, 2003), Kevin Roust (Political Science, 2005).

Dissertation Committee Member, New York University, Marisa A. Abrajano (Political Science, 2005).

Sponsor, Summer Undergraduate Research Fellowship, California Institute of Technology, Daniel T. Knoepfle and Eugenia S. Iofinova (2004); Melanie Goodrich (2002, 2003); Betsy Sinclair (2001); Neal Reeves (1999); John White (1994); Stacy Kerkela (1993).

Alumni College presentation, June 22, 2000.

Division of Humanities and Social Sciences, California Institute of Technology, Graduate Admissions Committee, 1993 to 1998, 2000. Committee Chair, 1996.

Research presentation to the Caltech Associates, October 27, 1998.

Social Science .01 Lecture, "Empirical Voting Models", May 8, 1998.

Director of Graduate Studies and Graduate Option Representative, Social Sciences, 1996 to 1998.

Division of Humanities and Social Sciences, California Institute of Technology, Graduate Admissions Committee Chair, 1996.

## **Research and Teaching Interests**

American voting behavior, campaigns and elections, American government, macro-political economy, positive theory/public choice, comparative politics, quantitative methodologies.

March 8, 2005

# STEPHEN DANIEL ANSOLABEHERE

## EDUCATION

|                         |                          |      |
|-------------------------|--------------------------|------|
| Harvard University      | Ph.D., Political Science | 1989 |
| University of Minnesota | B.A., Political Science  | 1984 |
|                         | B.S., Economics          |      |

## PROFESSIONAL EXPERIENCE

### ACADEMIC POSITIONS

|              |  |
|--------------|--|
| 1998-present | Elting R. Morison Professor,<br>Department of Political Science, MIT                           |
| 2002-present | Associate Head, Department of Political Science  |
| 2000-2004    | Co-Director, Caltech/MIT Voting Technology Project   |
| 1995-1998    | Associate Professor, Department of Political Science, MIT                                      |
| 1993-1994    | National Fellow, The Hoover Institution  |
| 1989-1993    | Assistant Professor, Department of Political Science,<br>University of California, Los Angeles |

### FELLOWSHIPS AND HONORS

|  |         |
|--|---------|
| Carnegie Scholar                               | 2000-02 |
| Goldsmith Book Prize for <i>Going Negative</i> | 1996    |
| National Fellow, The Hoover Institution        | 1993-94 |
| Harry S. Truman Fellowship                     | 1982-86 |

## PUBLICATIONS

### *Books*

|      |   |
|------|---|
| 1996 | <i>Going Negative: How Political Advertising Divides and Shrinks the American Electorate</i> (with Shanto Iyengar). The Free Press. |
| 1993 | <i>The Media Game: American Politics in the Television Age</i> (with Roy Behr and Shanto Iyengar). Macmillan.                       |

*Articles in Refereed Journals*

- Forthcoming "Statistical Bias in Newspaper Reporting: The Case of Campaign Finance" *Public Opinion Quarterly* (with James M. Snyder, Jr., and Erik Snowberg).
- Forthcoming "Studying Elections" *Policy Studies Journal* (with Charles H. Stewart III and R. Michael Alvarez).
- Forthcoming "Legislative Bargaining under Weighted Voting" *American Economic Review* (with James M. Snyder, Jr., and Michael Ting)
- Forthcoming "Voting Weights and Formateur Advantages in Coalition Formation: Evidence from Parliamentary Coalitions, 1946 to 2002" (with James M. Snyder, Jr., Aaron B. Strauss, and Michael M. Ting) *American Journal of Political Science*.
- Forthcoming "Reapportionment and Party Realignment in the American States" *Pennsylvania Law Review* (with James M. Snyder, Jr.)
- 2004 "Residual Votes Attributable to Voting Technologies" (with Charles Stewart) *Journal of Politics* (forthcoming)
- 2004 "Using Term Limits to Estimate Incumbency Advantages When Office Holders Retire Strategically" (with James M. Snyder, Jr.). *Legislative Studies Quarterly* vol. 29, November 2004, pages 487-516.
- 2004 "Did Firms Profit From Soft Money?" (with James M. Snyder, Jr., and Michiko Ueda) *Election Law Journal* vol. 3, April 2004.
- 2003 "Bargaining in Bicameral Legislatures" (with James M. Snyder, Jr. and Mike Ting) *American Political Science Review*, August, 2003.
- 2003 "Why Is There So Little Money in U.S. Politics?" (with James M. Snyder, Jr.) *Journal of Economic Perspectives*, Winter, 2003.
- 2002 "Equal Votes, Equal Money: Court-Ordered Redistricting and the Public Spending in the American States" (with Alan Gerber and James M. Snyder, Jr.) *American Political Science Review*, December, 2002.  
Paper awarded the Heinz Eulau award for the best paper in the American Political Science Review.
- 2002 "Are PAC Contributions and Lobbying Linked?" (with James M. Snyder, Jr. and Micky Tripathi) *Business and Politics* 4, no. 2.
- 2002 "The Incumbency Advantage in U.S. Elections: An Analysis of State and Federal



- Offices, 1942-2000” (with James Snyder) *Election Law Journal*, 1, no. 3.
- 2001 “Voting Machines, Race, and Equal Protection.” *Election Law Journal*, vol. 1, no. 1
- 2001 “Models, assumptions, and model checking in ecological regressions” (with Andrew Gelman, David Park, Phillip Price, and Lorraine Minnite) *Journal of the Royal Statistical Society*, series A, 164: 101-118.
- 2001 “The Effects of Party and Preferences on Congressional Roll Call Voting.” (with James Snyder and Charles Stewart) *Legislative Studies Quarterly* (forthcoming).  
Paper awarded the *Jewell-Lowenberg Award* for the best paper published on legislative politics in 2001. Paper awarded the *Jack Walker Award* for the best paper published on party politics in 2001.
- 2001 “Candidate Positions in Congressional Elections,” (with James Snyder and Charles Stewart). *American Journal of Political Science* 45 (November).
- 2000 “Old Voters, New Voters, and the Personal Vote,” (with James Snyder and Charles Stewart) *American Journal of Political Science* 44 (February).
- 2000 “Soft Money, Hard Money, Strong Parties,” (with James Snyder) *Columbia Law Review* 100 (April):598 - 619.
- 2000 “Campaign War Chests and Congressional Elections,” (with James Snyder) *Business and Politics*. 2 (April): 9-34.
- 1999 “Replicating Experiments Using Surveys and Aggregate Data: The Case of Negative Advertising.” (with Shanto Iyengar and Adam Simon) *American Political Science Review* 93 (December).
- 1999 “Valence Politics and Equilibrium in Spatial Models,” (with James Snyder), *Public Choice*.
- 1999 “Money and Institutional Power,” (with James Snyder), *Texas Law Review* 77 (June, 1999): 1673-1704.
- 1997 “Incumbency Advantage and the Persistence of Legislative Majorities,” (with Alan Gerber), *Legislative Studies Quarterly* 22 (May 1997).
- 1996 “The Effects of Ballot Access Rules on U.S. House Elections,” (with Alan Gerber), *Legislative Studies Quarterly* 21 (May 1996).
- 1994 “Riding the Wave and Issue Ownership: The Importance of Issues in Political

- Advertising and News,” (with Shanto Iyengar) *Public Opinion Quarterly* 58: 335-357.
- 1994 “Horseshoes and Horseraces: Experimental Evidence of the Effects of Polls on Campaigns,” (with Shanto Iyengar) *Political Communications* 11/4 (October-December): 413-429.
- 1994 “Does Attack Advertising Demobilize the Electorate?” (with Shanto Iyengar), *American Political Science Review* 89 (December).
- 1994 “The Mismeasure of Campaign Spending: Evidence from the 1990 U.S. House Elections,” (with Alan Gerber) *Journal of Politics* 56 (September).
- 1993 “Poll Faulting,” (with Thomas R. Belin) *Chance* 6 (Winter): 22-28.
- 1991 “The Vanishing Marginals and Electoral Responsiveness,” (with David Brady and Morris Fiorina) *British Journal of Political Science* 22 (November): 21-38.
- 1991 “Mass Media and Elections: An Overview,” (with Roy Behr and Shanto Iyengar) *American Politics Quarterly* 19/1 (January): 109-139.
- 1990 “The Limits of Unraveling in Interest Groups,” *Rationality and Society* 2: 394-400.
- 1990 “Measuring the Consequences of Delegate Selection Rules in Presidential Nominations,” (with Gary King) *Journal of Politics* 52: 609-621.
- 1989 “The Nature of Utility Functions in Mass Publics,” (with Henry Brady) *American Political Science Review* 83: 143-164.

### ***Special Reports***

- 2002 “Election Day Registration.” A report prepared for DEMOS. This report analyzes the possible effects of Proposition 52 in California based on the experiences of 6 states with election day registration.
- 2002 “MIT Energy Survey: Summary Results,” report prepared for the MIT Nuclear Study Group.
- 2001 *Voting: What Is, What Could Be.* A report of the Caltech/MIT Voting Technology Project. This report examines the voting system in the United States and was widely used by election reform efforts following the 2000 election, including the National Commission on Federal Election Reform and the National Council of State Legislatures.

- 2001 “An Assessment of the Reliability of Voting Technologies.” A report of the Caltech/MIT Voting Technology Project. This report provided the first nationwide assessment of voting equipment performance in the United States. It was prepared for the Governor’s Select Task Force on Election Reform in Florida.

***Chapters in Books***

- 2005 “Voters, Candidates and Parties” in *Handbook of Political Economy*, Barry Weingast and Donald Wittman, eds. New York: Oxford University Press.
- 2003 “Baker v. Carr in Context, 1946 – 1964” (with Samuel Isaaccharoff) in *Constitutional Cases in Context*, Michael Dorf, editor. New York: Foundation Press.
- 2002 “Corruption and the Growth of Campaign Spending”(with Alan Gerber and James Snyder). *A User’s Guide to Campaign Finance*, Jerry Lubenow, editor. Rowman and Littlefield.
- 2001 “The Paradox of Minimal Effects,” in Henry Brady and Richard Johnston, eds., *Do Campaigns Matter?* University of Michigan Press.
- 2001 “Campaigns as Experiments,” in Henry Brady and Richard Johnson, eds., *Do Campaigns Matter?* University of Michigan Press.
- 2000 “Money and Office,” (with James Snyder) in David Brady and John Cogan, eds., *Congressional Elections: Continuity and Change*. Stanford University Press.
- 1996 “The Science of Political Advertising,” (with Shanto Iyengar) in *Political Persuasion and Attitude Change*, Richard Brody, Diana Mutz, and Paul Sniderman, eds. Ann Arbor, MI: University of Michigan Press.
- 1995 “Evolving Perspectives on the Effects of Campaign Communication,” in Philo Warburn, ed., *Research in Political Sociology*, vol. 7, JAI.
- 1995 “The Effectiveness of Campaign Advertising: It’s All in the Context,” (with Shanto Iyengar) in *Campaigns and Elections American Style*, Candice Nelson and James A. Thurber, eds. Westview Press.
- 1993 “Information and Electoral Attitudes: A Case of Judgment Under Uncertainty,” (with Shanto Iyengar), in *Explorations in Political Psychology*, Shanto Iyengar and William McGuire, eds. Durham: Duke University Press.

## *Working Papers*

- 2004 "Voting Cues and the Incumbency Advantage: A Critical Test" (with Shigeo Hirano, James M. Snyder, Jr., and Michiko Ueda)
- 2004 "Television and the Incumbency Advantage" (with Erik C. Snowberg and James M. Snyder, Jr)
- 2004 "Using Recounts to Measure the Accuracy of Vote Tabulations: Evidence from New Hampshire Elections, 1946 to 2002" (with Andrew Reeves).
- 2004 "Did the Introduction of Voter Registration Decrease Turnout?" (with David Konisky).
- 2002 "Evidence of Virtual Representation: Reapportionment in California," (with Ruimin He and James M. Snyder).
- 2002 "Lost Votes." (with Charles Stewart) Paper presented at the annual meeting of the American Political Science Association.
- 2002 "Rational Publics: The Case of Energy"
- 1999 "Why did a majority of Californians vote to lower their own power?" (with James Snyder and Jonathan Woon). Paper presented at the annual meeting of the American Political Science Association, Atlanta, GA, September, 1999. Paper received the award for the best paper on Representation at the 1999 Annual Meeting of the APSA.
- 1999 "Has Television Increased the Cost of Campaigns?" (with Alan Gerber and James Snyder).
- 1996 "Money, Elections, and Candidate Quality," (with James Snyder).
- 1996 "Party Platform Choice - Single- Member District and Party-List Systems,"(with James Snyder).
- 1995 "Messages Forgotten" (with Shanto Iyengar).
- 1994 "Consumer Contributors and the Returns to Fundraising: A Microeconomic Analysis," (with Alan Gerber), presented at the Annual Meeting of the American Political Science Association, September.
- 1992 "Biases in Ecological Regression," (with R. Douglas Rivers) August, (revised February 1994). Presented at the Midwest Political Science Association Meetings, April 1994, Chicago, IL.

- 1992 "Using Aggregate Data to Correct Nonresponse and Misreporting in Surveys" (with R. Douglas Rivers). Presented at the annual meeting of the Political Methodology Group, Cambridge, Massachusetts, July.
- 1991 "The Electoral Effects of Issues and Attacks in Campaign Advertising" (with Shanto Iyengar). Presented at the Annual Meeting of the American Political Science Association, Washington, DC.
- 1991 "Television Advertising as Campaign Strategy: Some Experimental Evidence" (with Shanto Iyengar). Presented at the Annual Meeting of the American Association for Public Opinion Research, Phoenix.
- 1991 "Why Candidates Attack: Effects of Televised Advertising in the 1990 California Gubernatorial Campaign," (with Shanto Iyengar). Presented at the Annual Meeting of the Western Political Science Association, Seattle, March.
- 1990 "Winning is Easy, But It Sure Ain't Cheap." Working Paper #90-4, Center for the American Politics and Public Policy, UCLA. Presented at the Political Science Departments at Rochester University and the University of Chicago.

### *Research Grants*

- 1989-1990 Markle Foundation. "A Study of the Effects of Advertising in the 1990 California Gubernatorial Campaign." Amount: \$50,000
- 1991-1993 Markle Foundation. "An Experimental Study of the Effects of Campaign Advertising." Amount: \$150,000
- 1991-1993 NSF. "An Experimental Study of the Effects of Advertising in the 1992 California Senate Electoral." Amount: \$100,000
- 1994-1995 MIT Provost Fund. "Money in Elections: A Study of the Effects of Money on Electoral Competition." Amount: \$40,000
- 1996-1997 National Science Foundation. "Campaign Finance and Political Representation." Amount: \$50,000
- 1997 National Science Foundation. "Party Platforms: A Theoretical Investigation of Party Competition Through Platform Choice." Amount: \$40,000
- 1997-1998 National Science Foundation. "The Legislative Connection in Congressional Campaign Finance. Amount: \$150,000
- 1999-2000 MIT Provost Fund. "Districting and Representation." Amount: \$20,000.

- 1999-2002 Sloan Foundation. "Congressional Staff Seminar." Amount: \$156,000.
- 2000-2001 Carnegie Corporation. "The Caltech/MIT Voting Technology Project." Amount: \$253,000.
- 2001-2002 Carnegie Corporation. "Dissemination of Voting Technology Information." Amount: \$200,000.
- 2003-2005 National Science Foundation. "State Elections Data Project." Amount: \$256,000.
- 2003-2004 Carnegie Corporation. "Internet Voting." Amount: \$279,000.
- 2003-2005 Knight Foundation. "Accessibility and Security of Voting Systems." Amount: \$450,000.

***Professional Boards and Task Forces***

- Member, Board of the National Election Studies (1999 to present)  
 Editorial Board of Legislative Studies Quarterly (2005 to present)  
 Editorial Board of the Election Law Journal (2002 to present)  
 Editorial Board of the Harvard International Journal of Press/Politics (1996 to present)  
 Editorial Board of Business and Politics (2002 to Present)

***Special Projects and Task Forces***

- Co-Director, Caltech/MIT Voting Technology Project (2000 to present)
- Co-Organizer, MIT Seminar for Senior Congressional and Executive Staff (1996 to present)
- MIT Coal Study (2004-present)
- MIT Nuclear Study (2002-2004)
- Voting Technology Task Force Leader, Election Reform Initiative of The Constitution Project  
 (2001 to 2002)

## Interview List

### **Academics**

#### **Together (TW)**

Mike Alvarez  
Steve Ansolobohere  
Lori Minnite  
Chandler Davidson

### **Judges**

#### **Together (JS)**

Justice Tom Glaze, Supreme Court of Arkansas  
Justice Charles Talley Wells, Supreme Court of Florida  
Justice Evelyn Lundberg Stratton, Supreme Court of Ohio  
Justice Pamela B. Minzner, Supreme Court of New Mexico

### **Election Administrators**

Harry Van Sickle, Commissioner of Elections, Pennsylvania (TW)  
Mike McCarthy, Supervisor of Elections, Minnesota (PS)  
John Ravitz, Board of Elections, New York City (TW)  
Kevin Kennedy, Director of Elections, Wisconsin (PS)  
Connie McCormick, Los Angeles County Registrar (PS)  
Trey Grayson, Kentucky Secretary of State  
Sarah Ball Johnson -- Director of Elections, KY (McConnell) (PS)  
Rebecca Vigil-Giron, Secretary of State (TW)  
Tom Harrison, former Secretary of State Office (PS)

### **Advocates**

Wade Henderson, Executive Director, Leadership Conference on Civil Rights (TW)  
Donna Brazile, Chair, Democratic National Committee's Voting Rights Institute (TW)  
Nina Perales, Regional Counsel, Mexican American Legal Defense and Educational Fund (TW)  
James A. Baker III (DC), Baker-Carter Commission (JS)  
Sharon Priest (AR), former Secretary of State of Arkansas, Baker-Carter Commission (while in Little Rock) (JS)  
Robin DeJarnette, Executive Director, American Center for Voting Rights (JS)

## **Election Lawyers**

Wendy Weiser, Brennan Center (TW)

Joseph Sandler, Sandler, Reif & Young (TW)

Joseph Rich, former head of the Voting Section, DOJ (TW)

Pat Rogers, Modrall, Sperling, Roehl, Harris and Sisk, P.A.(JS)

Colleen McAndrews, Bell, McAndrews, Hiltachk, & Davidson (JS)

Charles Bell Jr., Bell, McAndrews, Hiltachk, & Davidson (JS)

## **Attorneys involved in the Georgia, Indiana, and Arizona Litigation**

### **Georgia**

Thurbert Baker, Georgia Attorney General (Defendants) (JS)

Laughlin McDonald and Danny Levitas, ACLU of Georgia (Plaintiffs) (TW)

### **Indiana**

Bill Groth, Fillenwarth, Dennerline, Groth & Towe (Plaintiffs) (TW)

Thomas M. Fisher, Esq. and Douglas J. Webber, Esq. Indiana Attorney General's Office  
(Defendants) (JS)

### **Arizona**

Steve Reyes and Nina Perales, MALDEF (Plaintiffs) (TW)

Mary O'Grady, Arizona Assistant Attorney General (JS)



**SCHEDULE OF INTERVIEWS - VOTING FRAUD/VOTER INTIMIDATION PROJECT**

| Date      | Time         | Name                  | Organization   | Phone #                      | Arrangements  |
|-----------|--------------|-----------------------|--|------------------------------|---|
| 1/13/2006 | 2:00 PM EST  | Craig Donsanto        | Director, Election Crimes Branch, DOJ                            | 202-514-1421                 | Tova and Peg to meet Donsanto at DOJ and call Job                       |
| 2/14/2006 | 11:00 AM EST | Wade Henderson        | Leadership Conference on Civil Rights                            | 202-466-3311                 | Tova will coordinate call   |
| 2/15/2006 | 2:00 PM EST  | Douglas Webber        | Indiana Assistant Attorney General                               | 317-373-4346<br>317-232-6224 | Peg Sims will call Tova, Job, and Webber to establish Conference Call   |
| 2/16/2006 | 11:00 AM EST | John Ravitz           | Board of Elections, New York City                                | 212-487-5412                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209   |
|           | 2:00 PM EST  | Robin DeJarnette      | American Center for Voting Rights                                | 804-241-5368                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209   |
| 2/17/2006 | Noon EST     | Steve Ansolobehere    | MIT  |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209   |
|           |              | Chandler Davidson     | Rice University  |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209   |
|           | 3:00 PM EST  | Evelyn Stratton       | Justice, Ohio Supreme Court                                      | 614-387-9050                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209   |
| 2/21/2006 | 1:00 PM EST  | Neil Bradley          | Lawyer for GA Plaintiffs   | 404-523-2721<br>ext.217      | All participants should dial 1-866-222-9044 and enter Pass Code 62209   |
| 2/22/2006 | 11:00 AM EST | Wendy Weiser          | Brennan Center   | 212-998-6130                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209   |
|           | Noon EST     | Lori Minnite          | Barnard College  |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62210   |
|           | 4:00 PM EST  | Bill Groth            | Fillenwarth, Dennerline, Groth & Towe (IN Plaintiffs)            | 317-353-9363                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209   |
| 2/24/2006 | Noon EST     | Joe Sandler           | Sandler, Reif & Young  | 202-479-1111                 | Job will call EAC toll-free. Peg will transfer him to Sandler's office. |
|           | 2:00 PM EST  | John Tanner           | DOJ  | 202-514-2386                 | Suggest calling Job from Tanner's office and using speaker phone.       |
| 3/1/2006  | 11:00 AM EST | Harry VanSickle       | Commissioner of Elections - PA                                   |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209.  |
| 3/3/2006  | Noon EST     | Pat Rogers            | Modrall, Sperling, Roehl, Harris and Sisk, P.A.                  |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209.  |
|           | 3:00 PM EST  | Tracy Campbell        | University of Kentucky   |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209.  |
| 3/7/2006  | 11:00 AM EST | Nina Perales          | MALDEF   |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209.  |
| 3/22/2006 | 3:30 PM EST  | Heather Dawn Thompson | The Appleseed Foundation/Native Vote Election Protection Project |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209.  |
| 3/24/2006 | Noon EST     | Rebecca Vigil-Giron   | Secretart of State, NM   |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209.  |
|           |              |                       |  |                              |   |
|           |              |                       |  |                              |   |

As of 3/20/06

Phone Numbers for EAC Consultants:  
 Tova Wang, 212-452-7704  
 Job Serebrov, 501-374-2176

010943

| SCHEDULE OF INTERVIEWS - VOTING FRAUD/VOTER INTIMIDATION PROJECT |              |                    |  |                         |  |
|--|--------------|--------------------|--|-------------------------|--|
| Date   | Time         | Name               | Organization   | Phone #                 | Arrangements   |
| 2/16/2006  | 11:00 AM EST | John Ravitz        | Board of Elections, New York City                        | 212-487-5412            |  |
|  | 2:00 PM EST  | Robin DeJarnette   | American Center for Voting Rights                        | 804-241-5368            |  |
| 2/17/2006  | Noon EST     | Mike Alvarez       | CalTech  |                         | All participants should dial 1-866-222-9044 and enter Pass Code 62209. |
|  |              | Steve Ansolobehere | MIT  |                         |  |
|  |              | Chandler Davidson  | Rice University  |                         |  |
|  | 3:00 PM EST  | Evelyn Stratton    | Justice, Ohio Supreme Court                              | 614-387-9050            |  |
| 2/21/2006  | 4:00 PM EST  | Neil Bradley       | Lawyer for GA Plaintiffs                                 | 404.523.2721<br>ext 217 |  |
| 2/22/2006  | 11:00 AM EST | Wendy Weiser       | Brennan Center   | 212-998-6130            |  |
|  | Noon EST     | Lori Minnite       | Barnard College  |                         |  |
|  | 4:00 PM EST  | Bill Groth         | Fillenwarth, Dennerline, Groth & Towe<br>(IN Plaintiffs) | 317-353-9363            |  |
| 3/7/2006   | 11:00 AM EST | Nina Perales       | MALDEF   |                         |  |

As of 2/15/06

Phone Numbers for EAC Consultants:

Tova Wang, 212-452-7704

Job Serebrov, 501-374-2176

010947

**SCHEDULE OF INTERVIEWS - VOTING FRAUD/VOTER INTIMIDATION PROJECT**

| Date      | Time         | Name               | Organization  | Phone #                      | Arrangements   |
|-----------|--------------|--------------------|---|------------------------------|--|
| 1/13/2006 | 2:00 PM EST  | Craig Donsanto     | Director, Election Crimes Branch, DOJ                 | 202-514-1421                 | Tova and Peg to meet Donsanto at DOJ and call Job                      |
| 2/14/2006 | 11:00 AM EST | Wade Henderson     | Leadership Conference on Civil Rights                 | 202-466-3311                 | Tova will coordinate call  |
| 2/15/2006 | 2:00 PM EST  | Douglas Webber     | Indiana Assistant Attorney General                    | 317-373-4346<br>317-232-6224 | Peg Sims will call Tova, Job, and Webber to establish Conference Call  |
| 2/16/2006 | 11:00 AM EST | John Ravitz        | Board of Elections, New York City                     | 212-487-5412                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
|           | 2:00 PM EST  | Robin DeJarnette   | American Center for Voting Rights                     | 804-241-5368                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
| 2/17/2006 | Noon EST     | Steve Ansolobehere | MIT   |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
|           |              | Chandler Davidson  | Rice University                                       |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
|           | 3:00 PM EST  | Evelyn Stratton    | Justice, Ohio Supreme Court                           | 614-387-9050                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
| 2/21/2006 | 1:00 PM EST  | Neil Bradley       | Lawyer for GA Plaintiffs                              | 404-523-2721<br>ext 217      | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
| 2/22/2006 | 11:00 AM EST | Wendy Weiser       | Brennan Center  | 212-998-6130                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
|           | Noon EST     | Lori Minnite       | Barnard College                                       |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62210  |
|           | 4:00 PM EST  | Bill Groth         | Fillenwarth, Dennerline, Groth & Towe (IN Plaintiffs) | 317-353-9363                 | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
| 2/24/2006 | Noon EST     | Joe Sandler        | Sandler, Reif & Young                                 | 202-479-1111                 | Job will call EAC toll-free. Peg will transfer him to Sandler's office |
|           | 2:00 PM EST  | John Tanner        | DOJ   | 202-514-2386                 | Suggest calling Job from Tanner's office and using speaker phone       |
| 3/1/2006  | 11:00 AM EST | Harry VanSickle    | Commissioner of Elections - PA                        |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
| 3/3/2006  | Noon EST     | Pat Rogers         | Modrall, Sperling, Roehl, Harris and Sisk, P.A        |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
|           | 3:00 PM EST  | Tracy Campbell     | University of Kentucky                                |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |
| 3/7/2006  | 11:00 AM EST | Nina Perales       | MALDEF  |                              | All participants should dial 1-866-222-9044 and enter Pass Code 62209  |

As of 2/24/06

Phone Numbers for EAC Consultants:

Tova Wang, 212-452-7704

Job Serebrov, 501-374-2176

019645

**Determining a Methodology for Measuring Voter Fraud and Intimidation:  
Recommendations of Political Scientists**

The following is a summary of interviews conducted with a number of political scientists and experts in the field as to how one might undertake a comprehensive examination of voter fraud and intimidation. A list of the individuals interviewed and their ideas are available, and all of the individuals welcome any further questions or explanations of their recommended procedures.

- 1) In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that ask whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. (Stephen Ansolobhere, MIT)
  
- 2) Several political scientists with expertise in these types of studies recommended a methodology that includes interviews, focus groups, and a limited survey. In determining who to interview and where the focus groups should be drawn from, they recommend the following procedure:
  - Pick a number of places that have historically had many reports of fraud and/or intimidation; from that pool pick 10 that are geographically and demographically diverse, and have had a diversity of problems
  - Pick a number of places that have not had many reports of fraud and/or intimidation; from that pool pick 10 places that match the geographic and demographic make-up of the previous ten above (and, if possible, have comparable elections practices)
  - Assess the resulting overall reports and impressions resulting from these interviews and focus groups, and examine comparisons and differences among the states and what may give rise to them.

In conducting a survey of elections officials, district attorneys, district election officers, they recommend that:

- The survey sample be large in order to be able to get the necessary subsets
- The survey must include a random set of counties where there have and have not been a large number of allegations

(Allan Lichtman, American University; Thad Hall, University of Utah; Bernard Grofman, UC – Irvine)

- 3) Another political scientist recommended employing a methodology that relies on qualitative data drawn from in-depth interviews with key critics and experts on all sides of the debate on fraud; quantitative data collected through a survey of state and local elections and law enforcement officials; and case studies. Case studies should focus on the five or ten states, regions or cities where there has been a history of election fraud to examine past and present problems. The survey should be mailed to each state's attorney general and secretary of state, each county district attorney's office and each county board of elections in the 50 states. (Lorraine Minnite, Barnard College)
- 4) The research should be a two-step process. Using LexisNexis and other research tools, a search should be conducted of news media accounts over the past decade. Second, interviews with a systematic sample of election officials nationwide and in selected states should be conducted. (Chandler Davidson, Rice University)
- 5) One expert in the field posits that we can never come up with a number that accurately represents either the incidence of fraud or the incidence of voter intimidation. Therefore, the better approach is to do an assessment of what is most likely to happen, what election violations are most likely to be committed – in other words, a risk analysis. This would include an analysis of what it would actually take to commit various acts, e.g. the cost/benefit of each kind of violation. From there we could rank the likely prevalence of each type of activity and examine what measures are or could be effective in combating them. (Wendy Weiser, Brennan Center of New York University)
- 6) Replicate a study in the United States done abroad by Susan Hyde of the University of California- San Diego examining the impact of impartial poll site observers on the incidence of election fraud. Doing this retrospectively would require the following steps:
  - Find out where there were federal observers
  - Get precinct level voting information for those places
  - Analyze whether there was any difference in election outcomes in those places with and without observers, and whether any of these results seem anomalous.

Despite the tremendous differences in the political landscapes of the countries examined by Hyde in previous studies and the U.S., Hyde believes this study could be effectively replicated in this country by sending observers to a random sample of precincts. Rather than compare the incumbent's vote share, such factors such as voter complaints, voter turnout, number of provisional ballots used, composition of the electorate, as well as any anomalous voting results could be compared between sites with and without monitors.

For example, if intimidation is occurring, and if reputable monitors make intimidation less likely or voters more confident, then turnout should be higher on average in monitored precincts than in unmonitored precincts. If polling station officials are intentionally refusing to issue provisional ballots, and the polling station officials are

more likely to adhere to regulations while being monitored, the average number of provisional ballots should be higher in monitored precincts than in unmonitored precincts. If monitors cause polling station officials to adhere more closely to regulations, then there should be fewer complaints (in general) about monitored than unmonitored precincts (this could also be reversed if monitors made voters more likely to complain).

Again, random assignment controls for all of the other factors that otherwise influence these variables.

One of the downsides of this approach is it does not get at some forms of fraud, e.g. absentee ballot fraud; those would have to be analyzed separately

7) Another political scientist recommends conducting an analysis of vote fraud claims and purging of registration rolls by list matching. Allegations of illegal voting often are based on matching of names and birth dates. Alleged instances of double voting are based on matching the names and birth dates of persons found on voting records. Allegations of ineligible felon (depending on state law), deceased, and of non-citizen voting are based on matching lists of names, birth dates, and sometimes addresses of such people against a voting records. Anyone with basic relational database skills can perform such matching in a matter of minutes.

However, there are a number of pitfalls for the unwary that can lead to grossly over-estimating the number of fraudulent votes, such as missing or ignored middle names and suffixes or matching on missing birth dates. Furthermore, there is a surprising statistical fact that a group of about three hundred people with the same first and last name are almost assured to share the exact same birth date, including year. In a large state, it is not uncommon for hundreds of Robert Smiths (and other common names) to have voted. Thus, allegations of vote fraud or purging of voter registration rolls by list matching almost assuredly will find a large proportion of false positives: people who voted legally or are registered to vote legally.

Statistics can be rigorously applied to determine how many names would be expected to be matched by chance. A simulation approach is best applied here: randomly assign a birth date to an arbitrary number of people and observe how many match within the list or across lists. The simulation is repeated many times to average out the variation due to chance. The results can then be matched back to actual voting records and purge lists, for example, in the hotly contested states of Ohio or Florida, or in states with Election Day registration where there are concerns that easy access to voting permits double voting. This analysis will rigorously identify the magnitude alleged voter fraud, and may very well find instances of alleged fraud that exceed what might have otherwise happened by chance.

This same political scientist also recommends another way to examine the problem: look at statistics on provisional voting: the number cast might provide indications of intimidation (people being challenged at the polls) and the number of those not counted

would be indications of "vote fraud." One could look at those jurisdictions in the Election Day Survey with a disproportionate number of provisional ballots cast and cross reference it with demographics and number of provisional ballots discarded. (Michael McDonald, George Mason University)

- 8) Spencer Overton, in a forthcoming law review article entitled *Voter Identification*, suggests a methodology that employs three approaches— investigations of voter fraud, random surveys of voters who purported to vote, and an examination of death rolls provide a better understanding of the frequency of fraud. He says all three approaches have strengths and weaknesses, and thus the best studies would employ all three to assess the extent of voter fraud. An excerpt follows:

1. *Investigations and Prosecutions of Voter Fraud*

Policymakers should develop databases that record all investigations, allegations, charges, trials, convictions, acquittals, and plea bargains regarding voter fraud. Existing studies are incomplete but provide some insight. For example, a statewide survey of each of Ohio's 88 county boards of elections found only four instances of ineligible persons attempting to vote out of a total of 9,078,728 votes cast in the state's 2002 and 2004 general elections. This is a fraud rate of 0.00000045 percent. The Carter-Baker Commission's Report noted that since October 2002, federal officials had charged 89 individuals with casting multiple votes, providing false information about their felon status, buying votes, submitting false voter registration information, and voting improperly as a non-citizen. Examined in the context of the 196,139,871 ballots cast between October 2002 and August 2005, this represents a fraud rate of 0.0000005 percent (note also that not all of the activities charged would have been prevented by a photo identification requirement).

A more comprehensive study should distinguish voter fraud that could be prevented by a photo identification requirement from other types of fraud — such as absentee voting and stuffing ballot boxes — and obtain statistics on the factors that led law enforcement to prosecute fraud. The study would demand significant resources because it would require that researchers interview and pour over the records of local district attorneys and election boards.

Hard data on investigations, allegations, charges, pleas, and prosecutions is important because it quantifies the amount of fraud officials detect. Even if prosecutors vigorously pursue voter fraud, however, the number of fraud cases charged probably does not capture the total amount of voter fraud. Information on official investigations, charges, and prosecutions should be supplemented by surveys of voters and a comparison of voting rolls to death rolls.

2. *Random Surveys of Voters*

Random surveys could give insight about the percentage of votes cast fraudulently. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted at the polls in the last election, ask them if they actually voted, and confirm the percentage who are valid voters. Researchers should conduct the survey soon after an election to locate as many legitimate voters as possible with fresh memories.

Because many respondents would perceive voting as a social good, some who did not vote might claim that they did, which may underestimate the extent of fraud. A surveyor might mitigate this skew through the framing of the question (“I’ve got a record that you voted. Is that true?”).

Further, some voters will not be located by researchers and others will refuse to talk to researchers. Photo identification proponents might construe these non-respondents as improper registrations that were used to commit voter fraud.

Instead of surveying all voters to determine the amount of fraud, researchers might reduce the margin of error by focusing on a random sampling of voters who signed affidavits in the three states that request photo identification but also allow voters to establish their identity through affidavit—Florida, Louisiana, and South Dakota. In South Dakota, for example, only two percent of voters signed affidavits to establish their identity. If the survey indicates that 95 percent of those who signed affidavits are legitimate voters (and the other 5 percent were shown to be either fraudulent or were non-responsive), this suggests that voter fraud accounts for, at the maximum, 0.1 percent of ballots cast.

The affidavit study, however, is limited to three states, and it is unclear whether this sample is representative of other states (the difficulty may be magnified in Louisiana in the aftermath of Hurricane Katrina’s displacement of hundreds of thousands of voters). Further, the affidavit study reveals information about the amount of fraud in a photo identification state with an affidavit exception—more voter fraud may exist in a state that does not request photo identification.

### 3. *Examining Death Rolls*

A comparison of death rolls to voting rolls might also provide an estimate of fraud.

Imagine that one million people live in state A, which has no documentary identification requirement. Death records show that 20,000 people passed away in state A in 2003. A cross-referencing of this list to the voter rolls shows that 10,000 of those who died were registered voters, and these names remained on the voter rolls during the November 2004 election. Researchers would look at what percentage of the 10,000 dead-but-registered people who “voted” in the November 2004 election. A researcher should distinguish the votes cast in the name of the dead at the polls from those cast



absentee (which a photo identification requirement would not prevent). This number would be extrapolated to the electorate as a whole.

This methodology also has its strengths and weaknesses. If fraudulent voters target the dead, the study might overestimate the fraud that exists among living voters (although a low incidence of fraud among deceased voters might suggest that fraud among all voters is low). The appearance of fraud also might be inflated by false positives produced by a computer match of different people with the same name. Photo identification advocates would likely assert that the rate of voter fraud could be higher among fictitious names registered, and that the death record survey would not capture that type of fraud because fictitious names registered would not show up in the death records. Nevertheless, this study, combined with the other two, would provide important insight into the magnitude of fraud likely to exist in the absence of a photo identification requirement.

## MAJOR VOTE BUYING CASES SUMMARY

Between 2001 and 2006, allegations and convictions for vote buying and conspiracies to buy votes were concentrated in three states: Illinois, West Virginia and Kentucky.

In **East St. Louis, Illinois**, nine individuals, including a former city council member and the head of the local Democratic Party, Charles Powell, Jr., were convicted or pled guilty to vote buying and conspiracy to commit election fraud during the 2004 general election. The government's conspiracy case was almost entirely based on taped conversations in which the defendants discussed buying votes for \$5 and whether this would be adequate. Federal prosecutors alleged that the vote buying was financed with \$79,000 transferred from the County Democratic Party shortly before the election, although county officials have not been charged. Four defendants were convicted of purchasing or offering to purchase at least one vote directly, while Democratic Party chairman was only convicted of conspiracy.<sup>1</sup> Earlier, three precinct officials and one precinct worker pled guilty to buying votes for \$5 or \$10 in that same election.<sup>2</sup>

**Eastern Kentucky** has witnessed a series of vote buying cases over the last several years. The most recent revolved around Ross Harris, a Pike County political fundraiser and coal executive, and his associate Loren Glenn Turner. Harris and Turner were convicted in September 2004 of vote buying, mail fraud, and several other counts.<sup>3</sup> Prosecutors alleged Harris and Turner conspired to buy votes and provided the necessary funds in an unsuccessful 2002 bid for Pike County district judge by former State Senator Doug Hays. Harris supplied nearly \$40,000, Turner laundered the money through straw contributors, and the cash was then disbursed in the form of \$50 checks ostensibly for 'vote hauling', the legal practice of paying campaign workers to get voters to the polls which is notorious as a cover for buying votes.<sup>4</sup> Harris attempted to influence the race on behalf of Hays in order to get revenge on Hays' opponent for a personal matter.<sup>5</sup>

A grand jury initially indicted 10 individuals in connection with the Harris and Turner case, including Hays and his wife, and six campaign workers. Of the remaining defendants, only one, Tom Varney, also a witness in the Hays case, pled guilty. The others were either acquitted of vote buying charges or had vote buying charges dropped.<sup>6</sup> Prosecutors have announced that their investigation continues into others tied to Harris and may produce further indictments.

The Harris case follows a series of trials related to the 1998 Knott County Democratic primary. Between 2003 and 2004, 10 individuals were indicted on vote buying charges, including a winning candidate in those primaries, Knott County judge-executive Donnie Newsome, who was reelected in 2002. In 2004 Newsome and a supporter were sent to jail and fined. Five other

---

<sup>1</sup> "Five convicted in federal vote-fraud trial" Associated Press, June 30, 2005; "Powell gets 21 months" Belleville News-Democrat, March 1, 2006.

<sup>2</sup> "Four Plead Guilty To Vote-Buying Cash Was Allegedly Supplied By St. Clair Democratic Machine" Belleville News-Democrat, March 23, 2005.

<sup>3</sup> "2 found guilty in pike county vote-fraud case; Two-year sentences possible," Lexington Herald Leader, September 17, 2004.

<sup>4</sup> "Jury weighing vote-fraud case," Lexington Herald Leader, September 16, 2004.

<sup>5</sup> "Pike Election Trial Goes To Jury" Lexington Herald Leader, January 1, 2006.

<sup>6</sup> "Former state senator acquitted of vote buying," Lexington Herald Leader, November 2, 2004.

## EAC Preliminary Research on Voting Fraud and Voter Intimidation

---

defendants pled guilty to vote buying charges, and three were acquitted. The primary means of vote buying entailed purchasing absentee votes from elderly, infirm, illiterate or poor voters, usually for between \$50 and \$100. This resulted in an abnormally high number of absentee ballots in the primary.<sup>7</sup> Indictments relating to that same 1998 primary were also brought in 1999, when 6 individuals were indicted for buying the votes of students at a small local college. Five of those indicted were convicted or pled guilty.<sup>8</sup>

Absentee vote buying was also an issue in 2002, when federal prosecutors opened an investigation in Kentucky's Clay County after an abnormal number of absentee ballots were filed in the primary and the sheriff halted absentee voting twice over concerns.<sup>9</sup> Officials received hundreds of complaints of vote-buying during the 2002 primary, and state investigators performed follow up investigations in a number of counties, including Knott, Bell, Floyd, Pike, and Maginoff.<sup>10</sup> No indictments have been produced so far.

So far, relatively few incidents of vote-buying have been substantially identified or investigated in the 2004 election. Two instances of vote buying in local 2004 elections have been brought before a grand jury. In one, a Casey County man was indicted for purchasing votes in a local school board race with cash and whiskey.<sup>11</sup> In the second, the grand jury chose not to indict an individual accused of offering to purchase a teenager's vote on a local proposal with beer.<sup>12</sup>

An extensive vote buying conspiracy has also been uncovered in southern **West Virginia**. The federal probe, which handed down its first indictment in 2003, has yielded more than a dozen guilty pleas to charges of vote buying and conspiracy in elections since the late 1980s. As this area is almost exclusively dominated by the Democratic Party, vote-buying occurred largely during primary contests.

The first phase of the probe focused on Logan County residents, where vote buying charges were brought in relation to elections in 1996, 2000, 2002 and 2004. In an extraordinary tactic, the FBI planted the former mayor of Logan City, Tom Esposito, as a candidate in a state legislative race. Esposito's cooperation led to guilty pleas from the Logan County Clerk, who pled guilty to selling his vote to Esposito in 1996,<sup>13</sup> and another man who took money from Esposito for the purpose of vote buying in 2004.<sup>14</sup>

Guilty pleas were also obtained in connection with former county sheriff Johnny Mendez, who pled guilty to buying votes in two primary elections in order to elect candidates including

---

<sup>7</sup> "Knott County, KY., Judge Executive sentenced on vote-buying conspiracy charges," Department of Justice, March 16, 2004.

<sup>8</sup> "6 men accused of vote fraud in '98 Knott primary; Charges include vote buying and lying to FBI"

<sup>9</sup> "Election 2002: ABSENTEE BALLOTING; State attorney general's office investigates voting records in some counties" The Courier-Journal, November 7, 2002.

<sup>10</sup> "Election 2002: Kentucky; VOTE FRAUD; Investigators monitor 17 counties across state" The Courier-Journal, November 6, 2002.

<sup>11</sup> "Jury finds man guilty on vote-buying charges" Associated Press, November 11, 2005.

<sup>12</sup> "Man in beer vote case files suit" The Cincinnati Enquirer, March 17, 2005.

<sup>13</sup> "Two plead to vote fraud; Logan clerk sold vote; politician tried to buy votes" Charleston Gazette, December 14, 2005.

<sup>14</sup> "Logan man gets probation in vote-fraud scandal" Charleston Gazette, March 1, 2006.

himself. In 2000, with a large amount of funding from a prominent local lawyer seeking to influence a state delegate election for his wife, Mendez distributed around \$10,000 in payments to voters of \$10 to \$100. Then, in the 2004 primary, Mendez distributed around \$2,000 before his arrest.<sup>15</sup> A deputy of Mendez', the former Logan police chief, also pled guilty to a count of vote buying in 2002.<sup>16</sup>

Prosecutors focusing on neighboring Lincoln County have alleged a long-standing vote-buying conspiracy extending back to the late 1980s. The probe identified Lincoln County Circuit Clerk Greg Stowers as head of a Democratic Party faction which routinely bought votes in order to maintain office. Stowers pled guilty in December 2005 to distributing around \$7,000 to buy votes in the 2004 primary. The Lincoln County Assessor, and Stowers' longtime political ally, Jerry Allen Weaver, also pled guilty to conspiracy to buy votes.<sup>17</sup> These were accompanied by four other guilty pleas from party workers for vote buying in primaries. While most specific charges focused on vote buying in the 2004 primary, defendants also admitted buying votes as far back as the 1988, 1990, and 1992 primaries.

The leading conspirators would give party workers candidate slates and cash, which workers would then take to the polling place and use to purchase votes for amounts between \$10 and \$40 and in one instance, for liquor. Voters would be handed the slate of chosen candidates, and would then be paid upon exiting the polling place. In other cases, the elected officials in question purchased votes in exchange for non-cash rewards, including patronage positions, fixed tickets, favorable tax assessments, and home improvements.<sup>18</sup>

The West Virginia probe is ongoing, as prosecutors are scrutinizing others implicated during the proceedings so far, including a sitting state delegate, who may be under scrutiny for vote buying in a 1990 election, and one of the Lincoln county defendants who previously had vote buying charges against him dropped.<sup>19</sup>

---

<sup>15</sup> "Mendez confined to home for year Ex-Logan sheriff was convicted of buying votes" Charleston Gazette, January 22, 2005.

<sup>16</sup> "Ex-Logan police sentenced for buying votes" Associated Press, February 15, 2005.

<sup>17</sup> "Clerk says he engaged in vote buying" Charleston Gazette, December 30, 2005.

<sup>18</sup> "Lincoln clerk, two others plead guilty to election fraud" Charleston Daily Mail, December 30, 2005.

<sup>19</sup> "Next phase pondered in federal vote-buying probe" Associated Press, January 1, 2006.

## Nexis Articles Analysis

Note: The search terms used were ones agreed upon by both Job Serebrov and Tova Wang and are available upon request. A more systematic, numerical analysis of the data contained in the Nexis charts is currently being undertaken. What follows is an overview.

Recommendation: In phase 2, consultants should conduct a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

### Overview of the Articles

#### *Absentee Ballots*

According to press reports, absentee ballots are abused in a variety of ways:

1. Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters
2. Workers for groups and individuals have attempted to vote absentee in the names of the deceased
3. Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

#### *Voter Registration Fraud*

According to press reports, the following types of allegations of voter registration fraud are most common:

1. Registering in the name of dead people
2. Fake names and other information on voter registration forms
3. Illegitimate addresses used on voter registration forms
4. Voters being tricked into registering for a particular party under false pretenses

5. Destruction of voter registration forms depending on the party the voter registered with

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported on included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota and Wisconsin.

*Voter Intimidation and Suppression*

This is the area which had the most articles in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places.
- Improper demands for identification
- Poll watchers harassing voters
- Poll workers being hostile to or aggressively challenging voters
- Disproportionate police presence
- Poll watchers wearing clothes with messages that seemed intended to intimidate
- Insufficient voting machines and unmanageably long lines

Although the incidents reported on occurred everywhere, not surprisingly, many came from "battleground" states. There were several such reports out of Florida, Ohio and Pennsylvania.

*"Dead Voters and Multiple Voting"*

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

| City/County              | State       | Date      | Type of Election                  | Alleged instance of fraud  | Original Source           | Source 1 | Source 2 | Source 3 | Resolution of Incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|--------------------------|-------------|-----------|-----------------------------------|--|---------------------------|----------|----------|----------|-------------------------------------|------------------------|------------------------|
| Phillips                 | Arkansas    | 2-Nov-02  | primary                           | The sanitation director for Helena, the Phillips County seat, admitted in court to illegally casting more than 25 absentee ballots in the Democratic primary in May.   | Arkansas Democrat-Gazette |          |          |          |                                     |                        |                        |
| South Gate               | California  | 28-Jan-03 | Treasurer and city council recall | Supporters of the recall, which is being led by the city's two police unions, say city employees have been illegally filling out absentee ballots against the recall.  | Los Angeles Times         |          |          |          |                                     |                        |                        |
| Bridgeport               | Connecticut | 6-Sep-02  |                                   | Election officials found an absentee ballot application for someone who is dead  | Connecticut Post          |          |          |          |                                     |                        |                        |
| Bridgeport and New Haven | Connecticut | 4-Nov-02  | probate judge                     | FBI is investigating potential absentee ballot fraud in Bridgeport Democratic primary and two men face absentee ballot charges involving 2 New Haven primaries   | Connecticut Post          |          |          |          |                                     |                        |                        |
| Hartford                 | Connecticut | 12-Aug    | state legislature                 | former state representative is charged with seven counts of absentee ballot fraud for absentee ballot coercion in a particular apartment complex.  | Hartford Courant          |          |          |          |                                     |                        |                        |
| Bridgeport               | Connecticut | 3-Dec-03  | town committee                    | The elections commission wants four brothers to be charged with fraudulent voting for allegedly submitting illegal absentee ballots in the March 2002 Democratic Town Committee primary. The commission alleges that none of the brothers lived in Bridgeport when they voted in those city elections. | Connecticut Post          |          |          |          |                                     |                        |                        |
| Smyrna                   | Delaware    | 3-Aug-05  | town                              | A challenger to the mayor who lost by 2 votes is suing the mayor for personally delivering absentee ballots to minority residents, some of whom were not eligible to vote  | The News Journal          |          |          |          |                                     |                        |                        |
| Winter Garden            | Florida     | 5-Mar-02  | city commissioner                 | Four are charged with forging names on absentee ballots  | AP                        |          |          |          |                                     |                        |                        |
| Volusia                  | Florida     | 3-Oct-03  | city                              | Elections officials inquire into 43 absentee ballot request forms with the wrong date of birth and 3 requests with forged signatures   | Orlando Sentinel          |          |          |          |                                     |                        |                        |
| Winter Haven             | Florida     | 6-Jan-04  | town                              | criminal complaint filed against woman for voting by absentee ballot when she did not live in the district   | Polk Online               |          |          |          |                                     |                        |                        |

010957

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|              |          |           |              |  |                        |  |  |  |  |  |                                 |                                    |
|--------------|----------|-----------|--------------|--|------------------------|--|--|--|--|--|---------------------------------|------------------------------------|
| Hialeah      | Florida  | 21-Mar-04 | city council | Miami-Dade public corruption detectives fanned across Hialeah on Friday, questioning employees of the city's public housing agency, as well as friends and relatives of politicians aligned with Mayor Raul Martinez. Sources close to the investigation say those interviewed were asked about their alleged handling of absentee ballots gathered from voters - many of them elderly - in the city's public housing units. | Miami Herald           |  |  |  |  | A special state prosecutor said he found no evidence of election fraud after a yearlong investigation of absentee voting at the Hialeah Housing Authority during that city's 2003 elections  | Miami Herald, May 11, 2005      |                                    |
| Orlando      | Florida  | 5-Mar-05  | mayoral      | A grand jury is investigating the possible mishandling of absentee ballots by a minority voting advocate who has worked for many campaigns   | Orlando Sentinel       |  |  |  |  | All charges are dropped. Democrats allege the whole case was politically motivated; Florida prosecutors dropped a case charging the mayor with paying a campaign worker to collect absentee ballots. Three others indicted on the same charge were also cleared. | April 21, 2005 Orlando Sentinel | April 21, 2005, The New York Times |
| Cook         | Illinois | 15-Mar-02 | state        | ACORN alleges that a man went to a senior citizen home and voted the seniors' absentee ballots   | Chicago Sun-Times      |  |  |  |  |  |                                 |                                    |
| Calumet City | Illinois | 3-Sep-03  | mayoral      | A county judge threw out and reversed an election because of absentee coercion of disabled voters  | Chicago Tribune        |  |  |  |  |  |                                 |                                    |
| Marion       | Indiana  | 1-Nov-02  | county       | The county prosecutor is investigating absentee ballots in which signatures don't match, voter's names were misspelled, and correction fluid was used to change te address   | Indianapolis Star      |  |  |  |  |  |                                 |                                    |
| Madison      | Indiana  | 29-Apr-03 | primary      | State police are investigating whether Democratic primary absentee ballots were delivered to nursing homes that traditionally vote Republican  | Herald Bulletin        |  |  |  |  |  |                                 |                                    |
| Lake         | Indiana  | 11-Jul-03 | town         | Allegations are made of absentee ballots from voters who moved and forged signatures by one person. Case will be heard by a county judge   | Northwest Indiana News |  |  |  |  |  |                                 |                                    |
| Porter       | Indiana  | 31-Mar-04 | town         | Elections board investigates allegations that two ineligible voters voted by bsentee ballots   | Northwest Indiana News |  |  |  |  |  |                                 |                                    |
| East Chicago | Indiana  | 23-Jun-04 | mayoral      | The Indiana Supreme Court is considering whether to order a special mayoral election. The losing candidate claims he would have won if not for hundreds of fraudulent absentee votes cast for his opponent, including some cast on behalf of dead voters   | AP                     |  |  |  |  |  |                                 |                                    |

010958



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|              |             |                                |                 |  |                        |  |  |   |   |  |   |
|--------------|-------------|--------------------------------|-----------------|--|------------------------|--|--|---|---|--|---|
| Anderson     | Indiana     | 11-Dec-04                      | mayoral         | The longtime Democratic Party chairman in Madison County is accused of illegally delivering absentee ballots cast by two Anderson residents. Another man is accused of 17 Class D felony charges for allegedly registering absentee voters, then telling them how to vote and picking up their ballots. A woman is accused of completing an absentee ballot in September 2003 that listed an address where she did not live. | Indianapolis Star      |  |  |   |   |  |   |
| East Chicago | Indiana     | August 6, 2003, August 8, 2003 | mayoral primary | It is alleged that city workers were asked to vote absentee, acquire absentee applications, and given paid election day positions for bringing in absentee votes   | Northwest Indiana News |  |  | four people indicted, one for receiving absentee ballots for people ineligible to vote, one for failing to appear before the grand jury, and two for voter fraud and lying to the grand jury; county judges tosses out 155 absentee ballots but this does not change the election outcome; DOJ begins investigating | WISH TV, November 18, 2003; Northwest Indiana Times, January 21, 2004     |  | Post Tribune, December 15, 2005: two Democratic precinct committeement and three people with ties to a city contractor were charged with pressuring acquaintances to fill out absentee ballots. This brings the total number of people charged to 22 (See East Chicago summary) |
|              | Maine       | 13-Feb-04                      | state house     | Police have begun investigating allegations that elderly voters were pres-sured into casting absentee ballots for a Green Independent candidate in Maine's special election. Chief Roger Beaupre said Thursday his department has received 10 complaints of voter intimidation from elderly voters who were told votes for candidates other than Green Independent candidate Dorothy Lafortune did not count.                | AP                     |  |  |   |   |  |   |
| River Rouge  | Michigan    | 4-Apr-01                       | mayoral         | state police investigating absentee coercion in a senior apartment building  | Yahoo News             |  |  |   |   |  |   |
| Detroit      | Michigan    | 8-Nov-05                       | mayoral         | A lawsuit alleges the City Clerk's assistants have allowed voters to fill out ballots in group settings, didn't sign their names on ballot envelopes and advertised their services in nursing homes. She also sent 130,000 unsolicited absentee ballot applications defying a court order.   | Detroit Free Press     |  |  | County Circuit Court judge ruled the Clerk violated the law; There is an election contest and a federal investigation involving irregularities with absentee ballots.   | November 9, 2005 Detroit Free Press; November 24, 2005 Detroit Free Press |  |   |
| Houston      | Mississippi | 10-Nov-05                      | mayoral         | Candidate files a complaint alleging 59 absentee ballots are questionable. He produced a letter from two elderly absentee voters saying they were given plates of food in exchange for allowing his opponent to fill out their ballots.  | AP                     |  |  |   |   |  |   |

010959

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|                |            |           |                                    |  |                       |  |  |  |  |                             |  |  |
|----------------|------------|-----------|------------------------------------|--|-----------------------|--|--|--|--|-----------------------------|--|--|
|                | Missouri   | 19-Sep-04 | gubernatorial                      | The state Democratic Party accused Republicans of coercion when they asked county clerks to send the names of people who had requested absentee ballots  | AP                    |  |  |  |  |                             |  |  |
| East St. Louis | Missouri   | 5-Jan-05  | city                               | investigations by the state attorney and the FBI into unspecified absentee ballot fraud  | Post Dispatch         |  |  |  |  |                             |  |  |
| Tonopah        | Nevada     | 23-Oct-02 | local general and primary election | The FBI investigates questionable absentee ballot requests   | Pahrump Valley Times  |  |  |  |  |                             |  |  |
| Las Vegas      | Nevada     | 26-Apr-03 | assembly                           | Man is indicted because he voted other people's ballots using absentee voter forms for people who lived outside the district.  | AP                    |  |  |  |  |                             |  |  |
| Atlantic City  | New Jersey | 31-Oct-01 | Mayoral                            | Mayor Whelan's campaign has alleged that street operatives for the mayor's challenger, Councilman Lorenzo Langford, tricked voters into requesting absentee ballots and then went to their homes to bully them into filling the ballots out for Langford. The Whelan campaign has also alleged that Langford has stockpiled absentee ballots to fill out fraudulently. The Langford campaign yesterday denounced Whelan's actions as a means of suppressing voter rights and said it would file a federal civil-rights lawsuit this week.                          | Philadelphia Inquirer |  |  |  |  |                             |  |  |
| Palisades Park | New Jersey | 6-Nov-02  |                                    | The Deputy Attorney General said in a court filing that the prosecutor is investigating four types of irregularities: "1) improprieties in the manner in which voters requested absentee ballots; 2) instances where the voter has stated that they received assistance in voting but that fact is not noted on the voter certification; 3) instances where the absentee ballot was delivered to the Board of Elections by a person other than the one to whom the voter gave the ballot; 4) instances where the voter gave an unmarked ballot to another person." | The Record            |  |  |  | 276 absentee ballots from the 2002 election in Palisades Park are still impounded in the office of Patricia DiCostanzo, the Bergen County superintendent of elections. | October 4, 2004, The Record |  |  |
| Atlantic City  | New Jersey | 9-Jul-03  | county primary                     | Board of elections requests an inquiry into alleged forged absentee ballots  | Atlantic County News  |  |  |  |  |                             |  |  |
| Passaic        | New Jersey | 22-Sep-04 | county                             | The FBI is investigating charges that voters targeted by a Democratic campaign had their signatures forged or had been pressured or misled into voting absentee  | Heral News (Passaic)  |  |  |  |  |                             |  |  |

096010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|                    |                |           |                      |   |                             |  |  |  |  |  |  |  |
|--------------------|----------------|-----------|----------------------|---|-----------------------------|--|--|--|--|--|--|--|
|                    | New Jersey     | 4-Oct-04  |                      | In the city of Passaic, three dozen voters claimed they'd been victims of absentee ballot fraud in 2003.  | The Record                  |  |  |  |  |  |  |  |
| Albany County      | New York       | 8-Mar-04  | special primaries    | 131 absentee ballots were delivered by a ward leader, leading to vague allegations of coercion. All absentee ballots and machines impounded under a court order   | Albany Times Union          |  |  |  |  |  |  |  |
| Albany County      | New York       | 10-Mar-04 | county legislature   | One person filled in more than 140 signed absentee ballot applications, and there were other administrative errors in absentee ballot distribution and return. The candidates made a deal before the judge ruled on the case to have a special election; the absentee ballots are not counted   | Albany Times Union          |  |  |  |  |  |  |  |
| Haskell            | Oklahoma       | 7-Nov-02  | district attorney    | An absentee ballot scandal is being investigated in Haskell County, where one man allegedly admitted notarizing 42 absentee ballots without having the voters present while another man helped him, the District Attorney said.   | Daily Oklahoman             |  |  |  |  |  |  |  |
| Providence         | Rhode Island   | 23-Aug-02 | mayoral              | Elderly woman says strangers coerced her into giving them her ballot  | Providence Journal-Bulletin |  |  |  |  |  |  |  |
| Senate District 30 | South Carolina | 27-Sep-04 | state senate primary | A person with connections to the Williams campaign nicknamed "The Voter Man" convinced elderly voters, some living in residential care facilities, to fill out absentee ballot registration forms. Some say they never received a ballot, even though records indicate a ballot was cast in their names.<br>* At least one staff member at a Mullins care facility said non-communicative Alzheimer's patients were coaxed into casting absentee ballots.<br>* Another person with ties to the Williams campaign turned in nearly 60 ab-sentee ballots to election officials, many from elderly voters. While not technically illegal, the volume of absentee votes raised eyebrows within the Norwood campaign. As a result of suspected fraud the party ordered a new election and the cases are being criminally investigated. | The State                   |  |  |  |  |  |  |  |

010961

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

|             |              |           |                  |   |                          |  |  |  |  |   |  |  |
|-------------|--------------|-----------|------------------|---|--------------------------|--|--|--|--|---|--|--|
|             | South Dakota | 20-Oct-02 | statewide        | several counties forward questionable absentee ballot requests  | Angus Leader             |  |  |  | October 25, 2002: Red Earth Villeda, a former Democratic contractor is investigated; October 27, 2002: State and federal agents target 25 South Dakota counties; October 31, 2002: no illegally cast ballots are found (see South Dakota summary)  | Argus Leader                                |  |  |
| Shannon     | South Dakota | 30-Oct-04 | presidential     | The prosecutor in Fall River County says he will investigate possible multiple voting by absentee ballot. The multiple ballots were cast by fewer than 10 people  | AP                       |  |  |  |  |   |  |  |
| Sioux Falls | South Dakota | 2-Nov-04  | senatorial       | Three former Republican notary publics pled guilty to signing absentee ballots without witnessing the signatures. Three other former GOP workers are charged, as is one Daschle staff person accused of not being present for two notary applications. Officials say none of the incidents affected any votes | AP                       |  |  |  | A fourth former employee of the South Dakota Republican Party's get-out-the-vote operation has pleaded guilty to improperly notarizing absentee-ballot re-quests, and another who had pleaded not guilty will appear in court next week to change his plea. Six workers for the GOP Victory effort resigned last month after questions surfaced about some absentee-ballot applications collected at college campuses across the state. Charges were filed after officials said the workers notarized applications collected by other workers, violating a state law that requires notaries to witness documents being signed before they can give them their official seal. | November 4, 2004, Argus Leader              |  |  |
| Dallas      | Texas        | 10-May-01 | district council | Both candidates accuse the other manipulating the absentee ballot votes of senior citizens  | Dallas Observer          |  |  |  |  |   |  |  |
| Dallas      | Texas        | 16-May-01 | city council     | Several affidavits alleging mail-in voter fraud have been submitted to the Dallas County district attorney's office, according to election officials. But prosecutors have declined to comment about whether those allegations, or any others, would result in a criminal complaint.                          | Dallas Morning News      |  |  |  | A voter fraud investigation has resulted in the indictment of a Dallas woman who is accused of filling out a mail-in ballot in May without the voter's permission, a Dallas prosecutor said Tuesday.   | February 13, 2002, Fort-Worth Star Telegram |  |  |
| Dallas      | Texas        | 27-Jul-02 | district council | A candidate for the council alleged three campaign workers spent Friday reviewing mail-in ballots and applications for the ballots and found at least 69 that they believe might have forged signatures on either document.   | Fort Worth Star-Telegram |  |  |  |  |   |  |  |
| Dallas      | Texas        | 22-Apr-03 | city council     | A candidate submitted 12 absentee ballot applications with forged signatures. The DA is investigating.  | Dallas Morning News      |  |  |  |  |   |  |  |

010962

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|         |       |           |  |   |                          |  |  |   |                          |  |  |
|---------|-------|-----------|--|---|--------------------------|--|--|---|--------------------------|--|--|
| Hearne  | Texas | 18-Oct-03 | municipal                                    | Man fined and sentenced to five years probation for voting in the names of three dozen other people by absentee ballot. He is the fifth person to plead guilty to similar charges brought by a grand jury in August.17 were indicted.   | Houston Chronicle        |  |  |   |                          |  |  |
| Hearne  | Texas | 28-Dec-03 | mayoral                                      | 30 people were indicted for forged absentee ballot applications and sending in multiple absentee ballots  | Star Telegram            |  |  |   |                          |  |  |
| El Paso | Texas | 12-Feb-04 | water board                                  | Several mail in ballot requests appeared to be filled out by the same person and a few were in the names of dead people. A precinct chairwoman was charged with four counts of tampering with government records  | Assoc Press              |  |  | Five people have been charged with sending in absentee ballot applications in the names of other people | 2/13/2004, El Paso Times |  |  |
| Hidalgo | Texas | 3-Mar-04  | miscellaneous, from congress to judge's race | Complaints were made to the Board of Elections against workers for several campaigns of irregularities concerning absentee ballots, including coercion of elderly voters, a complaint that someone requested an absentee ballot for a dead voter; four people said their ballots were already sealed when they received them, and a voter whos absentee ballot that was sent elsewhere  | The Monitor              |  |  |   |                          |  |  |
| Bexar   | Texas | 25-Mar-04 | congressional                                | The names of 42 deceased people, most of whom lived on the South Side, appeared on applications for mail-in ballots that were submitted to election officials for the primaries. A computer at the Bexar County elections office flagged the applications and the district attorney's office is investigating. No ballots appear to have been sent to a dead person as a result of the applications, election officials have said. However, the applications were cited by Henry Cuellar - a Democratic candi-date for the District 28 congressional seat who lost by 145 votes - as one of several concerns that persuaded him to call for a recount this week. The list of applicants includes next-door neighbors, people who never voted when they were alive, and two who died in 1988. All but one bear the deceased's correct voter registration number. Each had the correct address and voting precinct, and all indicated the voter was older than 65, which is one of the reasons individuals may obtain a mail-in ballot.<br>But whoever filled out many of the applications didn't alter his or her hand | San Antonio Express-News |  |  |   |                          |  |  |

010963

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|                   |       |                          |                 |  |                             |  |  |  |  |  |  |  |
|-------------------|-------|--------------------------|-----------------|--|-----------------------------|--|--|--|--|--|--|--|
| South San Antonio | Texas | 23-May-04                |                 | Elderly voters complain of "vote brokering" whereby "coyotes" pressure them into voting by absentee ballot. Investigators have looked into this in the past, and there has only been one conviction of someone pressuring others to vote absentee.   | San Antonio Express-News    |  |  |  |  |  |  |  |
| Robstown          | Texas | 27-May-04                | school district | The District Attorney requested a recount of ballots because of many complaints of people filing mail-in ballots sent to homes of people who have died. One of the candidates says that in one instance a wife mailed in the ballot of her husband who just died, and another was a son's vote being mistaken for the father's because they had the same name.   | Corpus Christi Caller-Times |  |  |  |  |  |  |  |
| Falfurrias        | Texas | 11-Sep-04                | city            | After a May 26 recount, Jaime received 501 votes and Martinez wound up with 500 votes. In June, Martinez filed an election contest in district court claiming that "numerous co-conspirators" obtained votes by instructing the voters to cast their ballots for particular candidates. But a criminal investigation into voting violations started before voters cast the final ballots, according to a police report. So far, the criminal investigation has resulted in five felony and one misdemeanor indictments: Santiago Vela was indicted on a bribery charge; Armando Gonzalez, Vanessa Kiser and Roel Mireles were indicted on illegal voting charges; Magdalena Saenz was indicted on an unlawful delivery of a voting certificate charge. One woman, Mirna Quintanilla, was indicted on a misdemeanor charge for allegedly filling out a mail-in ballot for a voter without permission. | Corpus Christi Caller-Times |  |  |  |  |  |  |  |
| Houston           | Texas | 11-Nov-05                | mayoral         | Candidate alleges that 64 of the 579 absentee ballots cast in the primary are questionable.  | AP                          |  |  |  |  |  |  |  |
| Hidalgo           | Texas | 2/26/2004, March 6, 2004 | primary         | Texas Rangers investigate tampering with mail ballots by "politiqueras"  | The Monitor                 |  |  |  |  |  |  |  |

010964

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Absentee Balloting

|           |           |           |                     |   |                            |  |  |  |  |                          |  |  |
|-----------|-----------|-----------|---------------------|---|----------------------------|--|--|--|--|--------------------------|--|--|
| Gate City | Virginia  | 2-Aug-05  | mayor               | mayor is indicted on 37 felony counts of voter fraud for coercing choices on absentee ballots   | Roanoke Times              |  |  |  | The former mayor was arraigned in Scott County Circuit Court. He entered not guilty pleas to 18 charges of aiding and abetting in violating the absentee voting process, 17 charges of making a false statement on an absentee ballot application, and two charges of conspiracy. Authorities say he targeted elderly and unsophisticated voters, pressuring them to give false reasons for voting absentee and sometimes filling out their ballots himself. | 8/17/2005, Roanoke Times |  |  |
| Milwaukee | Wisconsin | 5-Mar-03  | county board recall | A police handwriting expert labeled signatures on 60 absentee ballot envelopes suspicious and elections officials and the DA questioned 36 more. The 96 are among 162 that were distributed to 5th District voters by the African American Coalition for Empowerment. The group had residents agree to ask the city to send absentee ballots to their offices rather than directly to the voters. The group then went to the homes, witnessed the votes and returned the ballots. | Milwaukee Journal Sentinel |  |  |  |  |                          |  |  |
| Milwaukee | Wisconsin | 15-Jan-04 | county recall       | A voting rights activist was convicted of three felony counts stemming from his management of an absentee ballot campaign. Although evidence suggested forgery and other mischief, the case turned on one voter registration card. The voter had his signature forged by his girlfriend, and the activist had signed the form as a deputy registrar.  | Milwaukee Journal Sentinel |  |  |  |  |                          |  |  |
| Milwaukee | Wisconsin | 20-Feb-04 | county recall       | One person is convicted for forging absentee ballots  | Milwaukee Journal Sentinel |  |  |  |  |                          |  |  |

110965

010966



010967

8/18/08

About.com

## Report Puts Election Fraud On Front Burner

USA Today published a controversial draft report from the Election Assistance Commission that suggests voter fraud is "less of a problem than is commonly described in political debate." The controversy lies in the fact that the report has remained under wraps since mid-May, and a final report isn't due until after the election.

However, the issue of "illegal voting" is a hot button for many politicians this fall. For example, in September the House of Representatives passed a bill that would require voters to show a valid photo identification in federal elections.

The angst and gnashing of teeth over the report is misplaced. Not only is it a draft report, it's a *poor* draft. The authors cite interviews with unnamed "experts" ... report results of Lexis-Nexis searches of news reports ... and have a literature review that ignores a body of peer-reviewed research which would have squashed one of the cited fears (voting by mail).

Their analysis of news reports suggests that fraud involving absentee votes is an area of abuse. The authors close that section by saying: "Interestingly, there were no [news] articles regarding Oregon, where the entire system is vote by mail."

There are at least three peer-reviewed articles analyzing Oregon's vote-by-mail system. I found them in a five-minute search. This research rebuts the claim made in the press -- and echoed without analysis in the report -- that absentee voting is a high-risk. Not one peer-reviewed paper is cited in the EAC draft report, but that research suggests why there might be no news articles claiming fraud. What a surprise.

If this had been a final report, I'd be writing the government, demanding that they get our money back.

Oh, and like just about everything having to do with HAVA, it's late. The law was passed in 2002. It's four years later, and they still haven't done this research. But they can throw buckets of money at the states for voting technology without good systems, standards or voter-verified ballots.

## RECOMMENDATIONS FOR FURTHER EAC ACTIVITY ON VOTER FRAUD AND INTIMIDATION

Time and resource constraints prevented the consultants from interviewing the full range of participants in the *electoral* process. As a result, we recommend that *in the next phase of this project, further interviews be conducted. In particular, a greater sampling of state and local election officials from different parts of the country should be interviewed. These individuals have first hand information and experience in the operation of elections. [words removed]*

*We also recommend that in the next phase interviews be conducted with people in law enforcement, specifically Federal District Election Officers (“DEOs”)<sup>1</sup> and local district attorneys and attorneys defending those accused of election crimes or civil violations. In many instances it is the local district attorney who will investigate election fraud and suppression complaints. Finally, attorneys who defend people accused of election crimes will have a different perspective on how the system is working to detect, prevent, and prosecute election fraud.*

The Nexis search conducted for this phase of the research was based on a list of search terms agreed upon by both consultants. Thousands of articles were reviewed and hundreds analyzed. Many of the articles contain allegations of fraud or intimidation. Similarly, many of the articles contain information about investigations into such activities or even charges brought. However, without being able to go beyond the search *[word removed]* terms, *we could not* determine whether there was any *action taken* regarding the allegations, investigation or charges brought. *Consequently, it is impossible to know if the article is just reporting on “talk” or what turns out to be a serious affront to the system. We recommend that follow up Nexis research be conducted to establish what, if any, resolutions or further activity there was in each case. [sentence removed]*

---

<sup>1</sup> The Public Integrity Section of the Criminal Division of the Department of Justice has all of the 93 U.S. Attorneys appoint Assistant U.S. Attorneys to serve as DEOs for two years. DEOs are required to screen and conduct preliminary investigations of complaints, in conjunction with the FBI and PIN, to determine whether they constitute potential election crimes and should become matters for investigation; oversee the investigation and prosecution of election fraud and other election crimes in their districts; coordinate their district’s (investigative and prosecutorial) efforts with DOJ headquarters prosecutors; coordinate election matters with state and local election and law enforcement officials and make them aware of their availability to assist with election-related matters; issue press releases to the public announcing the names and telephone numbers of DOJ and FBI officials to contact on election day with complaints about voting or election irregularities and answer telephones on election day to receive these complaints; and supervise a team of Assistant U.S. Attorneys and FBI special agents who are appointed to handle election-related allegations while the polls are open on election day.

Similarly, many allegations are made in the reports and books that we analyzed and summarized. Those allegations are often not substantiated in any way and are inherently time limited by the date of the writing. Despite this, various interested parties frequently cite such reports and books as evidence of fraud or intimidation. *Therefore, we recommend as a follow up to the literature review, an analysis of the resolution, if any, of specific instances of fraud and intimidation cited in the books and reports reviewed in the first phase.*

*In the first phase, we read and analyzed over 44,000 cases. Unfortunately, few of these were found to be on point. We therefore recommend that in the second phase, research should be concentrated on a national sampling of state district court level electoral cases. Often the district courts settle important issues that are not subsequently appealed. We believe that there could be a storehouse of information regarding vote fraud and intimidation in these cases.*

*We believe that in the second phase of this project, there should be a sampling of local newspapers from around the country to analyze for articles on voter fraud and voter intimidation. This will lead to a better idea of problems that occur on city and county levels that are often not reported statewide. We also recommend that there be a sampling of state electoral laws (including criminal penalty provisions), in order to aid in the development of model legislation that would address voter fraud and intimidation.*

During the 2004 election and the statewide elections of 2005, the University of Pennsylvania led a consortium of groups and researchers in conducting the MyVote1 Project. This project involved using a 1-800 voter hotline where voters could call for poll location, be transferred to a local hotline, or leave a recorded message with a complaint. In 2004, this resulted in over 200,000 calls received and over 56,000 calls recorded complaints. The researchers in charge of this project have done a great deal of work to parse and analyze the data collected through this process, including *reviewing* the audio messages and categorizing them by the nature of the complaint. These categories include registration, absentee ballot, poll access, ballot/screen, coercion/intimidation, identification, mechanical, *and* provisional (ballot). We recommend that *the second phase research* include making full use of this data with the cooperation of the project leaders. While perhaps not a *full* scientific survey (given the self-selection of the callers), the information [*words removed*] should provide a good deal of insight into the problems voters experienced, especially those in the nature of intimidation or suppression.

Although according to a recent GAO report the Voting Section of the Civil Rights Division of the Department of Justice tracks complaints of voter intimidation in a variety of ways, the Section was extremely reluctant to provide the consultants with useful information. Further attempts should be made to obtain relevant data. This includes the telephone logs of complaints the Section keeps and information from the database – the Interactive Case Management (ICM) system – the Section maintains on complaints received and the corresponding action taken. We also recommend that further research include a review and analysis of the observer and monitor field reports from Election Day

that must be filed with the Section.

Similarly, the consultants believe it would be useful for any further research to include a review of the reports that must be filed by every DEO to the Public Integrity Section of the Criminal Division of the Department of Justice. As noted above, the DEOs play a central role in receiving reports of voter fraud and investigating and pursuing them. Their reports *[words removed]* would likely provide tremendous insight into what actually transpired during the last several elections. Where necessary, information could be redacted or kept confidential.

The consultants also believe it would be useful for any further activity in this area to include attendance at the next Ballot Access and Voting Integrity Symposium.<sup>2</sup> According to the Department, *[words removed]* DEOs are required to attend annual training conferences *centered on combating* election fraud and voting rights abuses. These conferences *[word removed]* sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, feature presentations by *civil rights* officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there *has been* a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

Included in this report is a summary of various methodologies political scientists and others suggested to measure voter fraud and intimidation. While we note the skepticism of the Working Group in this regard, we nonetheless recommend that in order to further the mission of providing unbiased data, further activity in this area include an academic institution and/or individual that focuses on sound, statistical methods for political science research.

Finally, we recommend that *phase two project* researchers review federal laws to explore ways to make it easier to impose either civil or criminal penalties for acts of intimidation that do not necessarily involve racial animus and/or a physical or economic threats.

According to Craig Donsanto, long-time director of the Public Integrity Section of the Criminal Division of the Department of Justice,

As with other statutes addressing voter intimidation, in the absence of any jurisprudence to the contrary, it is the Criminal Division's position that

---

<sup>2</sup> By attending the symposium researchers could learn more about the following:

How *DEOs* are trained, e.g. what they are taught to focus their resources on; How they are instructed to respond to various types of complaints; How information about previous elections and voting issues is presented; *and*, How the Voting Rights Act, the criminal laws governing election fraud and intimidation, the National Voter Registration Act, and the Help America Vote Act are described and explained to participants.

section 1973gg-10(1) applies only to intimidation which is accomplished through the use of threats of physical or economic duress. Voter “intimidation” accomplished through less drastic means may present violations of the Voting Rights Act, 42 U.S.C. § 1973i(b), which are enforced by the Civil Rights Division through noncriminal remedies.

Mr. Donsanto reiterated these points to us on several occasions, including at the working group meeting.

The second phase of this project should examine if *[words removed]* current laws *can* be revised or new laws *drafted* that would *address* voter intimidation that does not threaten the voter physically or financially, but rather threatens the voter’s *tangible* right to vote *[words removed]*. Such *legislation* would *penalize* all forms of voter intimidation, *regardless of the motivation*. The law would *[word removed]* potentially cover *[words removed]* letters and postcards with *contain* language meant to deter voters from voting and pre-Election and Election Day *challenges* that are clearly *[words removed]* illegitimate *[word removed]*.

In the alternative to finding a way to *penalize* such behavior, researchers might examine ways *[words removed]* to deter and punish voter intimidation under *[word removed]* civil law. For example, there might be a private right of action created for voters or groups who have been subjected to intimidation tactics in the voting process. Such an action could be brought against individual offenders; any state or local actor where there is a *unchecked* pattern of repeated abuse *[words removed]*; and organizations that intentionally engage in intimidating practices. *Civil damage penalties and attorney fees should be included*. Another, more modest measure *[words removed]*, as has been suggested by Ana Henderson and Christopher Edley, *would be to bring* fines for violations under the Voting Rights Act *up to parity*. Currently, the penalty for fraud is \$10,000 while the penalty for acts to deprive the right to vote is \$5,000.

*Department of Justice's Activities to Address Past Election-Related Voting Irregularities:* General Accounting Office, October 14, 2004, GAO-04-1041R

*The MyVote1 Project Final Report:* Fels Institute of Government, University of Pennsylvania, November 1, 2005, Pg. 12

*Department of Justice's Activities to Address Past Election-Related Voting Irregularities:* General Accounting Office, October 14, 2004, GAO-04-1041R, p. 4. This same report criticizes some of the procedures the Section used for these systems and urged the Department to improve upon them in time for the 2004 presidential election. No follow-up report has been done since that time to the best of our knowledge.

*Department Of Justice To Hold Ballot Access and Voting Integrity Symposium:* U.S.

Department of Justice press release, August 2, 2005.

Craig C. Donsanto, *Prosecution of Electoral Fraud Under United States Federal Law*, IFES Political Finance White Paper Series, 2006, p. 29.

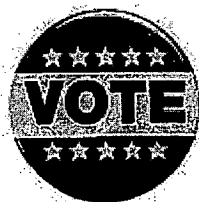
Ana Henderson and Christopher Edley, Jr., *Voting Rights Act Reauthorization: Research-Based Recommendations to Improve Voting Access*, Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, University of California at Berkeley, School of Law, 2006, p. 29



Wednesday, October 11, 2006

## Voter fraud reports overstated: US elections panel

Rob DeVries at 7:30 PM ET



[JURIST] The **US Election Assistance Commission** [official website] has **found little evidence to support claims of voter fraud** [status report, PDF] that have been driving the recent push for more stringent voter registration and **voter ID policies** [JURIST report], *USA Today* reported Wednesday. The report, released in May but just made public Wednesday, evaluated claims of fraud and voter intimidation and concluded:

There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that is impossible to show the extent to which it happens, but do point to instance in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. ...

Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression.

The report also concluded that absentee ballot fraud is far and away the most common type of voter fraud. The report also noted frustration from both sides of the political spectrum regarding failure of the **Department of Justice** [official website] to pursue voting fraud complaints. *USA Today* has **more**.

Several states have enacted laws requiring voters to present **photo ID** [JURIST news archive] at the polls in an effort to combat voter fraud, but courts have largely struck down these laws an unconstitutional. Most recently, the US Court of Appeals for the Ninth Circuit **issued an emergency injunction** [JURIST report] last week blocking Arizona officials from enforcing the state's voter ID law. Similar voter ID bills have recently been blocked in **Georgia** and **Pennsylvania** [JURIST reports], and the Missouri Supreme Court is currently **considering a challenge** [JURIST report] on that state's ID law.

**Suggested States:**

Based on these factors, the 10 most useful states for the purposes of our inquiry include: Kentucky, California, Florida, Ohio, South Dakota, Wisconsin, Pennsylvania, Washington, Oregon, and Texas.

**Timelines and General Workplan:**

Below is a suggested timeframe in which we should accomplish Phase II of our election crimes research:

- Statement of Work developed by April 30, 2007
- Contractor to perform research identified by May 30, 2007
- Preliminary research findings delivered by August 15, 2007
- EAC report on initial findings on October 30, 2007

**EAC Research Project for Study and Analysis of Election Crimes - Projected Time Line for 2007**

| <b><u>TASK</u></b>   | <b><u>Jan</u></b> | <b><u>Feb</u></b> | <b><u>March</u></b> | <b><u>April</u></b> | <b><u>May</u></b> | <b><u>June</u></b> | <b><u>July</u></b> | <b><u>Aug</u></b> | <b><u>Sept</u></b> | <b><u>Oct</u></b> | <b><u>Nov</u></b> | <b><u>Dec</u></b> |
|--|-------------------|-------------------|---------------------|---------------------|-------------------|--------------------|--------------------|-------------------|--------------------|-------------------|-------------------|-------------------|
| Develop and Finalize RFP (EAC)   | XX                | -----             | XX                  |                     |                   |                    |                    |                   |                    |                   |                   |                   |
| Issue RFP (per CR) (GovWorks)  |                   | XX                |                     |                     |                   |                    |                    |                   |                    |                   |                   |                   |
| Award Contract (Gov Works)   |                   |                   | XX                  |                     |                   |                    |                    |                   |                    |                   |                   |                   |
| Paperwork Reduction Approval<br>(EAC and Contractor)                           |                   |                   |                     | XX                  | -----             | XX                 |                    |                   |                    |                   |                   |                   |
| Phase I - all functions to prepare<br>for data gathering phase<br>(Contractor) |                   |                   |                     | XX                  | -----             | XX                 |                    |                   |                    |                   |                   |                   |
| Phase II - gather data, conduct<br>interviews, etc. (Contractor)               |                   |                   |                     |                     |                   |                    |                    | XX                | -----              | XX                |                   |                   |
| Phase III - analyze data, prepare<br>first draft of report (Contractor)        |                   |                   |                     |                     |                   |                    |                    |                   | XX                 | -----             | XX                |                   |
| EAC Due Diligence  |                   |                   |                     |                     |                   |                    |                    |                   |                    |                   | XXX               |                   |
| Finalize Report (Contractor)   |                   |                   |                     |                     |                   |                    |                    |                   |                    |                   | XXXX              |                   |
| EAC Adopts and Issues Reports  |                   |                   |                     |                     |                   |                    |                    |                   |                    |                   |                   | XX                |

## **EAC ELECTION CRIMES STUDY: NEXT STEPS**

### **Background: Phase I**

Section 241 of the Help America Vote Act of 2002 (HAVA) requires the Election Assistance Commission (EAC) to conduct research on election administration issues including nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [Section 241(b)(6)]; and ways of identifying, deterring, and investigating methods of voter intimidation [Section 241(b)(7)].

The EAC initiated its study of election crimes in 2005, issuing its first report, "Election Crimes: An Initial Review and Recommendations for Future Study" in December 2006. The EAC adopted all or part of six of the 16 recommendations made by EAC consultants and the working group in the 2006 Report. These recommendations include:

- Surveying state chief election officers regarding administrative complaint processes mandated by Section 402 of HAVA,
- Surveying state election crime investigation units regarding complaints filed and referred to local or state law enforcement,
- Surveying state law enforcement and prosecutorial agencies regarding complaints and charges of voting crimes, and
- Analyzing survey data in light of state laws and procedures.

### **Next Steps: Phase II**

As we look to initiate Phase II of this study and explore next steps for conducting a comprehensive survey of election crimes, the main aims of this phase should be:

- Identifying the methods by which states are capturing/identifying and investigating/prosecuting potential election crimes,
- Comparing the rates of election fraud in the context of these state laws/procedures, and
- Accessing the general scale of election crimes under various election systems and election crime enforcement methods.

### **Suggested Research Methodology:**

In order to identify and assess the magnitude and quality of the election crime enforcement methods currently utilized by the states, it would be useful to select a sample of jurisdictions and survey election officials, district attorneys, and district election officers. This sample should be geographically and demographically diverse, juxtaposing states with substantial election crime allegations against those with limited election crime allegations.

Using the uniform definition of election crimes generated during Phase I, the survey would be designed to capture specific data regarding the existence and enforcement of election crimes. Three surveys would be conducted:

- A survey designed for the **state's chief election officials** would focus on election crime complaint procedures—assessing the volume and type of election crimes reported. Additionally, the survey would address the administrative complaint procedures required by Section 402 of HAVA in order to analyze the complaints that have been filed, investigated, and resolved via these procedures since January 1, 2004.
- A survey designed for **district attorneys** would focus on election crime investigations and prosecutions—analyzing the number and type of complaints, charges or indictments, and pleas or convictions.
- A survey of the **district election officers (DEOs)** would include a review of reports filed to the Public Integrity Section of the Criminal Division of the Department of Justice.

#### **Criteria for States to be Sampled:**

In order to get a broad assessment of the current election crime enforcement landscape, it would be helpful for our sample to include the following:

- States with multiple reports of **voter registration fraud** (e.g. California, Florida, Ohio, South Dakota, and Wisconsin),
- States with multiple reports of **voter intimidation and suppression**, (e.g. Florida, Ohio, and Pennsylvania),
- States with multiple reports of **deceptive practices** (e.g. Florida, Ohio, and Pennsylvania)
- States with multiple reports of **felons voting** (e.g. Washington and Wisconsin),
- States with multiple reports of **dead/multiple voters** (e.g. Florida)
- States with multiple reports of **election official fraud** (e.g. Washington and Texas), and
- States with multiple reports of **absentee ballot fraud** (e.g. Indiana, New Jersey, South Dakota, and Texas).

In order to balance these locations, we would also sample from states which do **not** have multiple reports of these election crimes (e.g. Oregon which has few, if any, reported election crimes despite the entire system being conducted by mail).

Additionally, the sample should include states which have the following election system characteristics:

- States with **longstanding statewide voter registration databases** (e.g. Kentucky).
- States with **election day registration** (e.g. Wisconsin),
- States with **election crime investigation units** (e.g. California, New York, and Florida), and
- States with **special election courts** (e.g. Pennsylvania).



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

## **EAC Requests Review of Voter ID, Vote Fraud and Voter Intimidation Research Projects**

For Immediate Release  
April 16, 2007

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

**WASHINGTON** – U.S. Election Assistance Commission (EAC) Chair Donetta Davidson today issued a formal request to the commission’s inspector general to conduct a review of the commission’s contracting procedures, including a review of two recent projects focusing on voter identification and vote fraud and voter intimidation. The chair’s memo to the inspector general is attached.

“The actions taken by the commission regarding these research projects have been challenged, and the commissioners and I agree that it is appropriate and necessary to ask the inspector general to review this matter,” said EAC Chair Davidson.

Chair Davidson has requested that the inspector general specifically review the circumstances surrounding the issuance and management of the voter identification research project and the vote fraud and voter intimidation research project.

*EAC is an independent bipartisan commission created by HAVA. It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary E. Rodriguez, Caroline Hunter and Gracia Hillman.*

###

010980



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

## **EAC Statement Regarding Research and Contracting Policies**

### ***Commission to Review Internal Procedures***

For Immediate Release  
April 11, 2007

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

**WASHINGTON** – The Help America Vote Act of 2002 (HAVA) directs the Election Assistance Commission (EAC) to serve as a national clearinghouse and resource by, among other things, conducting studies with the goal of improving the administration of federal elections. To fulfill this mandate, the EAC has entered into contracts with a variety of persons and entities. Reports adopted by the EAC, a bipartisan federal entity, are likely to be cited as authoritative in public discourse. Prior to the EAC's adopting a report submitted by a contractor, the EAC has the responsibility to ensure its accuracy and to verify that conclusions are supported by the underlying research.

The Commission takes input and constructive criticism from Congress and the public very seriously. We will take a hard look at the way we do business. Specifically, we will examine both the manner in which we have awarded contracts and our decision-making process regarding the release of research and reports. The EAC takes its mandates very seriously, and we will continue to move forward in a bipartisan way to improve the way America votes.

*EAC is an independent bipartisan commission created by HAVA. It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary Rodriguez, Caroline Hunter and Gracia Hillman.*

###

010981



Congressman José E. Serrano  
 Representing the Sixteenth District of New York  
**PRESS RELEASE**

**MEDIA CONTACT:**  
**Philip Schmidt (202)**  
 225-4361

FOR IMMEDIATE  
 RELEASE:  
 Apr 11, 2007

## **SERRANO, HINCHEY URGE NON-PARTISANSHIP, GREATER TRANSPARENCY AT ELECTION ASSISTANCE COMMISSION**

Washington, DC – April 11, 2007 – Today, Congressmen Maurice Hinchey (NY-22) and José E. Serrano (NY-16) urged the Election Assistance Commission (EAC) to act with greater transparency and without partisanship. The comments from the congressmen came as the House Appropriations Subcommittee on Financial Services and General Government released a draft version of an EAC report on voter fraud and intimidation that shows significant changes were made to the findings of outside experts before the final report was released.

“The EAC has an obligation to be forthright with the American people and operate transparently and in a non-partisan manner,” **said Congressman Hinchey, who requested the draft report from EAC Commissioner Donetta L. Davidson during a subcommittee hearing last month.** “The draft report was commissioned with taxpayer dollars upon a mandate from Congress so that we could learn more about voter fraud and intimidation. The need for this report is even more clear when we see the way in which the Bush administration is carrying out the electoral process and how this system is sliding towards corruption. In hiding a draft report from the public that is significantly different from the final version, the EAC has created a lot more questions than it has answered while stunting debate on the issue. In order for our democracy to function properly it is essential that our elections are free of any corruption and that includes ensuring that the EAC does not work to benefit one political party over the other. To achieve that goal we must have all the facts and opinions on the table, not just some of them. The EAC must never limit discussion and debate.”

“The EAC is charged with helping to ensure our elections are trustworthy and administered fairly,” **said Congressman Serrano, who is Chair of the Appropriations Subcommittee that oversees the EAC budget.** “I’m concerned if changes were made to the report on voter fraud because of partisan bias rather than impartial analysis. When you read the draft report side-by-side with the final version, it is clear that important conclusions of the experts who wrote the draft report were excluded from the final product. Among the excluded information is an analysis that undermines the notion that voter fraud is rampant.”

“I am concerned that the EAC did not publicly release the taxpayer-funded draft report, and I worry that political considerations may have played a role. We cannot have a politicized EAC, or one that yields to outside pressure. Our democracy, and the American people’s faith in it, is far more important than any short-term political advantage.”

010982



The draft report was written by outside experts under contract with the EAC. The final report was entitled "Election Crimes: An Initial Review and Recommendations for Future Study" and was issued on December 7, 2006.

The EAC is an independent bipartisan commission created by the 2002 Help America Vote Act in order to disburse funds to the states for the purchase of new voting systems, certify voting technologies, develop guidelines and serve as an information resource for election administration.

###

|  |   |
|--|---|
| <b>WASHINGTON OFFICE</b><br>2227 Rayburn House Office Building<br>Washington, D.C. 20515-3216<br>(202) 225-4361<br>Fax: (202) 225-6001 | <b>BRONX OFFICE</b><br>788 Southern Blvd.<br>Bronx, New York 10455<br>(718) 620-0084<br>Fax: (718) 620-0658 |
| Email: <a href="mailto:jserrano@mail.house.gov">jserrano@mail.house.gov</a>  |   |

010983

For Immediate Release

April 11, 2007

## **Hinchey, Serrano Urge Non-Partisanship, Greater Transparency at Election Assistance Commission**

**Washington, DC** - Today, Congressmen Maurice Hinchey (NY-22) and José E. Serrano (NY-16) urged the Election Assistance Commission (EAC) to act with greater transparency and without partisanship. The comments from the congressmen came as the House Appropriations Subcommittee on Financial Services and General Government released a draft version of an EAC report on voter fraud and intimidation that shows significant changes were made to the findings of outside experts before the final report was released.

"The EAC has an obligation to be forthright with the American people and operate transparently and in a non-partisan manner," said Congressman Hinchey, who requested the draft report from EAC Commissioner Donetta L. Davidson during a subcommittee hearing last month. "The draft report was commissioned with taxpayer dollars upon a mandate from Congress so that we could learn more about voter fraud and intimidation. The need for this report is even more clear when we see the way in which the Bush administration is carrying out the electoral process and how this system is sliding towards corruption. In hiding a draft report from the public that is significantly different from the final version, the EAC has created a lot more questions than it has answered while stunting debate on the issue. In order for our democracy to function properly it is essential that our elections are free of any corruption and that includes ensuring that the EAC does not work to benefit one political party over the other. To achieve that goal we must have all the facts and opinions on the table, not just some of them. The EAC must never limit discussion and debate."

"The EAC is charged with helping to ensure our elections are trustworthy and administered fairly," said Congressman Serrano, who is Chair of the Appropriations Subcommittee that oversees the EAC budget. "I'm concerned if changes were made to the report on voter fraud because of partisan bias rather than impartial analysis. When you read the draft report side-by-side with the final version, it is clear that important conclusions of the experts who wrote the draft report were excluded from the final product. Among the excluded information is an analysis that undermines the notion that voter fraud is rampant."

"I am concerned that the EAC did not publicly release the taxpayer-funded draft report, and I worry that political considerations may have played a role. We cannot have a politicized EAC, or one that yields to outside pressure. Our democracy, and the American people's faith in it, is far more important than any short-term political advantage."

The draft report was written by outside experts under contract with the EAC. The final report was entitled "Election Crimes: An Initial Review and Recommendations for Future Study" and was issued on December 7, 2006.

The EAC is an independent bipartisan commission created by the 2002 Help America Vote Act in order to disburse funds to the states for the purchase of new voting systems, certify voting technologies, develop guidelines and serve as an information resource for election administration.

010984

**COMMITTEE ON THE JUDICIARY**

- CHAIR — SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW
- SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY
- SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW

**COMMITTEE ON HOMELAND SECURITY**

- SUBCOMMITTEE ON BORDER, MARITIME AND GLOBAL COUNTERTERRORISM
- SUBCOMMITTEE ON EMERGING THREATS, CYBERSECURITY, AND SCIENCE AND TECHNOLOGY

**COMMITTEE ON HOUSE ADMINISTRATION**

- CHAIR — SUBCOMMITTEE ON ELECTIONS

CHAIR, CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATION

**Congress of the United States**  
**House of Representatives**  
 Washington, DC 20515-0516

**ZOE LOFGREN**

16TH DISTRICT, CALIFORNIA

838 NORTH FIRST STREET  
 SUITE B  
 SAN JOSE, CA 95112  
 (408) 271-8700  
 (408) 271-8713 (FAX)

102 CANNON HOUSE OFFICE BUILDING  
 WASHINGTON, DC 20515  
 (202) 225-8072  
 (202) 225-9336 (FAX)

[www.house.gov/lofgren](http://www.house.gov/lofgren)

CO-CHAIR, CONGRESSIONAL HAZARDS CAUCUS

CO-CHAIR, BIPARTISAN CONGRESSIONAL REFUGEE CAUCUS

CO-CHAIR, CONGRESSIONAL VIETNAM CAUCUS

April 12, 2007

Chairwoman Donetta Davidson  
 United States Election Assistance Commission  
 1225 New York Avenue N.W., Suite 1100  
 Washington, DC 20005

Dear Chairwoman Davidson:

As Chairwoman of the Committee on House Administration Subcommittee on Elections, which has oversight over the Election Assistance Commission, I was alarmed at what appears to be an emerging pattern by the EAC to hold off on publicly releasing reports as well as modifying reports that are released. Two recent instances have brought to light the increased politicalization of the EAC and this lack of transparency.

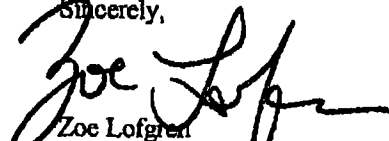
First, the House Appropriations Subcommittee on Financial Services and General Government released a draft version of an EAC report on voter fraud and intimidation that shows significant changes were made to the findings of outside experts before the final report was released. The EAC released report "Election Crimes: An Initial Review and Recommendations for Future Study" does not accurately reflect the research in the original report "Voting Fraud and Voter Intimidation."

Second, in addition to this report on voter fraud and intimidation, the EAC recently released a report by The Eagleton Institute of Politics at Rutgers University on voter identification. Again, the EAC did not endorse the report, citing methodological concerns, and only released it after pressure from Congress.

The EAC is charged with conducting nonpartisan research and to advise policy makers. How are we to rely on advice if instead of full and accurate reporting, we are provided an inaccurate modified version which negates clear evidence to the contrary in the original research? I am outraged that the election process is being threatened by a lack of transparency and limited discussion.

In order to preempt any further problems with the release of reports from the EAC, I request all versions of the Absentee Ballot report and the Military and Overseas report, as well as any other overdue reports, including supporting documents and research, be provided to my office by close of business Monday, April 16, 2007. These reports are overdue and I want to ensure that the delay is no way related to what appears to be an ongoing problem of politicalization of the EAC.

Sincerely,

  
 Zoe Lofgren  
 Member of Congress

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case    | Court   | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. | No                           | N/A         | No                                    |

986010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p> |                              |             |                                       |

010987

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case       | Court   | Citation                    | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |   | <p>minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.</p> |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights  | No                           | N/A         | No                                    |

010988

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>violations of the Voting Rights Act. The parties filed cross--motions for summary judgment.</p> | <p>schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of</p> |                              |             |                                       |

010989

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>minorities; as a result, minorities were under-represented in Washington's political process. The Rooker-Feldman doctrine barred the felons from bringing any as-applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p> |                              |             |                                       |

066010



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case            | Court  | Citation                                  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                         |  |   |               |   | constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Farrakhan v. Washington | United States Court of Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.   | No                           | N/A         | No                                    |

010991

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p> | <p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p> |                              |             |                                       |

010992

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p> |                              |             |                                       |

010993

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case       | Court   | Citation                                | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |   |   |                |   | less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim. |                              |             |                                       |
| Muntaqim v. Coombe | United States Court of Appeals for the Second Circuit | 366 F.3d 102; 2004 U.S. App. LEXIS 8077 | April 23, 2004 | Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation | At issue was whether the VRA could be applied to N.Y. Elec. Law § 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the  | No                           | N/A         | No                                    |

010992

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | of § 2 of the Voting Rights Act of 1965. | New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p> |                              |             |                                       |

010996

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                | Court   | Citation                                  | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|---|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                             |   |   |                   |   | district court's judgment was affirmed.   |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 353 F.3d 1287; 2003 U.S. App. LEXIS 25859 | December 19, 2003 | Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws. | The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a | No                           | N/A         | No                                    |

010997

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p> |                              |             |                                       |

010998



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p> |                              |             |                                       |

686070

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | violation of federal voting laws and remanded the matter to the district court for further proceedings.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p> |                              |             |                                       |

011001

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case           | Court                  | Citation       | Date           | Facts                      | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------|----------------|----------------|----------------------------|--|------------------------------|-------------|---------------------------------------|
|                        |                        |                |                |                            | authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority. |                              |             |                                       |
| Johnson v. Governor of | United States Court of | 405 F.3d 1214; | April 12, 2005 | Plaintiff individuals sued | The individuals argued that the  | No                           | N/A         | No                                    |

011002

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court                            | Citation                  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|---------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Fla.         | Appeals for the Eleventh Circuit | 2005 U.S. App. LEXIS 5945 |      | defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted. | racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial |                              |             |                                       |

011003

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p> |                              |             |                                       |

011004

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case          | Court                              | Citation                      | Date               | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|-------------------------------|--------------------|---|--|------------------------------|-------------|---------------------------------------|
|                       |                                    |                               |                    |   | permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted. |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief | Petitioner convicted felons were presently or had formerly been confined in state  | No                           | N/A         | No                                    |

011005

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation     | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>534 |      | as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' |                              |             |                                       |

011006



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex-felon voting rights. The court sustained respondents' objection since</p> |                              |             |                                       |

011007

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court  | Citation                    | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|-----------------------------|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                     |  |                             |                   |  | incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them. |                              |             |                                       |
| Rosello v. Calderon | United States District Court for the District of Puerto Rico | 2004 U.S. Dist. LEXIS 27216 | November 30, 2004 | Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the | The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the  | No                           | N/A         | No                                    |

011008

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>invalidity of absentee and split ballots in a gubernatorial election.</p> | <p>same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal constitutions. The</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law pursuant to federal</p> |                              |             |                                       |

011010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case        | Court  | Citation                                      | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 |   | guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.  |                              |             |                                       |
| Woodruff v. Wyoming | United States Court of Appeals for the Tenth Circuit | 49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060 | October 7, 2002 | Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10-106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon which relief could | The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing fee or filed a | No                           | N/A         | No                                    |

011011

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts                        | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|------------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | be granted and as frivolous. | motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who heard their cases. |                              |             |                                       |

011012

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                      | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |  |   |                  |  | The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed. |                              |             |                                       |
| N.J. State Conf.--NAACP v. Harvey | Superior Court of New Jersey, Appellate Division | 381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316 | November 2, 2005 | The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it denied | The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey discriminated   | No                           | N/A         | No                                    |

011013

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p> | <p>against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting. Moreover, those</p> |                              |             |                                       |

011014



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case           | Court  | Citation                   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |  | convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed. |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was  | No                           | N/A         | No                                    |

011015

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>excluded incarcerated felons from voting while they were imprisoned.</p> | <p>not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices</p> |                              |             |                                       |

011016

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional</p> |                              |             |                                       |

011017

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case  | Court   | Citation  | Date            | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|-----------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                 |  | rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.   |                              |             |                                       |
| Southwest Voter Registration Educ. Project v. Shelley | United States District Court for the Central District of California | 278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413 | August 15, 2003 | Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be conducted without use of punch--card | Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch-card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the votes on the basis of race, in violation | No                           | N/A         | No                                    |

011018

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | machines. | of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if plaintiffs could show disparate |                              |             |                                       |

011019

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with plaintiffs' ex parte application for</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case                         | Court  | Citation                                 | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--|--|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                                      |  |  |                |   | temporary restraining order) was denied.  |                              |             |                                       |
| Igartua--de la Rosa v. United States | United States Court of Appeals for the First Circuit | 417 F.3d 145; 2005 U.S. App. LEXIS 15944 | August 3, 2005 | Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States. | The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were not, but were voting for electors. | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                     | Court   | Citation  | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|--------------|--|---|------------------------------|-------------|---------------------------------------|
| Am. Ass'n of People with Disabilities v. Shelley | United States District Court for the Central District of California | 324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587 | July 6, 2004 | Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in | The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be | No                           | N/A         | No                                    |

011023

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | the alternative, a preliminary injunction. | deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. |                              |             |                                       |

011024

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                  | Court   | Citation   | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|----------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |  |                |   | showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Hood | United States District Court for the Middle District of Florida | 310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615 | March 24, 2004 | Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida | The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired   | No                           | N/A         | No                                    |

011026

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p> | <p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p> |                              |             |                                       |

011027

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--disabled voters.</p> |                              |             |                                       |

011028

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting system would</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the voters.</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case      | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Troiano v. Lepore | United States District Court for the Southern District of Florida | 2003 U.S. Dist. LEXIS 25850 | November 3, 2003 | Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary judgment. | The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow things down | No                           | N/A         | No                                    |

011031

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also failed to state</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have audio</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                       | Court   | Citation                                  | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------------|---|---|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                    |   |   |                   |  | components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.   |                              |             |                                       |
| Troiano v. Supervisor of Elections | United States Court of Appeals for the Eleventh Circuit | 382 F.3d 1276; 2004 U.S. App. LEXIS 18497 | September 1, 2004 | Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in voting booths | The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The appellate court | No                           | N/A         | No                                    |

011034

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p> | <p>agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio components</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the accessible</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case                                   | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |  | <p>voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed.</p> |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Smith | United States District Court for the Middle District of Florida | 227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373 | October 16, 2002 | Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state and local | Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In order to vote,                         | No                           | N/A         | No                                    |

011037

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p> | <p>the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined with the federal</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the court could not</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs asserted that</p> |                              |             |                                       |

011040

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case      | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
| Powers v. Donahue | Supreme Court of New York, Appellate Division, First Department | 276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644 | December 5, 2000 | Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names. | When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted. | No                           | N/A         | No                                    |

011042

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p> |                              |             |                                       |

011043

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case            | Court                    | Citation         | Date              | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--------------------------|------------------|-------------------|---------------------|---|------------------------------|-------------|---------------------------------------|
|                         |                          |                  |                   |                     | local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed. |                              |             |                                       |
| Goodwin v. St. Thomas-- | Territorial Court of the | 43 V.I. 89; 2000 | December 13, 2000 | Plaintiff political | Plaintiff alleged that defendants   | No                           | N/A         | No                                    |

011044

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case              | Court          | Citation      | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------|----------------|---------------|------|--|--|------------------------------|-------------|---------------------------------------|
| St. John Bd. of Elections | Virgin Islands | V.I. LEXIS 15 |      | candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results | counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to |                              |             |                                       |

011045

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                           | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | tabulated without such ballots. | establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case         | Court                    | Citation        | Date             | Facts             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------|-----------------|------------------|-------------------|---|------------------------------|-------------|---------------------------------------|
|                      |                          |                 |                  |                   | <p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p> |                              |             |                                       |
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. LEXIS | December 9, 2005 | The circuit court | The voters and the incumbent all  | No                           | N/A         | No                                    |

011047

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       | 214      |      | <p>overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross-- appealed. In the meantime, the trial court stayed enforcement of its judgment pending</p> | <p>challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | resolution of the appeal. | their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to |                              |             |                                       |

011049

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                            | Court   | Citation   | Date            | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |  |                 |   | <p>count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.</p> |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Supreme Court of New York, Appellate Division, Third Department | 10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS | August 23, 2004 | Appellant candidates appealed from a judgment entered by the supreme court, which partially | The candidates argued that the Board violated a federal court order regarding the election. The appellate court   | No                           | N/A         | No                                    |

011050

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | 10360    |      | <p>granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.</p> | <p>held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to</p> |                              |             |                                       |

011051

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p> |                              |             |                                       |

011052

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case           | Court                      | Citation                             | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|----------------------------|--------------------------------------|----------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |                            |                                      |                |  | properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.  |                              |             |                                       |
| Erlandson v. Kiffmeyer | Supreme Court of Minnesota | 659 N.W.2d 724; 2003 Minn. LEXIS 196 | April 17, 2003 | Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief | The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p> | <p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p> |                              |             |                                       |

011054



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case        | Court   | Citation   | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                     |   |  |              |  | mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot. |                              |             |                                       |
| People v. Deganutti | Appellate Court of Illinois, First District, Third Division | 348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App. | May 12, 2004 | Defendant appealed from a judgment of the circuit court, which convicted | Defendant went to the voters' homes and obtained their signatures on absentee ballot   | No                           | N/A         | No                                    |

011056

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation     | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|--------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | LEXIS<br>518 |      | defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters. | request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not |                              |             |                                       |

011057

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p> |                              |             |                                       |

011058

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                             | Court         | Citation                             | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---------------|--------------------------------------|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |               |                                      |                   |  | and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed. |                              |             |                                       |
| Jacobs v. Seminole County Canvassing Bd. | Supreme Court | 773 So. 2d 519; 2000 Fla. LEXIS 2404 | December 12, 2000 | In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require | Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.   | No                           | N/A         | No                                    |

011059

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.</p> | <p>Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the</p> |                              |             |                                       |

011061

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                            | Court                        | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                              |  |                  |  | other party's forms. Affirmed.  |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Court of Appeals of New York | 3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412 | October 14, 2004 | Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters. | Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be | No                           | N/A         | No                                    |

011062



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case  | Court                         | Citation                                       | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-------------------------------|--|---------------|---|--|------------------------------|-------------|---------------------------------------|
| In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election | Supreme Court of Pennsylvania | 577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431 | March 8, 2004 | A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain | The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | candidates and voters. | that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non--disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third--person hand--delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in--person delivery |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case     | Court                 | Citation           | Date              | Facts                | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-----------------------|--------------------|-------------------|----------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                       |                    |                   |                      | <p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p> |                              |             |                                       |
| In re Canvass of | Commonwealth Court of | 839 A.2d 451; 2003 | December 22, 2003 | The Allegheny County | On appeal, the issue was whether  | No                           | N/A         | No                                    |

011067

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                         | Court        | Citation             | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--------------|----------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Absentee Ballots of November 4, 2003 | Pennsylvania | Pa. Commw. LEXIS 963 |      | Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order. | non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory |                              |             |                                       |

011068

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p> |                              |             |                                       |

011069

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                  | Court  | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |  |                             |                  |  | <p>Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.</p> |                              |             |                                       |
| United States v. Pennsylvania | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21167 | October 20, 2004 | Plaintiff United States sued defendant Commonwealth of | The testimony of the two witnesses offered by the United States did not support its   | No                           | N/A         | No                                    |

011070



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p> | <p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                      | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | late in the election year. | right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had |                              |             |                                       |

011072

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                              | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied. |                              |             |                                       |
| Hoblock v. Albany County Bd. of Elections | United States District Court for the Northern District of New York | 341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326 | October 25, 2004 | Plaintiffs, candidates and voters, sued defendant, the Albany County, New York, | An election for members of the Albany County Legislature had been enjoined, and special   | No                           | N/A         | No                                    |

011073

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p> | <p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p> |                              |             |                                       |

011076

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case      | Court  | Citation                                  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                   |  |   |                  |  | Board from certifying winners of the election was granted.  |                              |             |                                       |
| Griffin v. Roupas | United States Court of Appeals for the Seventh Circuit | 385 F.3d 1128; 2004 U.S. App. LEXIS 21476 | October 15, 2004 | In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District | The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the | No                           | N/A         | No                                    |

011077

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim. | problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p> |                              |             |                                       |

011079

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case     | Court  | Citation                    | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |  |                             |                  |   | applied to everyone.<br>Affirmed.  |                              |             |                                       |
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a | The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee | No                           | N/A         | No                                    |

011080

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | voluntary agreement and submitted it to the court for approval. | ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against |                              |             |                                       |

011081

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                               | Court   | Citation  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |   | the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.  |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 | December 8, 2000 | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based | Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed | No                           | N/A         | No                                    |

011082

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p> | <p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p> |                              |             |                                       |

011083

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court         | Citation | Date      | Facts           | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|-----------|-----------------|--|------------------------------|-------------|---------------------------------------|
|              |               |          |           |                 | <p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write-in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p> |                              |             |                                       |
| Kolb v.      | Supreme Court | 270      | March 17, | Both petitioner | Both petitioner  | No                           | N/A         | No                                    |

011085

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court  | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|--|------|---|---|------------------------------|-------------|---------------------------------------|
| Casella      | of New York, Appellate Division, Fourth Department | A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483 | 2000 | and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election. | and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | registration card signature---and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee |                              |             |                                       |

011087

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case    | Court                        | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|------------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                              |   |               |   | ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.                            |                              |             |                                       |
| People v. Woods | Court of Appeals of Michigan | 241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156 | June 27, 2000 | Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to | Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | pursue the interlocutory appeal, in a criminal action alleging violations of election laws. | fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary |                              |             |                                       |

011089

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                  | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                  |   | violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense. |                              |             |                                       |
| Harris v. Florida Elections Canvassing Comm'n | United States District Court for the Northern District of Florida | 122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875 | December 9, 2000 | Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the | The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did  | No                           | N/A         | No                                    |

011091

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                    | Court   | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |                             |                  | ballots violated Florida law.  | not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. |                              |             |                                       |
| Weldon v. Berks County Dep't of Election Servs. | United States District Court for the Eastern District of Pennsylvania | 2004 U.S. Dist. LEXIS 21948 | November 1, 2004 | Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary | The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to   | No                           | N/A         | No                                    |

011092

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p> | <p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p><b>OVERVIEW:</b><br/>The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case           | Court  | Citation                                 | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |                   |  | concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction. |                              |             |                                       |
| Qualkinbush v. Skubisz | Court of Appeals of Illinois, First District | 822 N.E.2d 38; 2004 Ill. App. LEXIS 1546 | December 28, 2004 | Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court | Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | declared petitioner mayor. | violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters. Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots. The Election Code did not violate equal protection principles, as the burden placed</p> |                              |             |                                       |

011098

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case        | Court  | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |  |   |                  |   | upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.                                |                              |             |                                       |
| Panio v. Sunderland | Supreme Court of New York, Appellate Division, Second Department | 14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433 | January 25, 2005 | In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of | The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by: | No                           | N/A         | No                                    |

011099

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p> | <p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p> |                              |             |                                       |

011101

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                | Court   | Citation   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |  |                   |   | equivalent of an application for a special ballot. Order modified and judgment affirmed.  |                              |             |                                       |
| Pierce v. Allegheny County Bd. of Elections | United States District Court for the Western District of Pennsylvania | 324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569 | November 13, 2003 | Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those | Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear | No                           | N/A         | No                                    |

011102



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction.</p> | <p>regarding whether the absentee ballot provision requiring hand--delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.</p> |                              |             |                                       |

011103

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case       | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |   |   |                  |   | court by virtue of the state court's concurrent jurisdiction.  |                              |             |                                       |
| Friedman v. Snipes | United States District Court for the Southern District of Florida | 345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739 | November 9, 2004 | Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters | The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of § | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p> | <p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p> |                              |             |                                       |

011106

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p> |                              |             |                                       |

011107

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                        | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--------------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Preliminary injunction denied. |                              |             |                                       |

011108

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case            | Court  | Citation                                | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
| United States v. Madden | United States Court of Appeals for the Sixth Circuit | 403 F.3d 347; 2005 U.S. App. LEXIS 5326 | April 4, 2005 | Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role | Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not | No                           | N/A         | No                                    |

011109

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enhancement and increased defendant's base offense level by two levels. | violated by his conduct. In the alternative, he stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to |                              |             |                                       |

011110



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>establish a vote-buying offense. That argument also failed. Defendant next argued that the district court erred by applying the vulnerable--victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for</p> |                              |             |                                       |

011111

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case           | Court  | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |  |  |              |  | <p>their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.</p> |                              |             |                                       |
| United States v. Slone | United States Court of Appeals for the Sixth Circuit | 411 F.3d 643; 2005 U.S. App. LEXIS 10137 | June 3, 2005 | Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of | Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him  | No                           | N/A         | No                                    |

011112

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p> | <p>because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The</p> |                              |             |                                       |

011113

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and</p> |                              |             |                                       |

011115

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case           | Court  | Citation                                       | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |               |   | sentence were affirmed.   |                              |             |                                       |
| United States v. Smith | United States Court of Appeals for the Sixth Circuit | 139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855 | July 18, 2005 | Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed. | One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced that two witnesses had been threatened. The appellate court found that defendants | No                           | N/A         | No                                    |

011115

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness testified that he or she was approached by a</p> |                              |             |                                       |

011117

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated |                              |             |                                       |

011118



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case     | Court              | Citation             | Date           | Facts               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--------------------|----------------------|----------------|---------------------|--|------------------------------|-------------|---------------------------------------|
|                  |                    |                      |                |                     | <p>defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker.</p> |                              |             |                                       |
| Nugent v. Phelps | Court of Appeal of | 816 So. 2d 349; 2002 | April 23, 2002 | Plaintiff incumbent | The incumbent argued that: (1)   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court                     | Citation            | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------------|---------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | Louisiana, Second Circuit | La. App. LEXIS 1138 |      | police chief sued defendant challenger, the winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's | the number of persons who were bribed for their votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>case, the district court for the dismissed his suit. The incumbent appealed.</p> | <p>should have been counted because they were incarcerated for the sole purpose of keeping them from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the</p> |                              |             |                                       |

011122

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed.  |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud. | Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office | No                           | N/A         | No                                    |

011123

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the argument arose because, while the prosecutor's closing</p> |                              |             |                                       |

011124

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial.</p> <p>Furthermore, the trial judge did not abuse his discretion when he did not allow defendant</p> |                              |             |                                       |

011125

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case            | Court   | Citation                    | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---|-----------------------------|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |   |                             |                   |  | to ask the individual whether she wanted to see defendant go to prison because the individual's potential bias was shown by the individual's testimony that she expected the prosecution to recommend her sentence. The court affirmed defendant's conviction. |                              |             |                                       |
| United States v. Turner | United States District Court for the Eastern District of Kentucky | 2005 U.S. Dist. LEXIS 31709 | November 30, 2005 | Defendants were charged with committing mail fraud and conspiracy to commit mail fraud and | Defendants argued that recusal was mandated by 28 U.S.C.S. § 455(a) and (b)(1). The court found no merit in defendants'  | No                           | N/A         | No                                    |

011126



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>vote--buying. First defendant filed a motion to recuse. Second defendant's motion to join the motion to recuse was granted. First defendant moved to compel the Government to grant testimonial use immunity to second defendant and moved to sever defendants.</p> | <p>arguments. The fact that the judge's husband was the commissioner of the Kentucky Department of Environmental Protection, a position to which he was appointed by the Republican Governor, was not relevant. The judge's husband was neither a party nor a witness. The court further concluded that no reasonable person could find that the judge's spouse had any direct</p> |                              |             |                                       |

011127

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>interest in the instant action. As for issue of money donated by the judge's husband to Republican opponents of first defendant, the court could not discern any reason why such facts warranted recusal. First defendant asserted that second defendant should have been granted use immunity based on a belief that second defendant would testify that first defendant did</p> |                              |             |                                       |

011128

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not agree to, possess knowledge of, engage in, or otherwise participate in any of the illegal activity alleged in the indictment. The court found the summary of expected testimony to be too general to grant immunity. In addition, it was far from clear whether the court had the power to grant testimonial use immunity to second defendant. Defendants' motion to recuse</p> |                              |             |                                       |

011129

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | was denied. First defendant's motions to compel and to sever were denied. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court                     | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---------------------------|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Ways v. Shively | Supreme Court of Nebraska | 264 Neb. 250; 646 N.W.2d 621; 2002 Neb. LEXIS 158 | July 5, 2002 | Appellant felon filed a writ of mandamus, which sought to compel appellee Election Commissioner of Lancaster County, Nebraska, to permit him to register to vote. The District Court for Lancaster County denied the felon's petition for writ of mandamus and dismissed the petition. The felon appealed. | The felon was discharged from the Nebraska State Penitentiary in June 1998 after completing his sentences for the crimes of pandering, carrying a concealed weapon and attempting to possess a controlled substance. The commissioner asserted that as a result of the felon's conviction, the sentence for which had neither been reversed nor annulled, he had lost his right to vote. The commissioner contended that the | No                           | N/A         | No                                    |

011131

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>only method by which the felon's right to vote could be restored was through a warrant of discharge issued by the Nebraska Board of Pardons--<br/>-a warrant of discharge had not been issued. The supreme court ruled that the certificate of discharge issued to the felon upon his release did not restore his right to vote. The supreme court ruled that as a matter of law, the specific right to vote was not restored to the felon upon his discharge from incarceration at the</p> |                              |             |                                       |

011132

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case        | Court                          | Citation                                      | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--------------------------------|---|----------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |                                |   |                |   | completion of his sentences. The judgment was affirmed.   |                              |             |                                       |
| Fischer v. Governor | Supreme Court of New Hampshire | 145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16 | March 24, 2000 | Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11. | Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court declared the disenfranchisement | No                           | N/A         | No                                    |

011133

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the authority under</p> |                              |             |                                       |

011134



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative</p> |                              |             |                                       |

011135

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case          | Court                              | Citation                                | Date               | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------|------------------------------------|---|--------------------|---|---|------------------------------|-------------|---------------------------------------|
|                       |                                    |   |                    |   | authority.  |                              |             |                                       |
| Mixon v. Commonwealth | Commonwealth Court of Pennsylvania | 759 A.2d 442; 2000 Pa. Commw. LEXIS 534 | September 18, 2000 | Respondents filed objections to petitioners' complaint seeking declaratory relief as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights. | Petitioner convicted felons were presently or had formerly been confined in state prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released | No                           | N/A         | No                                    |

011136

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing</p> |                              |             |                                       |

011137

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case       | Court                        | Citation  | Date            | Facts                              | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|-----------|-----------------|------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                    |                              |           |                 |                                    | and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them. |                              |             |                                       |
| NAACP Philadelphia | United States District Court | 2000 U.S. | August 14, 2000 | Plaintiffs moved for a preliminary | Plaintiffs, ex--felon,  | No                           | N/A         | No                                    |

011138

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court                                    | Citation          | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|-------------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Branch v. Ridge | for the Eastern District of Pennsylvania | Dist. LEXIS 11520 |      | injunction, which the parties agreed to consolidate with the merits determination for a permanent injunction, in plaintiffs' civil rights suit contending that the Pennsylvania Voter Registration Act, offended the Equal Protection Clause of U.S. Const. amend. XIV. | unincorporated association, and others, filed a civil rights suit against defendant state and local officials, contending that the Pennsylvania Voter Registration Act, violated the Equal Protection Clause by prohibiting some ex--felons from voting during the five year period following their release from prison, while permitting other ex--felons to vote. Plaintiffs conceded that one plaintiff lacked standing, and the court assumed the remaining |                              |             |                                       |

011139

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>plaintiffs had standing. The court found that all that all three of the special circumstances necessary to invoke the Pullman doctrine were present in the case, but found that abstention was not appropriate under the circumstances since it did not agree with plaintiffs' contention that the time constraints caused by the upcoming election meant that the option of pursuing their claims in state court did not offer plaintiffs an adequate remedy.</p> |                              |             |                                       |

011140

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case       | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                    |   |                             |                  |  | Plaintiff's motion for permanent injunction denied; the court abstained from deciding merits of plaintiffs' claims under the Pullman doctrine because all three of the special circumstances necessary to invoke the doctrine were present in the case; all further proceedings stayed until further order. |                              |             |                                       |
| Farrakhan v. Locke | United States District Court for the Eastern District of Washington | 2000 U.S. Dist. LEXIS 22212 | December 1, 2000 | Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations of the Voting Rights Act. The parties filed cross-motions for | The felons alleged that Washington's felon disenfranchisement and restoration of civil rights schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the  | No                           | N/A         | No                                    |

011141

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | summary judgment. | right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of minorities; as a result, minorities were under--represented in |                              |             |                                       |

011142



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new constitutional problem, allowing disenfranchisement only of white</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case    | Court   | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |   |   |               |   | felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment. |                              |             |                                       |
| Johnson v. Bush | United States District Court for the Southern District of Florida | 214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782 | July 18, 2002 | Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment. | The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement                     | No                           | N/A         | No                                    |

011144

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence</p> |                              |             |                                       |

011145

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re--enactment of that provision. Although it appeared that there was a disparate impact on minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the</p> |                              |             |                                       |

011146

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case           | Court  | Citation                   | Date         | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|----------------------------|--------------|---|--|------------------------------|-------------|---------------------------------------|
|                        |  |                            |              |   | officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.   |                              |             |                                       |
| King v. City of Boston | United States District Court for the District of Massachusetts | 2004 U.S. Dist. LEXIS 8421 | May 13, 2004 | Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned. | The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to | No                           | N/A         | No                                    |

011147

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's</p> |                              |             |                                       |

011149

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case     | Court  | Citation                    | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |  |                             |               |   | motion for summary judgment.  |                              |             |                                       |
| Hayden v. Pataki | United States District Court for the Southern District of New York | 2004 U.S. Dist. LEXIS 10863 | June 14, 2004 | In a 42 U.S.C.S. § 1983 action filed by plaintiffs, black and latino convicted felons, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) were unconstitutional, defendants, New York's governor and the chairperson of the board of elections, moved for judgment on the pleadings under Fed. R. Civ. P. 12(c). | The felons sued defendants, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) unlawfully denied suffrage to incarcerated and paroled felons on account of their race. The court granted defendants' motion for judgment on the pleadings on the felons' claims under U.S. Const. amend. XIV, XV because their factual allegations were insufficient from which to draw an inference | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the challenged provisions or their predecessors were enacted with discriminatory intent, and because denying suffrage to those who received more severe punishments, such as a term of incarceration, and not to those who received a lesser punishment, such as probation, was not arbitrary. The felons' claims under 42 U.S.C.S. § 1973 were dismissed because § 1973 could not be used to challenge the legality of N.Y. Elec. Law § 5--106. Defendants'</p> |                              |             |                                       |

011151

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>motion was granted as to the felons' claims under 42 U.S.C.S. § 1971 because § 1971 did not provide for a private right of action, and because the felons were not "otherwise qualified to vote." The court also granted defendants' motion on the felons' U.S. Const. amend. I claim because it did not guarantee a felon the right to vote. Defendants' motion for judgment on the pleadings was granted in the felons' § 1983</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case            | Court   | Citation                                  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                         |   |   |               |   | action.  |                              |             |                                       |
| Farrakhan v. Washington | United States Court for Appeals for the Ninth Circuit | 338 F.3d 1009; 2003 U.S. App. LEXIS 14810 | July 25, 2003 | Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed. | Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised. The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial</p> |                              |             |                                       |

011154

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case   | Court                     | Citation                                      | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                |                           |   |                  |  | claim.  |                              |             |                                       |
| In re Phillips | Supreme Court of Virginia | 265 Va. 81; 574 S.E.2d 270; 2003 Va. LEXIS 10 | January 10, 2003 | The circuit court, entered a judgment in which it declined to consider petitioner former felon's petition for approval of her request to seek restoration of her eligibility to register to vote. The former felon appealed. | More than five years earlier, the former felon was convicted of the felony of making a false written statement incident to a firearm purchase. She then petitioned the trial court asking it to approve her request to seek restoration of her eligibility to register to vote. Her request was based on Va. Code Ann. § 53.1--231.2, allowing persons convicted of non--violent felonies to petition a trial court for approval of a request to seek | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | restoration of voting rights. The trial court declined. It found that Va. Code Ann. § 53.1--231.2 violated constitutional separation of powers principles since it gave the trial court powers belonging to the governor. It also found that even if the statute was constitutional, it was fundamentally flawed for not providing notice to respondent Commonwealth regarding a petition. After the petition was denied, the state supreme court |                              |             |                                       |

011157

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court         | Citation | Date     | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|----------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |               |          |          |           | <p>found the separation of powers principles were not violated since the statute only allowed the trial court to determine if an applicant met the requirements to have voting eligibility restored. It also found the statute was not fundamentally flawed since the Commonwealth was not an interested party entitled to notice. OUTCOME: The judgment was reversed and the case was remanded for further proceedings.</p> |                              |             |                                       |
| Howard v.    | United States | 2000     | February | Appellant | Appellant was  | No                           | N/A         | No                                    |

011158



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court                                   | Citation             | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|----------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Gilmore      | Court of Appeals for the Fourth Circuit | U.S. App. LEXIS 2680 | 23, 2000 | challenged the United States District Court for the Eastern District of Virginia's order summarily dismissing his complaint, related to his inability to vote as a convicted felon, for failure to state a claim upon which relief can be granted. | disenfranchised by the Commonwealth of Virginia following his felony conviction. He challenged that decision by suing the Commonwealth under the U.S. Const. amends. I, XIV, XV, XIX, and XXIV, and under the Voting Rights Act of 1965. The lower court summarily dismissed his complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Appellant challenged. The court found U.S. Const. amend. I |                              |             |                                       |

011159

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>created no private right of action for seeking reinstatement of previously canceled voting rights, U.S. Const. amends. XIV, XV, XIX, and the VRA required either gender or race discrimination, neither of which appellant asserted, and the U.S. Const. amend. XXIV, while prohibiting the imposition of poll taxes, did not prohibit the imposition of a \$10 fee for reinstatement of appellant's civil rights, including the right to vote. Consequently,</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case                | Court   | Citation                            | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|-------------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                             |   |                                     |                   |   | appellant failed to state a claim. The court affirmed, finding that none of the constitutional provisions appellant relied on were properly pled because appellant failed to assert that either his race or gender were involved in the decisions to deny him the vote. Conditioning reestablishment of his civil rights on a \$10 fee was not unconstitutional. |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 353 F.3d 1287; 2003 U.S. App. LEXIS | December 19, 2003 | Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a | The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their   | No                           | N/A         | No                                    |

011161

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | 25859    |      | <p>decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.</p> | <p>constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show</p> |                              |             |                                       |

011162

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court found that the claim under the Voting Rights Act, also needed to be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case   | Court    | Citation | Date      | Facts               | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|----------|----------|-----------|---------------------|--|------------------------------|-------------|---------------------------------------|
|                |          |          |           |                     | behind the Florida disenfranchisement provisions, in violation of the Voting Rights Act. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for violation of federal voting laws and remanded the matter to the district court for further proceedings. |                              |             |                                       |
| State v. Black | Court of | 2002     | September | In 1997, petitioner | The appellate  | No                           | N/A         | No                                    |

011164

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court                | Citation             | Date     | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------|----------------------|----------|---|--|------------------------------|-------------|---------------------------------------|
|              | Appeals of Tennessee | Tenn. App. LEXIS 696 | 26, 2002 | was convicted of forgery and sentenced to the penitentiary for two years, but was immediately placed on probation. He subsequently petitioned the circuit court for restoration of citizenship. The trial court restored his citizenship rights. The State appealed. The appellate court issued its opinion, but granted the State's motions to supplement the record and to rehear its decision. | court's original opinion found that petitioner had not lost his right to hold public office because Tennessee law removed that right only from convicted felons who were "sentenced to the penitentiary." The trial court's amended judgment made it clear that petitioner was in fact sentenced to the penitentiary. Based upon this correction to the record, the appellate court found that petitioner's sentence to the penitentiary resulted in the |                              |             |                                       |

011165

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | forfeiture of his right to seek and hold public office by operation of Tenn. Code Ann. § 40-20--114. However, the appellate court concluded that this new information did not requires a different outcome on the merits of the issue of restoration of his citizenship rights, including the right to seek and hold public office. The appellate court adhered to its conclusion that the statutory presumption in favor of the restoration was not overcome by a |                              |             |                                       |

011166



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case                | Court   | Citation                                 | Date           | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------|---|--|----------------|--|---|------------------------------|-------------|---------------------------------------|
|                             |   |  |                |  | <p>showing, by a preponderance of the evidence, of good cause to deny the petition for restoration of citizenship rights. The appellate court affirmed the restoration of petitioner's right to vote and reversed the denial of his right to seek and hold public office. His full rights of citizenship were restored.</p> |                              |             |                                       |
| Johnson v. Governor of Fla. | United States Court of Appeals for the Eleventh Circuit | 405 F.3d 1214; 2005 U.S. App. LEXIS 5945 | April 12, 2005 | Plaintiff individuals sued defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. | The individuals argued that the racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally   | No                           | N/A         | No                                    |

011167

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>art. VI, § 4 (1968), violated the Equal Protection Clause and 42 U.S.C.S. § 1973. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.</p> | <p>operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not</p> |                              |             |                                       |

011168

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that 42 U.S.C.S. § 1973 applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment permitted the state to maintain. In addition, the legislative history indicated that Congress never</p> |                              |             |                                       |

011169

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Felon Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                 | Court  | Citation                                 | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|--|-----------------|---|--|------------------------------|-------------|---------------------------------------|
| Jenkins v. Williamson-Butler | Court of Appeal of Louisiana, Fourth Circuit | 883 So. 2d 537; 2004 La. App. LEXIS 2433 | October 8, 2004 | Petitioner, a candidate for a parish juvenile court judgeship, failed to qualify for a runoff election. She filed suit against defendant, the clerk of criminal court for the parish seeking a new election, based on grounds of substantial irregularities. The district court ruled in favor of the candidate | The trial court found that the voting machines were not put into service until two, four, and, in many instances, eight hours after the statutorily mandated starting hour which constituted serious irregularities so as to deprive voters from freely expressing their will. It was impossible to determine the number of voters that were affected by the | No                           | N/A         | No                                    |

011171

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case        | Court  | Citation                                  | Date            | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|-----------------|--|---|------------------------------|-------------|---------------------------------------|
|                     |  |   |                 | and ordered the holding of a restricted citywide election. The clerk appealed. | late start up or late arrival of voting machines, making it impossible to determine the result. The appellate court agreed that the irregularities were so serious that the trial court's voiding the election and calling a new election was the proper remedy. Judgment affirmed. |                              |             |                                       |
| Hester v. McKeithen | Court of Appeal of Louisiana, Fourth Circuit | 882 So. 2d 1291; 2004 La. App. LEXIS 2429 | October 8, 2004 | Petitioner, school board candidate, filed suit against defendants, Louisiana   | The candidate argued that the trial court erred in not setting aside the election, even after   | No                           | N/A         | No                                    |

011172

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case  | Court                 | Citation   | Date           | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------|--|----------------|--|--|------------------------------|-------------|---------------------------------------|
|   |                       |  |                | Secretary of State and district court clerk, contesting the school board election results. The trial court rendered judgment against the candidate, finding no basis for the election to be declared void. The candidate appealed. | acknowledging in its reasons for judgment numerous irregularities with the election process. The appellate court ruled that had the irregularities not occurred the outcome would have been exactly the same. Judgment affirmed. |                              |             |                                       |
| In re Election Contest of Democratic Primary Election | Supreme Court of Ohio | 88 Ohio St. 3d 258; 2000 Ohio 325; 725 N.E.2d 271; 2000 Ohio | March 29, 2000 | Appellant sought review of the judgment of the court of common   | Appellant contended that an election irregularity occurred when the board failed   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case     | Court | Citation  | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-------|-----------|------|--|---|------------------------------|-------------|---------------------------------------|
| Held May 4, 1999 |       | LEXIS 607 |      | pleas denying his election contest challenging an opponent's nomination for election irregularity. | to meet and act by majority vote on another candidate's withdrawal, instead permitting its employees to make decisions. Appellant had to prove by clear and convincing evidence that one or more election irregularities occurred and it affected enough votes to change or make uncertain the result of the election. Judgment affirmed. The appellant did |                              |             |                                       |

011174



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case   | Court                         | Citation                                       | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-------------------------------|--|--------------|---|---|------------------------------|-------------|---------------------------------------|
|  |                               |  |              |   | not establish election irregularity by the board's actions on the candidate's withdrawal, the board acted diligently and exercised its discretion in keeping the candidate's name on the ballot and notifying electors of his withdrawal. |                              |             |                                       |
| In re Election Contest As to Watertown Special Referendum Election | Supreme Court of South Dakota | 2001 SD 62; 628 N.W.2d 336; 2001 S.D. LEXIS 66 | May 23, 2001 | Appellant sought review of the judgment of the circuit court declaring a local election valid and | The burden was on appellants to show not only that voting irregularities occurred, but also show that those irregularities  | No                           | N/A         | No                                    |

011175

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case    | Court                    | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                          |   |               | declining to order a new election.  | were so egregious that the will of the voters was suppressed. Appellants did not meet their burden, as mere inconvenience or delay in voting was not enough to overturn the election. Judgment affirmed. |                              |             |                                       |
| Jones v. Jessup | Supreme Court of Georgia | 279 Ga. 531; 615 S.E.2d 529; 2005 Ga. LEXIS 447 | June 30, 2005 | Defendant incumbent appealed a judgment by the trial court that invalidated an election for the position of sheriff and | After the candidate lost the sheriff's election to the incumbent, he contested the election, asserting that there were sufficient irregularities to  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | ordered that a new election be held based on plaintiff candidate's election contest. | place in doubt the election results. The state supreme court held that the candidate failed to prove substantial error in the votes cast by the witnesses adduced at the hearing who voted at the election. Although the candidate's evidence reflected the presence of some irregularities, not every irregularity invalidated the vote. The absentee ballots |                              |             |                                       |

011177

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were only to be rejected where the electors failed to furnish required information. Because the ballots cast by the witnesses substantially complied with all of the essential requirements of the form, the trial court erred by finding that they should not have been considered. The candidate failed to establish substantial error in the votes. Judgment reversed.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case        | Court                     | Citation                                      | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---------------------------|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
| Toliver v. Thompson | Supreme Court of Oklahoma | 2000 OK 98; 17 P.3d 464; 2000 Okla. LEXIS 101 | December 21, 2000 | Petitioner challenged an order of the district court denying his motion to compel a recount of votes from an election. | The court held a recount of votes cast in an election could occur when the ballots had been preserved in the manner prescribed by statute. The trial court noted when the ballots had not been preserved in such a manner, no recount would be conducted. The court further noted a petition alleging irregularities in an election could be based upon an allegation that | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>it was impossible to determine with mathematical certainty which candidate was entitled to be issued a certificate of election. The Oklahoma supreme court held petitioner failed to show that the actual votes counted in the election were tainted with irregularity, and similarly failed to show a statutory right to a new election based upon a failure to preserve the</p> |                              |             |                                       |

011180

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case       | Court                      | Citation                           | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|----------------------------|------------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |                            |                                    |                   |   | ballots.<br>Judgment affirmed.   |                              |             |                                       |
| Adkins v. Huckabay | Supreme Court of Louisiana | 755 So. 2d 206; 2000 La. LEXIS 504 | February 25, 2000 | Plaintiff candidate challenged judgment of court of appeal, second circuit, which reversed the lower court's judgment and declared defendant candidate winner of a runoff election for sheriff. | The issue presented for the appellate court's determination was whether the absentee voting irregularities plaintiff candidate complained of rendered it impossible to determine the outcome of the election for sheriff. The Louisiana supreme court concluded that the lower court had applied the correct | No                           | N/A         | No                                    |

011181

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | standard, substantial compliance, to the election irregularities, but had erred in its application by concluding that the contested absentee ballots substantially complied with the statutory requirements. The supreme court found that in applying substantial compliance to five of the ballot irregularities, the trial court correctly vacated the general election |                              |             |                                       |

011182



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>and set it aside because those absentee ballots should have been disqualified. Because of the constitutional guarantee to secrecy of the ballot and the fact that the margin of victory in the runoff election was three votes, it was impossible to determine the result of the runoff election. Thus, the supreme court ordered a new general election. Judgment of the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case       | Court                       | Citation   | Date          | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|-----------------------------|--|---------------|--|---|------------------------------|-------------|---------------------------------------|
|                    |                             |  |               |  | court of appeals reversed.  |                              |             |                                       |
| In re Gray--Sadler | Supreme Court of New Jersey | 164 N.J. 468; 753 A.2d 1101; 2000 N.J. LEXIS 668 | June 30, 2000 | Appellants, write--in candidates for the offices of mayor and borough council, appealed the judgment of the superior court, appellate division reversing the trial court's decision to set aside the election results for those offices due to irregularities related to the write--in | The New Jersey supreme court held that the votes that were rejected by election officials did not result from the voters' own errors, but from the election officials' noncompliance with statutory requirements. In other words, the voters were provided with patently inadequate instructions and defective voting machines. Moreover, | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                                    | Court                                   | Citation                       | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--------------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |                                |                   | instructions and defective voting machines.                         | appellants met the statutory requirement for successfully contesting the election results by showing that enough qualified voters were denied the right to cast write--in votes as to affect the outcome of the election. Judgment reversed and the state trial court's decision reinstated. |                              |             |                                       |
| Goodwin v. St. Thomas-St. John Bd. of Elections | Territorial Court of the Virgin Islands | 43 V.I. 89; 2000 V.I. LEXIS 15 | December 13, 2000 | Plaintiff political candidate alleged that certain general election | Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks,   | No                           | N/A         | No                                    |

011185

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>absentee ballots violated territorial - election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the</p> | <p>were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The territorial court held that plaintiff was not entitled to relief since he failed to</p> |                              |             |                                       |

011186

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | election results tabulated without such ballots. | establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly |                              |             |                                       |

011187

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case             | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Johnson v. Lopez--Torres | Supreme Court of New York, Appellate Division, Second Department | 2005 NY Slip Op 7825; 2005 N.Y. App. Div. LEXIS 11276 | October 21, 2005 | In a proceeding for a re-- canvass of certain affidavit ballots cast in the Democratic Party primary election for the public office of surrogate, the supreme court denied appellant candidate's petition requesting the same and declared appellee opponent the winner of | proper.<br>Finding that the candidate had waived her right to challenge the affidavit ballots and had not sufficiently established her claim of irregularities to warrant a hearing, the trial court denied her petition and declared the opponent the winner of the primary. However, on appeal, the appellate division held that no waiver occurred. |                              |             |                                       |

011189

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts          | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | that election. | Moreover, because hundreds of apparently otherwise eligible voters failed to fill in their party enrollment and/or prior address, it could be reasonably inferred that these voters were misled thereby into omitting the required information. Finally, the candidate failed to make a sufficient showing of voting irregularities in |                              |             |                                       |

011130



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case   | Court                    | Citation                            | Date            | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|-------------------------------------|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                          |                                     |                 |   | the machine vote to require a hearing on that issue. Judgment reversed.  |                              |             |                                       |
| Ex parte Avery | Supreme Court of Alabama | 843 So. 2d 137; 2002 Ala. LEXIS 239 | August 23, 2002 | Petitioner probate judge moved for a writ of mandamus directing a circuit judge to vacate his order requiring the probate judge to transfer all election materials to the circuit clerk and holding him in contempt for failing to do so. The | The issuance of a writ of mandamus was appropriate. The district attorney had a right to the election materials because he was conducting a criminal investigation of the last election. Furthermore, the circuit judge had no jurisdiction or authority to issue an order | No                           | N/A         | No                                    |

011191

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case                                    | Court                        | Citation                             | Date           | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--------------------------------------|----------------|---|---|------------------------------|-------------|---------------------------------------|
|   |                              |                                      |                | probate judge also requested that said material be turned over to the district attorney, pursuant to an outstanding subpoena.     | directing that the election materials be given to the clerk. The district attorney received several claims of irregularities in the election, some of which could constitute voter fraud. Petition granted and writ issued. |                              |             |                                       |
| Harpole v. Kemper County Democratic Exec. Comm. | Supreme Court of Mississippi | 908 So. 2d 129; 2005 Miss. LEXIS 463 | August 4, 2005 | After his loss in a primary election for the office of sheriff, appellant candidate sued appellees, a political party's executive | The candidate alleged the sheriff had his deputies transport prisoners to the polls, felons voted, and the absentee voter law was breached. The committee   | No                           | N/A         | No                                    |

011192

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>committee and the incumbent sheriff, alleging irregularities in the election. The circuit court dismissed the candidate's petition for judicial review with prejudice. He appealed.</p> | <p>agreed with the last contention and threw out the absentee ballots (seven percent of votes cast); after a recount, the sheriff still prevailed. The trial court dismissed the case due to alleged defects in the petition; in the alternative, it held that the candidate failed to sufficiently allege violations and irregularities in the election. The supreme court held that the petition was</p> |                              |             |                                       |

011193

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | not defective. Disqualification of seven percent of the total votes was not substantial enough so as to cause the will of the voters to be impossible to discern and to warrant a special election, and there were not enough illegal votes cast for the sheriff to change the outcome. A blanket allegation implying that the sheriff had deputies transport prisoners to the |                              |             |                                       |

011194

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Election Irregularities Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | polls was not supported by credible evidence. Judgment affirmed. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case         | Court                    | Citation            | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------|---------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. LEXIS 214 | December 9, 2005 | The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of | The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | its judgment pending resolution of the appeal. | at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those |                              |             |                                       |

011197

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case     | Court         | Citation        | Date             | Facts                  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                        | with the absentee--voting requirements. The judgment declaring the incumbent's opponent the winner was affirmed. The judgment counting the challenged votes in the final tally of votes was reversed, and said votes were subtracted from the incumbents total, and the stay was vacated. All other arguments were rendered moot as a result. |                              |             |                                       |
| ACLU of Minn. v. | United States | 2004 U.S. Dist. | October 29, 2004 | Plaintiffs, voters and | Plaintiffs argued that Minn. Stat.  | No                           | N/A         | No                                    |

011199

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court  | Citation    | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Kiffmeyer    | District Court for the District of Minnesota | LEXIS 22996 |      | associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100,</p> |                              |             |                                       |

011202

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case                        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |   | violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | dismiss. | ballot, a first--time voter could identify himself by providing his driver's license number or the last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable |                              |             |                                       |

011204

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter ID Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, even if the cost, in terms of uncounted ballots, was regrettable. The court granted the Secretary's motion to dismiss. |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case               | Court  | Citation                                      | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| New York v. County of Del. | United States District Court for the Northern District of New York | 82 F. Supp. 2d 12; 2000 U.S. Dist. LEXIS 1398 | February 8, 2000 | Plaintiffs brought a claim in the district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued. | In their complaint plaintiffs alleged that defendants violated the ADA by making the voting locations inaccessible to disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct parties, because | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>pursuant to New York election law defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, due to the alleged</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                    | Court                  | Citation                | Date             | Facts                             | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------------------|------------------------|-------------------------|------------------|-----------------------------------|---|------------------------------|-------------|---------------------------------------|
|                                 |                        |                         |                  |                                   | facts, the court found plaintiffs would likely succeed on the merits. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction and granted plaintiffs' motion for leave to amend their complaint. |                              |             |                                       |
| New York v. County of Schoharie | United States District | 82 F. Supp. 2d 19; 2000 | February 8, 2000 | Plaintiffs brought a claim in the | In their complaint, plaintiffs  | No                           | N/A         | No                                    |

011209

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court                                       | Citation              | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|-----------------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | Court for the Northern District of New York | U.S. Dist. LEXIS 1399 |      | district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and a motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued. | alleged defendants violated the ADA by allowing voting locations to be inaccessible for disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct party, because pursuant to New York election law, |                              |             |                                       |

011210

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, the court found that plaintiffs would likely succeed on the</p> |                              |             |                                       |

011211

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>merits of their case. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction because plaintiffs showed irreparable harm and proved likely success on the merits and granted plaintiff's motion for leave to amend the complaint.</p> |                              |             |                                       |

011212

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case  | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Westchester Disabled on the Move, Inc. v. County of Westchester | United States District Court for the Southern District of New York | 346 F. Supp. 2d 473; 2004 U.S. Dist. LEXIS 24203 | October 22, 2004 | Plaintiffs sued defendant county, county board of elections, and election officials pursuant to 42 U.S.C.S. §§ 12131--12134, N.Y. Exec. Law § 296, and N.Y. Elec. Law § 4--1--4. Plaintiffs moved for a preliminary injunction, requesting (among other things) that the court order defendants to modify the polling places in the county so that they | The inability to vote at assigned locations on election day constituted irreparable harm. However, plaintiffs could not show a likelihood of success on the merits because the currently named defendants could not provide complete relief sought by plaintiffs. Although the county board of elections was empowered to | No                           | N/A         | No                                    |

011213

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>were accessible to disabled voters on election day. Defendants moved to dismiss.</p> | <p>select an alternative polling place should it determine that a polling place designated by a municipality was "unsuitable or unsafe," it was entirely unclear that its power to merely designate suitable polling places would be adequate to ensure that all polling places used in the upcoming election actually conformed</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>with the Americans with Disabilities Act. Substantial changes and modifications to existing facilities would have to be made, and such changes would be difficult, if not impossible, to make without the cooperation of municipalities. Further, the court could order defendants to approve voting machines that conformed to</p> |                              |             |                                       |

011215

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the ADA were they to be purchased and submitted for county approval, but the court could not order them to purchase them for the voting districts in the county. A judgment issued in the absence of the municipalities would be inadequate. Plaintiffs' motion for preliminary injunction was denied, and defendants' motion to dismiss was granted.</p> |                              |             |                                       |

011216

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                            | Court   | Citation                    | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Nat'l Org. on Disability v. Tartaglione | United States District Court for the Eastern District of Pennsylvania | 2001 U.S. Dist. LEXIS 16731 | October 11, 2001 | Plaintiffs, disabled voters and special interest organizations, sued defendants, city commissioners, under the Americans with Disabilities Act and § 504 of the Rehabilitation Act of 1973, and regulations under both statutes, regarding election practices. The commissioners moved to dismiss for failure (1) to | The voters were visually impaired or wheelchair bound. They challenged the commissioners' failure to provide talking voting machines and wheelchair accessible voting places. They claimed discrimination in the process of voting because they were not afforded the same opportunity to participate in the voting process as non-disabled | No                           | N/A         | Yes-see if the case was refiled       |

011217

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | state a cause of action and (2) to join an indispensable party. | voters, and assisted voting and voting by alternative ballot were substantially different from, more burdensome than, and more intrusive than the voting process utilized by non--disabled voters. The court found that the complaint stated causes of actions under the ADA, the Rehabilitation Act, and 28 C.F.R. §§ 35.151 and |                              |             |                                       |

011218

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>35.130. The court found that the voters and organizations had standing to raise their claims. The organizations had standing through the voters' standing or because they used significant resources challenging the commissioners' conduct. The plaintiffs failed to join the state official who would need to approve any talking voting machine as a</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>party. As the court could not afford complete relief to the visually impaired voters in that party's absence, it granted the motion to dismiss under Fed. R. Civ. P. 12(b)(7) without prejudice. The court granted the commissioners' motion to dismiss in part, and denied it in part. The court granted the motion to dismiss the claims of the</p> |                              |             |                                       |

011220

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case                                | Court                       | Citation   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------------|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                             |  |              |  | visually impaired voters for failure to join an indispensable party, without prejudice, and with leave to amend the complaint.  |                              |             |                                       |
| TENNESSEE, Petitioner v. GEORGE LANE et al. | United States Supreme Court | 541 U.S. 509; 124 S. Ct. 1978; 158 L. Ed. 2d 820; 2004 U.S. LEXIS 3386 | May 17, 2004 | Respondent paraplegics sued petitioner State of Tennessee, alleging that the State failed to provide reasonable access to court facilities in violation of Title II of the Americans with Disabilities Act | The state contended that the abrogation of state sovereign immunity in Title II of the ADA exceeded congressional authority under U.S. Const. amend XIV, § 5, to enforce substantive constitutional guarantees. | No                           | N/A         | No                                    |

011221

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of 1990. Upon the grant of a writ of certiorari, the State appealed the judgment of the United States Court of Appeals for the Sixth Circuit which denied the State's claim of sovereign immunity.</p> | <p>The United States Supreme Court held, however, that Title II, as it applied to the class of cases implicating the fundamental right of access to the courts, constituted a valid exercise of Congress's authority. Title II was responsive to evidence of pervasive unequal treatment of persons with disabilities in the administration of state</p> |                              |             |                                       |

011222



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>services and programs, and such disability discrimination was thus an appropriate subject for prophylactic legislation. Regardless of whether the State could be subjected to liability for failing to provide access to other facilities or services, the fundamental right of access to the courts warranted the limited requirement that the State reasonably</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>accommodate disabled persons to provide such access. Title II was thus a reasonable prophylactic measure, reasonably targeted to a legitimate end. The judgment denying the State's claim of sovereign immunity was affirmed.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case         | Court                                       | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Hileman v. McGinness | Appellate Court of Illinois, Fifth District | 316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845 | October 25, 2000 | Appellant challenged the circuit court's declaration that that the result of a primary election for county circuit clerk was void. | In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | segregated, apportionment was the appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | determination as to whether fraud was evident in the electoral process. Judgment reversed and remanded.  |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of the circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud. | Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court    | Citation | Date   | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------|----------|--------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |          |          |        |           | argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Judgment affirmed. |                              |             |                                       |
| Wilson v.    | Court of | 2000 Va. | May 2, | Defendant | At trial, the  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court               | Citation       | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------|----------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Commonwealth | Appeals of Virginia | App. LEXIS 322 | 2000 | appealed the judgment of the circuit court which convicted her of election fraud. | Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | the Department of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. Judgment affirmed. |                              |             |                                       |
|              |       |          |      |       |  |                              |             |                                       |
|              |       |          |      |       |  |                              |             |                                       |

011231

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Mixed Vote Fraud Cases

| Name of Case | Court | Citation | Date | Facts | Holding | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |
|              |       |          |      |       |         |                              |             |                                       |

011232

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Miller v. Blackwell | United States District Court for the southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants. | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>likelihood of success on the merits because they made a strong showing that defendants' intended actions regarding pre--election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The</p> |                              |             |                                       |

011225

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case         | Court  | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                      |  |  |                  |   | court also granted the individuals' motion to intervene.   |                              |             |                                       |
| Spencer v. Blackwell | United States District Court for the Southern District of Ohio | 347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062 | November 1, 2004 | Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls. | The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a</p> |                              |             |                                       |

011238



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the |                              |             |                                       |

011239

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case                   | Court  | Citation                   | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------|--|----------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                                |  |                            |              |   | state on Election Day.  |                              |             |                                       |
| Charfauros v. Bd. of Elections | United States Court of Appeals for the Ninth Circuit | 2001 U.S. App. LEXIS 15083 | May 10, 2001 | Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity. | Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by administering pre--election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary | No                           | N/A         | No                                    |

011240

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal</p> |                              |             |                                       |

011241

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed</p> |                              |             |                                       |

011242

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case  | Court   | Citation                                  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|               |   |   |                  |  | where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.   |                              |             |                                       |
| Wit v. Berman | United States Court of Appeals for the Second Circuit | 306 F.3d 1256; 2002 U.S. App. LEXIS 21301 | October 11, 2002 | Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the | Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that, since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p> | <p>of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over--or under--inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to choose which of their residences was their domicile for voting purposes could not be deemed</p> |                              |             |                                       |

011245

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case    | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                  |  | discriminatory.<br>Affirmed.   |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987 | November 3, 2000 | Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas. | Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self-styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with Texas law, three resident voters filed affidavits challenging the escapees' | No                           | N/A         | No                                    |

011248



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the court issued a preliminary injunction</p> |                              |             |                                       |

011247

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future election. Motion for preliminary injunction was |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case                     | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                  |   |  |                  |   | granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act. |                              |             |                                       |
| Peace & Freedom Party v. Shelley | Court of Appeal of California, Third Appellate District | 114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | January 15, 2004 | Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel | The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed, observing that although the   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p> | <p>election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent</p> |                              |             |                                       |

011251

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | certain conditions, inactive voters in California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not | No                           | N/A         | No                                    |

011252

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts                              | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|------------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved for summary judgment.</p> | <p>afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and</p> |                              |             |                                       |

011254



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all claims with prejudice, except the voters' state--law claim, which was dismissed for want of jurisdiction, without prejudice. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case                                | Court   | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States Court of Appeals for the Eleventh Circuit | 408 F.3d 1349; 2005 U.S. App. LEXIS 8320 | May 12, 2005 | Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the | The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration | No                           | N/A         | No                                    |

011256

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | foundation. | forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the |                              |             |                                       |

011257

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court  | Citation | Date      | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|-----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |           |           | <p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p> |                              |             |                                       |
| McKay v.     | United | 226 F.3d | September | Plaintiff | The trial court   | No                           | N/A         | No                                    |

011258

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court   | Citation                        | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---------------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thompson     | States Court of Appeals for the Sixth Circuit | 752; 2000 U.S. App. LEXIS 23387 | 18, 2000 | challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it |                              |             |                                       |

011259

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p> |                              |             |                                       |

011260

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court  | Citation | Date    | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|---------------------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                     | immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. |                              |             |                                       |
| Nat'l        | United | 150 F.   | July 5, | Plaintiff, national | Defendants  | No                           | N/A         | No                                    |

011261

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case   | Court   | Citation                                 | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--|------|---|--|------------------------------|-------------|---------------------------------------|
| Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | States District Court for the Southern District of Maryland | Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | 2001 | organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not |                              |             |                                       |

011262



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p> |                              |             |                                       |

011263

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p> |                              |             |                                       |

011264

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case                               | Court  | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |  |                            |                   |   | complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied. |                              |             |                                       |
| Cunningham v. Chi. Bd. of Election Comm'rs | United States District Court for the Northern District of Illinois | 2003 U.S. Dist. LEXIS 2528 | February 24, 2003 | Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed | Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were                                  | No                           | N/A         | No                                    |

011265

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p> | <p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p> |                              |             |                                       |

011266

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p> |                              |             |                                       |

011267

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |  | preliminary relief was denied.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental | No                           | N/A         | No                                    |

011268

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p> |                              |             |                                       |

011269

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p> |                              |             |                                       |

011270



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | prejudice granted.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA | No                           | N/A         | No                                    |

011271

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p> |                              |             |                                       |

011272

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for |                              |             |                                       |

011273

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                |   | summary judgment were granted as to all claims with prejudice, except the voters' state--law claim, which was dismissed for want of jurisdiction, without prejudice.   |                              |             |                                       |
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause | The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place | No                           | N/A         | No                                    |

011274

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p> | <p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p> |                              |             |                                       |

011275

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p> |                              |             |                                       |

011276

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

011277

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation                                | Date           | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|--|---|------------------------------|-------------|---------------------------------------|
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19--3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio | The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did | No                           | N/A         | No                                    |

011278



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>granted summary judgment in favor of defendants. The voters appealed.</p> | <p>not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case           | Court                        | Citation                | Date        | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------------|-------------------------|-------------|---|--|------------------------------|-------------|---------------------------------------|
| Wilson v. Commonwealth | Court of Appeals of Virginia | 2000 Va. App. LEXIS 322 | May 2, 2000 | Defendant appealed the judgment of the circuit court which convicted her of election fraud. | On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form required by Title 24.2. At trial, the Commonwealth | No                           | N/A         | No                                    |

011281

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including</p> |                              |             |                                       |

011283

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case     | Court         | Citation        | Date             | Facts                  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|------------------------|--|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                        | records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. |                              |             |                                       |
| ACLU of Minn. v. | United States | 2004 U.S. Dist. | October 29, 2004 | Plaintiffs, voters and | Plaintiffs argued that   | No                           | N/A         | No                                    |

011284

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court  | Citation    | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Kiffmeyer    | District Court for the District of Minnesota | LEXIS 22996 |      | associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and |                              |             |                                       |

011285

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>address of the individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal</p> |                              |             |                                       |

011286



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on |                              |             |                                       |

011287

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                 | Court  | Citation  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                              |  |   |                   |  | their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.                       |                              |             |                                       |
| Kalsson v. United States FEC | United States District Court for the Southern District of New York | 356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279 | February 16, 2005 | Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's action, which sought a declaration that | The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held that the | No                           | N/A         | No                                    |

011288

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p> | <p>individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court      | Citation | Date        | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------|----------|-------------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |            |          |             |           | even if such an injury in other circumstances might have sufficed for standing, any dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction. |                              |             |                                       |
| Peace &      | California | 114 Cal. | January 15, | Plaintiff | The trial court   | No                           | N/A         | No                                    |

011290

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case             | Court                                     | Citation  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|---|---|------|---|--|------------------------------|-------------|---------------------------------------|
| Freedom Party v. Shelley | Court of Appeal, Third Appellate District | App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | 2004 | political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election. | ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the |                              |             |                                       |

011291

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file</p> |                              |             |                                       |

011292

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and</p> |                              |             |                                       |

011293

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case      | Court  | Citation                                 | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|--|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                   |  |  |                    |  | vote. Affirmed.  |                              |             |                                       |
| McKay v. Thompson | United States Court of Appeals for the Sixth Circuit | 226 F.3d 752; 2000 U.S. App. LEXIS 23387 | September 18, 2000 | Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. Plaintiff</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | 28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental |                              |             |                                       |

011297

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                               | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |  |  |                  |  | right to vote, free exercise of religion, privileges and immunities, and due process claims.  |                              |             |                                       |
| Lucas County Democratic Party v. Blackwell | United States District Court for the Northern District of Ohio | 341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416 | October 21, 2004 | Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. The organizations claimed that the memorandum contravened provisions of the Help America Vote | The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their Social Security number. In his memorandum, the Secretary informed all | No                           | N/A         | No                                    |

011298

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Act and the National Voter Registration Act. The organizations moved for a preliminary injunction.</p> | <p>Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations</p> |                              |             |                                       |

011299

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were likely to succeed on the merits of their claim. Denying the organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that</p> |                              |             |                                       |

011300

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                                   | Court                            | Citation                             | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------------------|--------------------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|  |                                  |                                      |              |   | <p>they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re-open in-person registration until election day. The public interest would have been ill-served by an injunction. The motion for a preliminary injunction was denied sua sponte.</p> |                              |             |                                       |
| Nat'l Coalition for Students with Disabilities | United States District Court for | 150 F. Supp. 2d 845; 2001 U.S. Dist. | July 5, 2001 | Plaintiff, national organization for disabled | Defendants alleged that plaintiff lacked standing to  | No                           | N/A         | No                                    |

011301

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                      | Court                    | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--------------------------|------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Educ. & Legal Def. Fund v. Scales | the District of Maryland | LEXIS 9528 |      | students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not registered |                              |             |                                       |

011302



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim,</p> |                              |             |                                       |

011303

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the court found that the agency practice of only offering voter registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the</p> |                              |             |                                       |

011304

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case       | Court                        | Citation                                 | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |                              |  |               |   | university.<br>Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claimant denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied. |                              |             |                                       |
| People v. Disimone | Court of Appeals of Michigan | 251 Mich. App. 605; 650 N.W.2d 436; 2002 | July 11, 2002 | Defendant was charged with attempting to vote more than once in the | Defendant was registered in the Colfax township for the 2000  | No                           | N/A         | No                                    |

011305

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation             | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | Mich. App. LEXIS 826 |      | 2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed. | general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the |                              |             |                                       |

011307

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                  | Citation                   | Date             | Facts                                  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------------------|----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |                        |                            |                  |  | defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed. |                              |             |                                       |
| Diaz v. Hood | United States District | 342 F. Supp. 2d 1111; 2004 | October 26, 2004 | Plaintiffs, unions and individuals who | The putative voters sought injunctive relief   | No                           | N/A         | No                                    |

011308

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                                      | Citation               | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | Court for the Southern District of Florida | U.S. Dist. LEXIS 21445 |      | had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing | requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box |                              |             |                                       |

011309

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                         | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | and failure to state a claim. | indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter |                              |             |                                       |

011310



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no</p> |                              |             |                                       |

011311

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                                | Court   | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |   |              |  | injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.   |                              |             |                                       |
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States District Court for the Northern District of Georgia | 324 F. Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120 | July 1, 2004 | Plaintiffs, a voter, fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in | The organization participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members | No                           | N/A         | No                                    |

011312

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.</p> | <p>mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as</p> |                              |             |                                       |

011313

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that</p> |                              |             |                                       |

011314

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from</p> |                              |             |                                       |

011315

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case     | Court         | Citation        | Date             | Facts                   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|-------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                         | <p>the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.</p> |                              |             |                                       |
| Moseley v. Price | United States | 300 F. Supp. 2d | January 22, 2004 | Plaintiff alleged, that | The court concluded that  | No                           | N/A         | No                                    |

011316

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court   | Citation                       | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|--------------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | District Court for the Eastern District of Virginia | 389; 2004 U.S. Dist. LEXIS 850 |      | defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from the race for Commonwealth Attorney because of the investigation. | plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect in the event a mailed registration card was |                              |             |                                       |

011317

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Defendants moved to dismiss the complaint. | returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared. |                              |             |                                       |

011318



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The court found the inference wholly unwarranted because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of</p> |                              |             |                                       |

011319

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case       | Court  | Citation   | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|--|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |  |  |               |   | fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice. |                              |             |                                       |
| Thompson v. Karben | Supreme Court of New York, Appellate Division, Second Department | 295 A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101 | June 10, 2002 | Respondents filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that | Respondents alleged that appellant was unlawfully registered to vote from an address at which he did not reside and that he should  | No                           | N/A         | No                                    |

011320

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.</p> | <p>have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May</p> |                              |             |                                       |

011321

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation  | Date      | Facts         | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--------|-----------|-----------|---------------|---|------------------------------|-------------|---------------------------------------|
|                 |        |           |           |               | <p>2001 paycheck stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address. Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.</p> |                              |             |                                       |
| Nat'l Coalition | United | 2002 U.S. | August 2, | Plaintiffs, a | The court   | No                           | N/A         | No                                    |

011322

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court   | Citation          | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|-------------------|------|--|---|------------------------------|-------------|---------------------------------------|
| v. Taft      | States District Court for the Southern District of Ohio | Dist. LEXIS 22376 | 2002 | nonprofit public interest group and certain individuals, sued defendants, certain state and university officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a | found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the |                              |             |                                       |

011323

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | preliminary injunction. | disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included |                              |             |                                       |

011324

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary</p> |                              |             |                                       |

011325

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case            | Court                                  | Citation                           | Date        | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|------------------------------------|-------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |  |                                    |             |  | injunction was granted in part and the Secretary of State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability. |                              |             |                                       |
| Lawson v. Shelby County | United States Court of Appeals for the | 211 F.3d 331; 2000 U.S. App. LEXIS | May 3, 2000 | Plaintiffs who were denied the right to vote when they | Plaintiffs attempted to register to vote in October, and   | No                           | N/A         | No                                    |

011326



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court         | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Sixth Circuit | 8634     |      | refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI. | to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one |                              |             |                                       |

011327

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was barred. The court also held the statute of limitations ran from the date plaintiffs</p> |                              |             |                                       |

011328

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under</p> |                              |             |                                       |

011329

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |              |  | the Young exception to sovereign immunity, to be fashioned.  |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544 | June 4, 2001 | Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to | Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a | No                           | N/A         | No                                    |

011330

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enjoin a Texas state court proceeding under the All Writs Act. | preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since, |                              |             |                                       |

011331

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and such challenge</p> |                              |             |                                       |

011332

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case      | Court               | Citation           | Date              | Facts                | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------|--------------------|-------------------|----------------------|--|------------------------------|-------------|---------------------------------------|
|                   |                     |                    |                   |                      | properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding. |                              |             |                                       |
| Pepper v. Darnell | United States Court | 24 Fed. Appx. 460; | December 10, 2001 | Plaintiff individual | Individual argued on   | No                           | N/A         | No                                    |

011333

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                            | Citation                   | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|----------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | of Appeals for the Sixth Circuit | 2001 U.S. App. LEXIS 26618 |      | <p>appealed from a judgment of the district court, in an action against defendant state officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p> | <p>appeal that the district court erred in finding that the registration forms used by the state did not violate the NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade</p> |                              |             |                                       |

011334



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote provide a specific location as an address, regardless of the transient lifestyle of the |                              |             |                                       |

011335

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |  |  |                  |   | indigent individual, acting in his own behalf, was clearly unable to represent fairly the class. The district court's judgment was affirmed.  |                              |             |                                       |
| Miller v. Blackwell | United States District Court for the Southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process | No                           | N/A         | No                                    |

011337

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two individuals filed a motion to intervene as defendants.</p> | <p>Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because they made a</p> |                              |             |                                       |

011339

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court</p> |                              |             |                                       |

011340

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | also granted the individuals' motion to intervene. |                              |             |                                       |

011341

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Miller v. Blackwell | United States District Court for the southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants. | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in | No                           | N/A         | No                                    |

011342



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a</p> |                              |             |                                       |

011343

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>likelihood of success on the merits because they made a strong showing that defendants' intended actions regarding pre--election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The</p> |                              |             |                                       |

011344

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case         | Court  | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                      |  |  |                  |   | court also granted the individuals' motion to intervene.   |                              |             |                                       |
| Spencer v. Blackwell | United States District Court for the Southern District of Ohio | 347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062 | November 1, 2004 | Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls. | The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that | No                           | N/A         | No                                    |

011345

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and</p> |                              |             |                                       |

011346

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a</p> |                              |             |                                       |

011347

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the |                              |             |                                       |

011348

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case                   | Court  | Citation                   | Date         | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------|--|----------------------------|--------------|---|---|------------------------------|-------------|---------------------------------------|
|                                |  |                            |              |   | state on Election Day.  |                              |             |                                       |
| Charfauros v. Bd. of Elections | United States Court of Appeals for the Ninth Circuit | 2001 U.S. App. LEXIS 15083 | May 10, 2001 | Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity. | Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by administering pre--election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary | No                           | N/A         | No                                    |

011349

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal</p> |                              |             |                                       |

011350



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed</p> |                              |             |                                       |

011351

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case  | Court   | Citation                                  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|               |   |   |                  |  | where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.   |                              |             |                                       |
| Wit v. Berman | United States Court of Appeals for the Second Circuit | 306 F.3d 1256; 2002 U.S. App. LEXIS 21301 | October 11, 2002 | Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the | Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that, since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both | No                           | N/A         | No                                    |

011352

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p> | <p>of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be</p> |                              |             |                                       |

011353

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over--or under--inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to choose which of their residences was their domicile for voting purposes could not be deemed</p> |                              |             |                                       |

011354

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case    | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                  |  | discriminatory.<br>Affirmed.   |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987 | November 3, 2000 | Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas. | Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self-styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with Texas law, three resident voters filed affidavits challenging the escapees' | No                           | N/A         | No                                    |

011355

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the court issued a preliminary injunction</p> |                              |             |                                       |

011356

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future election. Motion for preliminary injunction was</p> |                              |             |                                       |

011357

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case                     | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                  |   |  |                  |   | granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act. |                              |             |                                       |
| Peace & Freedom Party v. Shelley | Court of Appeal of California, Third Appellate District | 114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | January 15, 2004 | Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel | The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed, observing that although the   | No                           | N/A         | No                                    |

011358



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p> | <p>election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to</p> |                              |             |                                       |

011359

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent</p> |                              |             |                                       |

011360

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | certain conditions, inactive voters in California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not | No                           | N/A         | No                                    |

011361

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts                       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | moved for summary judgment. | afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was |                              |             |                                       |

011362

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and</p> |                              |             |                                       |

011363

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Eligibility Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice. |                              |             |                                       |

011364

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case                                | Court   | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States Court of Appeals for the Eleventh Circuit | 408 F.3d 1349; 2005 U.S. App. LEXIS 8320 | May 12, 2005 | Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the | The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration | No                           | N/A         | No                                    |

011365

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts       | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | foundation. | forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the |                              |             |                                       |

011366



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court  | Citation | Date      | Facts     | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|-----------|-----------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |           |           | <p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p> |                              |             |                                       |
| McKay v.     | United | 226 F.3d | September | Plaintiff | The trial court   | No                           | N/A         | No                                    |

011367

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court   | Citation                        | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---------------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thompson     | States Court of Appeals for the Sixth Circuit | 752; 2000 U.S. App. LEXIS 23387 | 18, 2000 | challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it |                              |             |                                       |

011368

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p> |                              |             |                                       |

011369

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court  | Citation | Date    | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|---------|---------------------|---|------------------------------|-------------|---------------------------------------|
|              |        |          |         |                     | immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. |                              |             |                                       |
| Nat'l        | United | 150 F.   | July 5, | Plaintiff, national | Defendants  | No                           | N/A         | No                                    |

011370

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case   | Court   | Citation                                 | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|--|------|---|--|------------------------------|-------------|---------------------------------------|
| Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales | States District Court for the Southern District of Maryland | Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528 | 2001 | organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not |                              |             |                                       |

011371

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p> |                              |             |                                       |

011372

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case                              | Court  | Citation                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|----------------------------|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |                            |                   |   | <p>complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p> |                              |             |                                       |
| Cunningham v. Chi. Bd. of Election Comm's | United States District Court for the Northern District of Illinois | 2003 U.S. Dist. LEXIS 2528 | February 24, 2003 | Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed | Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were   | No                           | N/A         | No                                    |

011373



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p> | <p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p> |                              |             |                                       |

011374

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p> |                              |             |                                       |

011375

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |   |   |                  |  | preliminary relief was denied.   |                              |             |                                       |
| Diaz v. Hood | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445 | October 26, 2004 | Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials | The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p> | <p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p> |                              |             |                                       |

011377

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p> |                              |             |                                       |

011378

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case    | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                 |  |  |                  |   | prejudice granted.  |                              |             |                                       |
| Bell v. Marinko | United States District Court for the Northern District of Ohio | 235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753 | October 22, 2002 | Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment. | The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA | No                           | N/A         | No                                    |

011379

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p> |                              |             |                                       |

011380

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for |                              |             |                                       |

011381



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Rejection Cases - 2

| Name of Case    | Court  | Citation                                | Date           | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |                |   | summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.  |                              |             |                                       |
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause | The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place | No                           | N/A         | No                                    |

011382

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p> | <p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p> |                              |             |                                       |

011383

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p> |                              |             |                                       |

011384

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Voter Registration Rejection Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

011385

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation                                | Date           | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|----------------|--|---|------------------------------|-------------|---------------------------------------|
| Bell v. Marinko | United States Court of Appeals for the Sixth Circuit | 367 F.3d 588; 2004 U.S. App. LEXIS 8330 | April 28, 2004 | Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19--3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio | The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did | No                           | N/A         | No                                    |

011386

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>granted summary judgment in favor of defendants. The voters appealed.</p> | <p>not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p> |                              |             |                                       |

011398

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case           | Court                        | Citation                | Date        | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|------------------------------|-------------------------|-------------|---|--|------------------------------|-------------|---------------------------------------|
| Wilson v. Commonwealth | Court of Appeals of Virginia | 2000 Va. App. LEXIS 322 | May 2, 2000 | Defendant appealed the judgment of the circuit court which convicted her of election fraud. | On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form required by Title 24.2. At trial, the Commonwealth | No                           | N/A         | No                                    |

011389



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department</p> |                              |             |                                       |

011390

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case     | Court         | Citation        | Date             | Facts                  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|------------------------|--|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                        | records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. |                              |             |                                       |
| ACLU of Minn. v. | United States | 2004 U.S. Dist. | October 29, 2004 | Plaintiffs, voters and | Plaintiffs argued that   | No                           | N/A         | No                                    |

011392

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court  | Citation    | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|-------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Kiffmeyer    | District Court for the District of Minnesota | LEXIS 22996 |      | associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration. | Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>address of the individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal</p> |                              |             |                                       |

011394

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on |                              |             |                                       |

011395

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                 | Court  | Citation  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------------|--|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                              |  |   |                   |  | their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.                       |                              |             |                                       |
| Kalsson v. United States FEC | United States District Court for the Southern District of New York | 356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279 | February 16, 2005 | Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's action, which sought a declaration that | The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held that the | No                           | N/A         | No                                    |

011396

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p> | <p>individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and</p> |                              |             |                                       |

011397



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court      | Citation | Date        | Facts     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------|----------|-------------|-----------|--|------------------------------|-------------|---------------------------------------|
|              |            |          |             |           | <p>even if such an injury in other circumstances might have sufficed for standing, any dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.</p> |                              |             |                                       |
| Peace &      | California | 114 Cal. | January 15, | Plaintiff | The trial court  | No                           | N/A         | No                                    |

011398

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case             | Court                                     | Citation  | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|---|---|------|---|--|------------------------------|-------------|---------------------------------------|
| Freedom Party v. Shelley | Court of Appeal, Third Appellate District | App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42 | 2004 | political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election. | ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file</p> |                              |             |                                       |

011400

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and</p> |                              |             |                                       |

10/11/01

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case      | Court  | Citation                                 | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|--|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                   |  |  |                    |  | vote. Affirmed.  |                              |             |                                       |
| McKay v. Thompson | United States Court of Appeals for the Sixth Circuit | 226 F.3d 752; 2000 U.S. App. LEXIS 23387 | September 18, 2000 | Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration. | The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be | No                           | N/A         | No                                    |

011402

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. Plaintiff</p> |                              |             |                                       |

011403

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under</p> |                              |             |                                       |

011404

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | 28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental |                              |             |                                       |

011405



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                               | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|  |  |  |                  |  | right to vote, free exercise of religion, privileges and immunities, and due process claims.  |                              |             |                                       |
| Lucas County Democratic Party v. Blackwell | United States District Court for the Northern District of Ohio | 341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416 | October 21, 2004 | Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. The organizations claimed that the memorandum contravened provisions of the Help America Vote | The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their Social Security number. In his memorandum, the Secretary informed all | No                           | N/A         | No                                    |

011406

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Act and the National Voter Registration Act. The organizations moved for a preliminary injunction.</p> | <p>Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations</p> |                              |             |                                       |

011407

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were likely to succeed on the merits of their claim. Denying the organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that</p> |                              |             |                                       |

011408

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                                   | Court                            | Citation                             | Date         | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------------------|--------------------------------------|--------------|---|--|------------------------------|-------------|---------------------------------------|
|  |                                  |                                      |              |   | they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re-open in-person registration until election day. The public interest would have been ill-served by an injunction. The motion for a preliminary injunction was denied sua sponte. |                              |             |                                       |
| Nat'l Coalition for Students with Disabilities | United States District Court for | 150 F. Supp. 2d 845; 2001 U.S. Dist. | July 5, 2001 | Plaintiff, national organization for disabled | Defendants alleged that plaintiff lacked standing to   | No                           | N/A         | No                                    |

011409

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                      | Court                    | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|--------------------------|------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Educ. & Legal Def. Fund v. Scales | the District of Maryland | LEXIS 9528 |      | students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment. | represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not registered |                              |             |                                       |

011410

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim,</p> |                              |             |                                       |

011411

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the court found that the agency practice of only offering voter registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the</p> |                              |             |                                       |

011412

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case       | Court                        | Citation                                 | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|------------------------------|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                    |                              |  |               |   | <p>university. Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claimant denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p> |                              |             |                                       |
| People v. Disimone | Court of Appeals of Michigan | 251 Mich. App. 605; 650 N.W.2d 436; 2002 | July 11, 2002 | Defendant was charged with attempting to vote more than once in the | Defendant was registered in the Colfax township for the 2000  | No                           | N/A         | No                                    |

011413



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation             | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       | Mich. App. LEXIS 826 |      | 2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed. | general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court |                              |             |                                       |

011414

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                  | Citation                   | Date             | Facts                                  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------------------|----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|              |                        |                            |                  |  | defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed. |                              |             |                                       |
| Diaz v. Hood | United States District | 342 F. Supp. 2d 1111; 2004 | October 26, 2004 | Plaintiffs, unions and individuals who | The putative voters sought injunctive relief   | No                           | N/A         | No                                    |

011416

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                                      | Citation               | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | Court for the Southern District of Florida | U.S. Dist. LEXIS 21445 |      | had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing | requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box |                              |             |                                       |

011417

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                         | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | and failure to state a claim. | indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter |                              |             |                                       |

011418

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no</p> |                              |             |                                       |

011219

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case                                | Court   | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |   |              |  | injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.   |                              |             |                                       |
| Charles H. Wesley Educ. Found., Inc. v. Cox | United States District Court for the Northern District of Georgia | 324 F. Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120 | July 1, 2004 | Plaintiffs, a voter, fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in | The organization participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.</p> | <p>mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that</p> |                              |             |                                       |

011422

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case     | Court         | Citation        | Date             | Facts                   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---------------|-----------------|------------------|-------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |               |                 |                  |                         | <p>the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.</p> |                              |             |                                       |
| Moseley v. Price | United States | 300 F. Supp. 2d | January 22, 2004 | Plaintiff alleged, that | The court concluded that  | No                           | N/A         | No                                    |

011424

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court   | Citation                       | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|--------------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | District Court for the Eastern District of Virginia | 389; 2004 U.S. Dist. LEXIS 850 |      | defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from the race for Commonwealth Attorney because of the investigation. | plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect in the event a mailed registration card was |                              |             |                                       |

011425

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Defendants moved to dismiss the complaint. | returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared. |                              |             |                                       |

011428

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The court found the inference wholly unwarranted because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of</p> |                              |             |                                       |

011427

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case       | Court  | Citation   | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|--|--|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |  |  |               |   | <p>fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice.</p> |                              |             |                                       |
| Thompson v. Karben | Supreme Court of New York, Appellate Division, Second Department | 295 A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101 | June 10, 2002 | Respondents filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that | Respondents alleged that appellant was unlawfully registered to vote from an address at which he did not reside and that he should   | No                           | N/A         | No                                    |

011428

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.</p> | <p>have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May</p> |                              |             |                                       |

011429



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation  | Date      | Facts         | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--------|-----------|-----------|---------------|---|------------------------------|-------------|---------------------------------------|
|                 |        |           |           |               | <p>2001 paycheck stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address. Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.</p> |                              |             |                                       |
| Nat'l Coalition | United | 2002 U.S. | August 2, | Plaintiffs, a | The court   | No                           | N/A         | No                                    |

011430

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court   | Citation          | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---|-------------------|------|--|---|------------------------------|-------------|---------------------------------------|
| v. Taft      | States District Court for the Southern District of Ohio | Dist. LEXIS 22376 | 2002 | nonprofit public interest group and certain individuals, sued defendants, certain state and university officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a | found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the |                              |             |                                       |

011431

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts                   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | preliminary injunction. | disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included |                              |             |                                       |

011432

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary</p> |                              |             |                                       |

011433

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case            | Court                                  | Citation                           | Date        | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|------------------------------------|-------------|--|--|------------------------------|-------------|---------------------------------------|
|                         |  |                                    |             |  | injunction was granted in part and the Secretary of State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability. |                              |             |                                       |
| Lawson v. Shelby County | United States Court of Appeals for the | 211 F.3d 331; 2000 U.S. App. LEXIS | May 3, 2000 | Plaintiffs who were denied the right to vote when they | Plaintiffs attempted to register to vote in October, and   | No                           | N/A         | No                                    |

011434

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court         | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Sixth Circuit | 8634     |      | refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI. | to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one |                              |             |                                       |

011435

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was barred. The court also held the statute of limitations ran from the date plaintiffs</p> |                              |             |                                       |

011436

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under</p> |                              |             |                                       |

011437



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case    | Court  | Citation  | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|--|---|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                 |  |   |              |  | the Young exception to sovereign immunity, to be fashioned.  |                              |             |                                       |
| Curtis v. Smith | United States District Court for the Eastern District of Texas | 145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544 | June 4, 2001 | Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to | Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a | No                           | N/A         | No                                    |

011438

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enjoin a Texas state court proceeding under the All Writs Act. | preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since, |                              |             |                                       |

011739

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and such challenge</p> |                              |             |                                       |

0111480

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case      | Court               | Citation           | Date              | Facts                | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------|--------------------|-------------------|----------------------|--|------------------------------|-------------|---------------------------------------|
|                   |                     |                    |                   |                      | properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding. |                              |             |                                       |
| Pepper v. Darnell | United States Court | 24 Fed. Appx. 460; | December 10, 2001 | Plaintiff individual | Individual argued on   | No                           | N/A         | No                                    |

011441

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court                            | Citation                   | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|----------------------------------|----------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | of Appeals for the Sixth Circuit | 2001 U.S. App. LEXIS 26618 |      | <p>appealed from a judgment of the district court, in an action against defendant state officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p> | <p>appeal that the district court erred in finding that the registration forms used by the state did not violate the NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade</p> |                              |             |                                       |

011442

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote provide a specific location as an address, regardless of the transient lifestyle of the |                              |             |                                       |

011443

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the</p> |                              |             |                                       |

011444

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case        | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                     |  |  |                  |   | indigent individual, acting in his own behalf, was clearly unable to represent fairly the class. The district court's judgment was affirmed.  |                              |             |                                       |
| Miller v. Blackwell | United States District Court for the Southern District of Ohio | 348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894 | October 27, 2004 | Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the | Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process | No                           | N/A         | No                                    |

011745



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two individuals filed a motion to intervene as defendants.</p> | <p>Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The</p> |                              |             |                                       |

011446

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because they made a</p> |                              |             |                                       |

011447

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court</p> |                              |             |                                       |

011448

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Voter Registration Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | also granted the individuals' motion to intervene. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case      | Court                           | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
| James v. Bartlett | Supreme Court of North Carolina | 359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146 | February 4, 2005 | Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed. | The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded. |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 387 F.3d 565; 2004 U.S. App. LEXIS 22320 | October 26, 2004 | Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast | The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42  | No                           | N/A         | No                                    |

011451

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p> | <p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p> |                              |             |                                       |

011452

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p> |                              |             |                                       |

011459



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                      | Court                 | Citation  | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|---|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |   |                    |  | legal votes. Affirmed in part and reversed in part.  |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074 | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional | No                           | N/A         | No                                    |

011454

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p> |                              |             |                                       |

011455

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                  | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |   |   |                  |  | under § 1983 to raise the federal-law claims. Affirmed.   |                              |             |                                       |
| Fla. Democratic Party v. Hood | United States District Court for the Northern District of Florida | 342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720 | October 21, 2004 | Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings. | The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise | No                           | N/A         | No                                    |

011457

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p> |                              |             |                                       |

011458

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |  | was cast in the proper precinct under State law.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss. | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the</p> |                              |             |                                       |

011461



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | even if the cost, in terms of uncounted ballots, was regrettable.  |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 386 F.3d 815; 2004 U.S. App. LEXIS 28765 | October 23, 2004 | Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements. | On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive | No                           | N/A         | No                                    |

011463

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>2004--33<br/> violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case     | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |                             |                  |   | valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.   |                              |             |                                       |
| Hawkins v. Blunt | United States District Court for the Western District of Missouri | 2004 U.S. Dist. LEXIS 21512 | October 12, 2004 | In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved | The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements. | No                           | N/A         | No                                    |

011465

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | for summary judgment. | The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional |                              |             |                                       |

011466

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court   | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |  | ballot, the voter would first be directed to his proper polling place.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551 | October 13, 2004 | Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal | The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>legislation. Defendants filed a motion to transfer venue.</p> | <p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p> |                              |             |                                       |

011468

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a |                              |             |                                       |

011469



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case                        | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |   | mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872 | October 19, 2004 | Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a | The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a | No                           | N/A         | No                                    |

011470

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p> | <p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case      | Court                           | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|---------------------------------|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
| James v. Bartlett | Supreme Court of North Carolina | 359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146 | February 4, 2005 | Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed. | The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Provisional Ballot Cases - 2

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | ballots to be counted in state and local elections. The candidates failure to challenge the counting of out--of--precinct provisional ballots before the election did not render their action untimely. Reversed and remanded. |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 387 F.3d 565; 2004 U.S. App. LEXIS 22320 | October 26, 2004 | Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast | The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p> | <p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p> |                              |             |                                       |

011475

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted.</p> <p>Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p> |                              |             |                                       |

011476

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                      | Court                 | Citation  | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|---|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |   |                    |  | legal votes.<br>Affirmed in part and reversed in part.   |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074 | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p> |                              |             |                                       |

011478

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed |                              |             |                                       |

011479

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                  | Court   | Citation  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|---|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                               |   |   |                  |  | under § 1983 to raise the federal-law claims.<br>Affirmed.  |                              |             |                                       |
| Fla. Democratic Party v. Hood | United States District Court for the Northern District of Florida | 342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720 | October 21, 2004 | Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings. | The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise | No                           | N/A         | No                                    |

011480

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p> |                              |             |                                       |

011481

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                        | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |                  |  | was cast in the proper precinct under State law.  |                              |             |                                       |
| League of Women Voters v. Blackwell | United States District Court for the Northern District of Ohio | 340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926 | October 20, 2004 | Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss. | The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                                  | Court  | Citation                                 | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | even if the cost, in terms of uncounted ballots, was regrettable.  |                              |             |                                       |
| Sandusky County Democratic Party v. Blackwell | United States Court of Appeals for the Sixth Circuit | 386 F.3d 815; 2004 U.S. App. LEXIS 28765 | October 23, 2004 | Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements. | On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case     | Court   | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                  |   |                             |                  |   | valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.   |                              |             |                                       |
| Hawkins v. Blunt | United States District Court for the Western District of Missouri | 2004 U.S. Dist. LEXIS 21512 | October 12, 2004 | In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved | The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements. | No                           | N/A         | No                                    |

011488

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts                 | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-----------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | for summary judgment. | The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Provisional Ballot Cases - 2

| Name of Case                        | Court   | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |  | ballot, the voter would first be directed to his proper polling place.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551 | October 13, 2004 | Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal | The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper | No                           | N/A         | No                                    |

011430

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>legislation. Defendants filed a motion to transfer venue.</p> | <p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p> |                              |             |                                       |

011491

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case                        | Court   | Citation   | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|---|--|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                                     |   |  |                  |   | mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.  |                              |             |                                       |
| Bay County Democratic Party v. Land | United States District Court for the Eastern District of Michigan | 347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872 | October 19, 2004 | Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a | The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p> | <p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p> |                              |             |                                       |

011494

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Provisional Ballot Cases - 2

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law. |                              |             |                                       |

011495

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case         | Court  | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Hileman v. McGinness | Court of Appeals of Illinois, Fifth District | 316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845 | October 25, 2000 | Appellant challenged the circuit court declaration that that the result of a primary election for county circuit clerk was void. | In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been segregated, apportionment was the | No                           | N/A         | No                                    |

011496

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a determination as to whether fraud was evident in</p> |                              |             |                                       |

011497

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case             | Court                     | Citation   | Date         | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------|---------------------------|--|--------------|--|---|------------------------------|-------------|---------------------------------------|
|                          |                           |  |              |  | the electoral process. The court reversed the declaration of the trial court, holding that a determination as to whether fraud was involved in the election was necessary to a determination of whether or not a new election was required. |                              |             |                                       |
| DeFabio v. Gummersheimer | Supreme Court of Illinois | 192 Ill. 2d 63; 733 N.E.2d 1241; 2000 Ill. LEXIS 993 | July 6, 2000 | Appellant challenged the judgment of the appellate court, which affirmed the trial court's decision granting appellee's summary judgment motion in action brought by | Appellee filed a petition for election contest, alleging that the official results of the Monroe County coroners election were invalid because none of the 524 ballots cast in  | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellee to contest the results of the election for the position of county coroner in Monroe County.</p> | <p>Monroe County's second precinct were initialed by an election judge, in violation of Illinois law. The trial court granted appellee's motion for summary judgment, and the appellate court affirmed the judgment. The Illinois supreme court affirmed, noting that statutes requiring election judges to initial election ballots were mandatory, and uninitialed</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption. Thus, the supreme court held that the trial court properly invalidated all of the ballots cast in Monroe County's second precinct. The court reasoned that none of the ballots contained the requisite initialing, and neither party argued that any</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>of the uninitialed ballots could have been distinguished or identified as absentee ballots. The supreme court affirmed the judgment because the Illinois statute requiring election judges to initial election ballots was mandatory, and uninitialed ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption.</p> |                              |             |                                       |

011501



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                                | Court   | Citation  | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |   |               |   | Additionally, none of the ballots in Monroe County's second precinct contained the requisite initialing.  |                              |             |                                       |
| Gilmore v. Amityville Union Free Sch. Dist. | United States District Court for the Eastern District of New York | 305 F. Supp. 2d 271; 2004 U.S. Dist. LEXIS 3116 | March 2, 2004 | Plaintiffs, two school board candidates, filed a class action complaint against defendants, a school district, the board president, and other district agents or employees, challenging a school board election. Defendants moved to dismiss. | During the election, a voting machine malfunctioned, resulting in votes being cast on lines that were blank on the ballot. The board president devised a plan for counting the machine votes by moving each tally up one line. The two candidates, who were African | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>American, alleged that the president's plan eliminated any possibility that an African American would be elected. The court found that the candidates failed to state a claim under § 1983 because they could not show that defendants' actions were done or approved by a person with final policymaking authority, nor was there a showing of intentional or</p> |                              |             |                                       |

011503

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>purposeful discrimination on defendants' part. The vote-counting method applied equally to all candidates. The candidates' claims under § 2000a and 2000c--8 failed because schools were not places of public accommodation, as required under § 2000a, and § 2000c--8 applied to school segregation. Their claim under § 1971 of deprivation of voting rights failed because §</p> |                              |             |                                       |

011504

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                      | Court                 | Citation                       | Date               | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------|--------------------------------|--------------------|--|--|------------------------------|-------------|---------------------------------------|
|                                   |                       |                                |                    |  | 1971 did not provide for a private right of action. The court declined to exercise supplemental jurisdiction over various state law claims. Defendants' motion to dismiss was granted with respect to the candidates' federal claims; the state law claims were dismissed without prejudice. |                              |             |                                       |
| State ex rel. Mackey v. Blackwell | Supreme Court of Ohio | 106 Ohio St. 3d 261; 2005 Ohio | September 28, 2005 | Appellants, a political group and county electors who voted by provisional ballot, | The Secretary of State issued a directive to all Ohio county boards of   | No                           | N/A         | No                                    |

011505

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation  | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|---|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       | 4789;<br>834<br>N.E.2d<br>346;<br>2005<br>Ohio<br>LEXIS<br>2074 |      | sought review of a judgment from the court of appeals, which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters. | elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional ballots were not counted. They, together with a political activist group, brought the mandamus action to compel |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The court dismissed the complaint, finding that no clear legal right was established under Ohio law and the federal claims could be adequately raised in an action under §</p> |                              |             |                                       |

011507

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>1983. On appeal, the Ohio supreme court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed under § 1983 to raise the federal--law claims. Affirmed.</p> |                              |             |                                       |

011508

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case           | Court   | Citation  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|---|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
| Touchston v. McDermott | United States District Court for the Middle District of Florida | 120 F. Supp. 2d 1055; 2000 U.S. Dist. LEXIS 20091 | November 14, 2000 | In action in which plaintiffs, registered voters in Brevard County, Florida, filed suit against defendants, members of several County Canvassing Boards and the Secretary of the Florida Department of State, challenging the constitutionality of Fla. Stat. Ann. § 102.166(4) (2000), before the court was plaintiffs' emergency motion for temporary restraining order and/or preliminary injunction. | In their complaint, plaintiffs challenged the constitutionality of § 102.166(4), asserting that the statute violated their rights under the Equal Protection and Due Process Clauses of U.S. Const. amend. XIV. Based on these claims, plaintiffs sought an order from the court stopping the manual recount of votes. The court found that plaintiffs had failed to set forth a valid | No                           | N/A         | No                                    |

011509



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>basis for intervention by federal courts. They had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. Moreover, plaintiffs had not established a likelihood of success on the merits of their claims. Plaintiffs' motion for temporary restraining order and/or</p> |                              |             |                                       |

011510

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case     | Court   | Citation  | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|---|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |   |   |                   |   | preliminary injunction denied; plaintiffs had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. |                              |             |                                       |
| Siegel v. LePore | United States District Court for the Southern District of Florida | 120 F. Supp. 2d 1041; 2000 U.S. Dist. LEXIS 16333 | November 13, 2000 | Plaintiffs, individual Florida voters and Republican Party presidential and vice-presidential candidates, moved for a temporary restraining order and preliminary injunction to | The court addressed who should consider plaintiffs' serious arguments that manual recounts would diminish the accuracy of vote counts due to ballot  | No                           | N/A         | No                                    |

011511

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enjoin defendants, canvassing board members from four Florida counties, from proceeding with manual recounts of election ballots. | degradation and the exercise of discretion in determining voter intent. The court ruled that intervention by a federal district court, particularly on a preliminary basis, was inappropriate. A federal court should not interfere except where there was an immediate need to correct a constitutional violation. Plaintiffs neither demonstrated a clear deprivation of a constitutional |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>injury or a fundamental unfairness in Florida's manual recount provision. The recount provision was reasonable and non--discriminatory on its face and resided within the state's broad control over presidential election procedures. Plaintiffs failed to show that manual recounts were so unreliable as to constitute a constitutional injury, that plaintiffs'</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court            | Citation        | Date              | Facts                               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|------------------|-----------------|-------------------|-------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                |                  |                 |                   |                                     | <p>alleged injuries were irreparable, or that they lacked an adequate state court remedy. Injunctive relief denied because plaintiffs demonstrated neither clear deprivation of constitutional injury or fundamental unfairness in Florida's manual recount provision to justify federal court interference in state election procedures.</p> |                              |             |                                       |
| Gore v. Harris | Supreme Court of | 773 So. 2d 524; | December 22, 2000 | In a contest to results of the 2000 | The state supreme court   | No                           | N/A         | No                                    |

011514

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court   | Citation             | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------|----------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | Florida | 2000 Fla. LEXIS 2474 |      | presidential election in Florida, the United States Supreme Court reversed and remanded a Florida Supreme Court decision that had ordered a manual recount of certain ballots. | had ordered the trial court to conduct a manual recount of 9000 contested Miami--Dade County ballots, and also held that uncounted "undervotes" in all Florida counties were to be manually counted. The trial court was ordered to use the standard that a vote was "legal" if there was a clear indication of the intent of the voter. The United States Supreme Court released an |                              |             |                                       |

011515

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>opinion on December 12, 2000, which held that such a standard violated equal protection rights because it lacked specific standards to ensure equal application, and also mandated that any manual recount would have to have been completed by December 12, 2000. On remand, the state supreme court found that it was impossible under that time frame to adopt adequate</p> |                              |             |                                       |

011516

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court       | Citation | Date     | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|-------------|----------|----------|---------------------|---|------------------------------|-------------|---------------------------------------|
|                |             |          |          |                     | standards and make necessary evaluations of vote tabulation equipment. Also, development of a specific, uniform standard for manual recounts was best left to the legislature. Because adequate standards for a manual recount could not be developed by the deadline set by the United States Supreme Court, appellants were afforded no relief. |                              |             |                                       |
| Goodwin v. St. | Territorial | 43 V.I.  | December | Plaintiff political | Plaintiff alleged   | No                           | N/A         | No                                    |

011517



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case                      | Court                       | Citation               | Date     | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------------------------|-----------------------------|------------------------|----------|--|--|------------------------------|-------------|---------------------------------------|
| Thomas--St. John Bd. of Elections | Court of the Virgin Islands | 89; 2000 V.I. LEXIS 15 | 13, 2000 | candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots. | that defendants counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court held that plaintiff was not entitled to relief since he failed to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election</p> |                              |             |                                       |

011519

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements. Further, while defendants improperly counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court  | Citation | Date       | Facts              | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------|----------|------------|--------------------|--|------------------------------|-------------|---------------------------------------|
|              |        |          |            |                    | ballots without notarized signatures were proper. Plaintiffs request for declaratory and injunctive relief was denied. Invalidation of absentee ballots was not required since the irregularities asserted by plaintiff involved ballots which were in fact valid, were not tabulated by defendants, or were insufficient to change the outcome of the election. |                              |             |                                       |
| Shannon v.   | United | 394 F.3d | January 7, | Plaintiffs, voters | Local election   | No                           | N/A         | No                                    |

011521

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court  | Citation                     | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------------|------|---|---|------------------------------|-------------|---------------------------------------|
| Jacobowitz   | States Court of Appeals for the Second Circuit | 90; 2005 U.S. App. LEXIS 259 | 2005 | and an incumbent candidate, sued defendants, a challenger candidate, a county board of election, and commissioners, pursuant to § 1983 alleging violation of the Due Process Clause of the Fourteenth Amendment. The United States District Court for the Northern District of New York granted summary judgment in favor of plaintiffs. Defendants appealed. | inspectors noticed a problem with a voting machine. Plaintiffs asserted that their votes were not counted due to the machine malfunction. Rather than pursue the state remedy of quo warranto, by requesting that New York's Attorney General investigate the machine malfunction and challenge the election results in state court, plaintiffs filed their complaint in federal court. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The court of appeals found that United States Supreme Court jurisprudence required intentional conduct by state actors as a prerequisite for a due process violation. Neither side alleged that local officials acted intentionally or in a discriminatory manner with regard to the vote miscount. Both sides conceded that the recorded results were</p> |                              |             |                                       |

011523

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>likely due to an unforeseen malfunction with the voting machine. Because no conduct was alleged that would indicate an intentional deprivation of the right to vote, there was no cognizable federal due process claim. The proper remedy was to assert a quo warranto action to challenge the outcome of a general election based on an alleged voting machine malfunction.</p> |                              |             |                                       |

011524

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court                       | Citation   | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|-----------------------------|--|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |                             |  |                  |  | The district court's grant of summary judgment was reversed and its injunctions were vacated. The case was remanded for further proceedings consistent with this opinion.                              |                              |             |                                       |
| GEORGE W. BUSH v. PALM BEACH COUNTY CANVASSING BOARD, ET AL. | United States Supreme Court | 531 U.S. 70; 121 S. Ct. 471; 148 L. Ed. 2d 366; 2000 U.S. LEXIS 8087 | December 4, 2000 | Appellant Republican presidential candidate's petition for writ of certiorari to the Florida supreme court was granted in a case involving interpretations of Fla. Stat. Ann. §§ 102.111, 102.112, in proceedings brought by | The Supreme Court vacated the state court's judgment, finding that the state court opinion could be read to indicate that it construed the Florida Election Code without regard to the extent to which | No                           | N/A         | No                                    |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>appellees Democratic presidential candidate, county canvassing boards, and Florida Democratic Party regarding authority of the boards and respondent Florida Secretary of State as to manual recounts of ballots and deadlines.</p> | <p>the Florida Constitution could, consistent with U.S. Const. art. II, § 1, cl. 2, circumscribe the legislative power. The judgment of the Florida Supreme Court was vacated and remanded for further proceedings. The court stated the judgment was unclear as to the extent to which the state court saw the Florida constitution as circumscribing the legislature's authority under</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case           | Court   | Citation                                  | Date              | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|---|---|-------------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |   |   |                   |  | Article II of the United States Constitution, and as to the consideration given the federal statute regarding state electors.  |                              |             |                                       |
| Touchston v. McDermott | United States Court of Appeals for the Eleventh Circuit | 234 F.3d 1130; 2000 U.S. App. LEXIS 29366 | November 17, 2000 | Plaintiff voters appealed from judgment of the United States District Court for the Middle District of Florida, which denied their emergency motion for an injunction pending appeal against defendant county election officials. Plaintiffs sought to enjoin defendants from conducting manual ballot recounts or | Plaintiff voters sought an emergency injunction pending appeal to enjoin defendant county election officials from conducting manual ballot recounts or to enjoin defendants from certifying the results of the Presidential election which | No                           | N/A         | No                                    |

011527

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | to enjoin defendants from certifying results of the presidential election that contained any manual recounts. | contained any manual recounts. The district court denied the emergency injunction and plaintiffs appealed. Upon review, the emergency motion for injunction pending appeal was denied without prejudice. Florida had adequate election dispute procedures, which had been invoked and were being implemented in the forms of administrative |                              |             |                                       |

011528

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>actions by state officials and actions in state court. Therefore, the state procedures were adequate to preserve for ultimate review in the United States Supreme Court any federal questions arising out of the state procedures. Moreover, plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would warrant granting the extraordinary</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | remedy of an injunction pending appeal. Denial of plaintiff's petition for emergency injunction pending appeal was affirmed. The state procedures were adequate to preserve any federal issue for review, and plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would have warranted granting the extraordinary remedy of the |                              |             |                                       |

011530

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case   | Court                    | Citation                              | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------|---------------------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                |                          |                                       |                  |  | injunction.  |                              |             |                                       |
| Gore v. Harris | Supreme Court of Florida | 772 So. 2d 1243; 2000 Fla. LEXIS 2373 | December 8, 2000 | The court of appeal certified as being of great public importance a trial court judgment that denied all relief requested by appellants, candidates for President and Vice President of the United States, in appellants' contest to certified election results. | Appellants contested the certification of their opponents as the winners of Florida's electoral votes. The Florida supreme court found no error in the trial court's holding that it was proper to certify election night returns from Nassau County rather than results of a machine recount. Nor did the trial court err in refusing to include votes that the Palm Beach County | No                           | N/A         | No                                    |

011531

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>Canvassing Board found not to be legal votes during a manual recount. However, the trial court erred in excluding votes that were identified during the Palm Beach County manual recount and during a partial manual recount in Miami--Dade County. It was also error to refuse to examine Miami--Dade County ballots that registered as non--votes during the machine count.</p> |                              |             |                                       |

011532

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>The trial court applied an improper standard to determine whether appellants had established that the result of the election was in doubt, and improperly concluded that there was no probability of a different result without examining the ballots that appellants claimed contained rejected legal votes. The judgment was reversed and remanded; the</p> |                              |             |                                       |

011533



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Ballot Counting Violation Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | trial court was ordered to tabulate by hand Miami-Dade County ballots that the counting machine registered as non--votes, and was directed to order inclusion of votes that had already been identified during manual recounts. The trial court also was ordered to consider whether manual recounts in other counties were necessary. |                              |             |                                       |

011534

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case     | Court  | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval. | The court issued an order to assure that the service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee ballots cast by service members and other | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against the Governor or the Secretary.</p> |                              |             |                                       |

011536

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                  | Court  | Citation                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|-----------------------------|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                               |  |                             |                  |   | The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.   |                              |             |                                       |
| United States v. Pennsylvania | United States District Court for the Middle district of Pennsylvania | 2004 U.S. Dist. LEXIS 21167 | October 20, 2004 | Plaintiff United States sued defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who | The testimony of the two witnesses offered by the United States did not support its contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.</p> | <p>that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support</p> |                              |             |                                       |

011538

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by</p> |                              |             |                                       |

011539

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. must consider the following four factors: (1) the likelihood that the applicant will prevail on the merits of the substantive claim; (2) the extent to which the moving party will be irreparably harmed in the absence of injunctive relief; (3) the extent to which the nonmoving party</p> |                              |             |                                       |

011540

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                               | Court   | Citation  | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |   |      |   | will suffer irreparable harm if the court grants the requested injunctive relief; and (4) the public interest. District courts should only grant injunctive relief after consideration of each of these factors. Motion for injunctive relief denied. |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 |      | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee | Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee   | No                           | N/A         | No                                    |

011541



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>state ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p> | <p>state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>voter to sign an oath that the ballot was mailed from outside the United States and requiring the state election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had</p> |                              |             |                                       |

011543

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and relief GRANTED in part and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign</p> |                              |             |                                       |

011544

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                                  | Court   | Citation  | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                  |  | postmark, or solely because there was no record of an application for a state absentee ballot.   |                              |             |                                       |
| Harris v. Florida Elections Canvassing Comm'n | United States District Court for the Northern District of Florida | 122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875 | December 9, 2000 | Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida election law. | In two separate cases, plaintiff electors originally sued defendant state elections canvassing commission and state officials in Florida state circuit court, challenging the counting of overseas absentee ballots received after 7 p.m. on election day. Defendant governor removed one case | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose</p> |                              |             |                                       |

011546

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants |                              |             |                                       |

011547

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case   | Court  | Citation   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--|--|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |  |  |                   |   | because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law. |                              |             |                                       |
| Romeu v. Cohen | United States District Court for the Southern District of New York | 121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842 | September 7, 2000 | Plaintiff territorial resident and plaintiff--intervenor territorial governor moved for summary judgment and defendant federal, | Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the  | No                           | N/A         | No                                    |

011548

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election.</p> | <p>Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff-intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non-justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had standing because he made a substantial</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential election. The</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case   | Court   | Citation                                 | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---|--|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                |   |  |                   |   | court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.   |                              |             |                                       |
| Romeu v. Cohen | United States Court of Appeals for the Second Circuit | 265 F.3d 118; 2001 U.S. App. LEXIS 19876 | September 6, 2001 | Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of | The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents | No                           | N/A         | No                                    |

011551

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>residence. The resident appealed the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p> | <p>residing in a territory, who were not permitted to vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such</p> |                              |             |                                       |

011552

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated</p> |                              |             |                                       |

011553

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case                        | Court  | Citation   | Date          | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------------|--|--|---------------|--|---|------------------------------|-------------|---------------------------------------|
|                                     |  |  |               |  | identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed.  |                              |             |                                       |
| Igartua de la Rosa v. United States | United States District Court for the District of Puerto Rico | 107 F. Supp. 2d 140; 2000 U.S. Dist. LEXIS 11146 | July 19, 2000 | Defendant United States moved to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in | The court denied the motion of defendant United States to dismiss the action of plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became | No                           | N/A         | No                                    |

011554

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights.</p> | <p>ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential elections. No constitutional amendment was needed. The</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in</p> |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
UOCAVA Ballot Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                 | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|-------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Presidential elections. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case         | Court  | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Spencer v. Blackwell | United States District Court for the Southern District of Ohio | 347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062 | November 1, 2004 | Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the | The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing | No                           | N/A         | No                                    |

011559

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | polls. | challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and |                              |             |                                       |

011560

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all</p> |                              |             |                                       |

011561

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case  | Court                       | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-----------------------------|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |                             |   |                  |   | defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.   |                              |             |                                       |
| MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al. (No. 04A360) SUMMIT COUNTY DEMOCRATIC CENTRAL and EXECUTIVE COMMITTEE, et al., Petitioners v. MATTHEW HEIDER, et al. (No. 04A364) | United States Supreme Court | 125 S. Ct. 305; 160 L. Ed. 2d 213; 2004 U.S. LEXIS 7400 | November 2, 2004 | In two separate actions, plaintiffs sued defendant members of a political party, alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to | Plaintiffs contended that the members planned to send numerous challengers to polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause | No                           | N/A         | No                                    |

011562

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities. | voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a single Circuit Justice, declined to reinstate the injunctions for |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case            | Court         | Citation        | Date         | Facts                           | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|---------------|-----------------|--------------|---------------------------------|--|------------------------------|-------------|---------------------------------------|
|                         |               |                 |              |                                 | <p>prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters.</p> |                              |             |                                       |
| Charles H. Wesley Educ. | United States | 324 F. Supp. 2d | July 1, 2004 | Plaintiffs, a voter, fraternity | The organization participated in   | No                           | N/A         | No                                    |

011564

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case        | Court   | Citation                          | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|---|-----------------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
| Found., Inc. v. Cox | District Court for the Northern District of Georgia | 1358; 2004 U.S. Dist. LEXIS 12120 |      | members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter | numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they |                              |             |                                       |

011565



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Registration Act and U.S. Const. amends. I, XIV, and XV.</p> | <p>were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that:</p> |                              |             |                                       |

011566

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case                                   | Court                            | Citation                        | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|----------------------------------|---------------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|  |                                  |                                 |                  |  | <p>plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.</p> |                              |             |                                       |
| Jacksonville Coalition for Voter Prot. v. Hood | United States District Court for | 351 F. Supp. 2d 1326; 2004 U.S. | October 25, 2004 | Plaintiffs, voter protection coalition, union, and | The coalition, the union, and the voters based their claim on  | No                           | N/A         | No                                    |

011567

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                          | Citation          | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--------------------------------|-------------------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | the Middle District of Florida | Dist. LEXIS 26522 |      | voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials', implementation of early voting procedures violated the Voting Rights | the fact that the county had the largest percentage of African--American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African--American registered voter percentages had more early voting sites. Based on that, they argued that African--American voters in the county were disproportionately affected. The |                              |             |                                       |

011568

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts                                | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--------------------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | Act and their constitutional rights. | court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's implementation |                              |             |                                       |

011569

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case   | Court                          | Citation                           | Date            | Facts                                     | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|--------------------------------|------------------------------------|-----------------|---|--|------------------------------|-------------|---------------------------------------|
|                |                                |                                    |                 |   | of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied. |                              |             |                                       |
| Taylor v. Howe | United States Court of Appeals | 225 F.3d 993; 2000 U.S. App. LEXIS | August 31, 2000 | Plaintiffs, African American voters, poll | The court of appeals affirmed--in--part, reversed--  | No                           | N/A         | No                                    |

011570

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                  | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|------------------------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              | for the Eighth Circuit | 22241    |      | watchers, and candidates appealed from a judgment of the United States District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of | in--part, and remanded the district court's judgment. The court found that the district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a |                              |             |                                       |

011571

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case         | Court                                | Citation                                   | Date              | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------------|--------------------------------------|--|-------------------|---|--|------------------------------|-------------|---------------------------------------|
|                      |                                      |  |                   | discriminatory intent.                                  | voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part. |                              |             |                                       |
| Stewart v. Blackwell | United States District Court for the | 356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS | December 14, 2004 | Plaintiffs, including African--American voters, alleged | The primary thrust of the litigation was an attempt to federalize  | No                           | N/A         | No                                    |

011572

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                     | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              | Northern District of Ohio | 26897    |      | that use of punch card voting and "central--count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights Act. | elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000 |                              |             |                                       |

011573



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local variety</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case     | Court                  | Citation                  | Date               | Facts                               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|------------------------|---------------------------|--------------------|-------------------------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                        |                           |                    |                                     | in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible. |                              |             |                                       |
| Taylor v. Currie | United States District | 386 F. Supp. 2d 929; 2005 | September 14, 2005 | Plaintiff brought an action against | This action involved issues pertaining to   | No                           | N/A         | No                                    |

011575

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court                                      | Citation               | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|------------------------|------|--|--|------------------------------|-------------|---------------------------------------|
|              | Court for the Eastern District of Michigan | U.S. Dist. LEXIS 20257 |      | defendants, including a city elections commission, alleging defects in a city council primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff. | absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots |                              |             |                                       |

011576

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African--American. The court ordered the case remanded because it found no basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter</p> |                              |             |                                       |

011577

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a goal of perpetuating their violation of a non-discriminatory state law.</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Racial Discrimination Challenge Cases

---

| Name of Case | Court | Citation | Date | Facts | Holding                   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Motion to remand granted. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case     | Court  | Citation                                  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
| Weber v. Shelley | United States Court of Appeals for the Ninth Circuit | 347 F.3d 1101; 2003 U.S. App. LEXIS 21979 | October 28, 2003 | Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter--verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the | On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | secretary and the registrar summary judgment. The voter appealed. | excluded references to news--paper articles and unidentified studies absent any indication that experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found |                              |             |                                       |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California made a reasonable, politically neutral and non--discriminatory choice to certify touchscreen systems as an</p> |                              |             |                                       |

011582

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case  | Court  | Citation   | Date                | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|---------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |  |  |                     |  | <p>alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed.</p>  |                              |             |                                       |
| <p>Am. Ass'n of People with Disabilities v. Shelley</p> | <p>United States District Court for the Central District of California</p> | <p>324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587</p> | <p>July 6, 2004</p> | <p>Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew</p> | <p>The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was</p> | <p>No</p>                    | <p>N/A</p>  | <p>No</p>                             |

011583

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on the merits; (2) the possibility of irreparable injury in the | not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | absence of an injunction; (3) a balancing of the harms; and (4) the public interest. | comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's |                              |             |                                       |

011585

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests</p> |                              |             |                                       |

011586

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case                  | Court                                      | Citation                                    | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|                               |  |   |                  |   | for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships. |                              |             |                                       |
| Fla. Democratic Party v. Hood | Court of Appeal of Florida, First District | 884 So. 2d 1148; 2004 Fla. App. LEXIS 16077 | October 28, 2004 | Petitioner, the Florida Democratic Party, sought review of an emergency rule adopted by the Florida | The Party argued that: (1) the Florida Administrative Code, recast language from the earlier invalidated rule   | No                           | N/A         | No                                    |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed.</p> | <p>prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>no rule were in place, the same confusion and inconsistency in divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate.</p> |                              |             |                                       |

011589



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>But, the following question was certified to the Supreme Court: Whether under Fla. Stat. ch. 120.54(4), the Department of State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case     | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |   |   |                  |   | certified to the supreme court as a matter of great public importance.   |                              |             |                                       |
| Wexler v. Lepore | United States District Court for the Southern District of Florida | 342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344 | October 25, 2004 | Plaintiffs, a congressman, state commissioners, and a registered voter, brought a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const. | The officials claimed that the state had established an updated standard for manual recounts in counties using optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what | No                           | N/A         | No                                    |

011591

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts                                    | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | amends. V and XIV. A bench trial ensued. | constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules prescribed uniform, |                              |             |                                       |

011592

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida</p> |                              |             |                                       |

011593

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Touch Screen Voting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | law because the manual recount scheme properly reflected a voter's choice. Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied. |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

| City/County    | State           | Date      | Type of Election                        | Alleged instance of fraud   | Original Source            | Source 1 | Source 2 | Source 3 |
|----------------|-----------------|-----------|---|---|----------------------------|----------|----------|----------|
| Apache         | Arizona         | 31-Aug-04 | 2002 general                            | County Attorney alleges some Navajo Nation voters cast multiple ballots. The Election Director dismisses many of the allegations and questioned why the county attorney had waited more than a year and a half to make them.  | Arizona Republic           |          |          |          |
| Eureka Springs | Arkansas        | 29-Jun-01 | county judge                            | A special judge rules prosecutors must show the mayor intended to vote twice -- he says he got confused when he voted early for a city bond election and the voting clerk offered him a primary ballot at the same time. He then voted in the primary at his precinct on election day.  | AP                         |          |          |          |
| La Puente      | California      | 3-Aug-02  | municipal                               | Four family members of a councilman were charged with voting twice because they voted absentee and on election day.   | Los Angeles Times          |          |          |          |
| San Francisco  | California      | 1-Mar-04  | mayoral runoff                          | One of the candidates alleged that 400 people who are dead cast votes. The allegation was based on a computer program that cross-referenced voters and the social security death index using first and last names and date of birth. When the Chronicle also used middle initials and other identifying indicators, the list was whittled to five cases. Some were by absentee but a couple were in person. | San Francisco Chronicle    |          |          |          |
|                | Colorado        | 25-Mar-05 |   | 58 of 64 counties responded to a request by the Secretary of State to report on fraud investigations. Only 13 counties have referred cases to prosecutors. Those cases included 41 instances of citizens voting twice. Denver County officials said they had 81 instances of double voting.   | Denver Post                |          |          |          |
|                | Connecticut     | 22-Oct-02 | all                                     | Secretary of State says that RNC allegations that 54 Connecticut voters cast ballots in 2 different states have been investigated and found to be false. 15 voted only in CT, 29 voted only in another state, four names were wrong because they had different birth dates, and three were referred to the FBI and US Attorney because information from the other state could not be obtained               | New Haven Register         |          |          |          |
| Bridgeport     | Connecticut     | 23-Sep-03 | mayoral primary                         | Losing candidate alleges some voters were able to vote twice  | News 12                    |          |          |          |
|                | DC and Maryland | 31-Oct-02 | state primary and presidential election | Records indicate that 24 voters cast ballots in both DC and Maryland in the September 2002 primary and 90 voters did so in the 2000 election. Voters denied they had done so and election officials said it was possible for precinct workers to make mistakes when recording who voted.  | Washington Post            |          |          |          |
| Palm Beach     | Florida         | 5-Dec-02  | 2002 general                            | The County State Attorney will be investigating about a dozen people accused of voting twice. Each cast an absentee ballot and voted on Election Day. The Secretary of State says they may have forgotten they voted absentee. They all had to vote by provisional ballots so none of the second votes were counted. This is the first time the Secretary's office has found people who voted twice.        | Sun-Sentinel               |          |          |          |
| Indian River   | Florida         | 2-Nov-04  | presidential                            | One voter returned two absentee ballots -- the first one was counted and the second discarded. A woman voted by absentee and then during early voting. Her absentee ballot will be thrown out.  | Press Journal (Vero Beach) |          |          |          |

011595

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|                 |          |           |                |  |                              |  |  |  |
|-----------------|----------|-----------|----------------|--|------------------------------|--|--|--|
| Palm Beach      | Florida  | 6-Nov-04  | presidential   | The Palm Beach Post reports that three voters cast absentee ballots and then filled out provisional ballots on Election Day. Local officials have asked the Attorney General to investigate. The Post reached two of the voters and they said they cast provisional ballots because when they tried to check on their absentee ballots they were unable to confirm they had been received.   | Florida Times Union          |  |  |  |
| Volusia         | Florida  | 6-Nov-04  | presidential   | Volusia officials said Friday they have identified 12 cases of suspected election fraud stemming from Tuesday's presidential election. All involved people trying to vote twice, said County Judge Steven deLaroche, a member of the county canvassing board. In one case, which occurred during early voting, a person was caught trying to feed an absentee ballot into a tabulating machine after casting a traditional ballot, deLaroche said. That person was stopped by a poll worker. In the other 11 cases, people who had voted by absentee ballot or at an early-voting site tried to vote a second time on Election Day, he said. In those cases, election workers discovered the attempts when computers showed those voters had already cast ballots. All the cases will be forwarded to the State Attorney's Office for prosecution. | Orlando Sentinel             |  |  |  |
| Duval           | Florida  | 31-Jul-05 | presidential   | Officials said in January that a review of records found more than 50 cases in which the same person had cast an absentee and in person ballot. An FBI investigation found that every one of those instances was due to a clerical error, such as someone signing the voter rolls before they were told they had to vote elsewhere.  | AP                           |  |  |  |
| Fulton          | Georgia  | 30-Sep-04 | primary        | A man who may be facing felony charges for voting twice says he voted during the early period and that when he went to his precinct on election day to make sure that vote had been recorded, he was told it was not. The poll worker told him he should vote again. Fulton County investigated and found no other advance voters had voted again on the day of the election. The registration chief acknowledged the county was late getting names of advance voters to the polls. The advance vote was tossed out after it was discovered.   | Atlanta Journal Constitution |  |  |  |
| Marshall        | Illinois | 13-Nov-04 | 2002 and 2004  | A man has been charged for voting twice, in both Kane County and Marshall County   | South Bend Tribune           |  |  |  |
| Lake County     | Indiana  | 16-May-04 | county primary | A newspaper analysis shows that five votes cast were attributed to people who were dead well before the election.  | AP                           |  |  |  |
| Prairie Village | Kansas   | 8-Jan-05  | 2002 general   | A woman who voted twice pled guilty -- she had voted from her business address and cast an absentee ballot from a different location in the same election.   | Kansas City Star             |  |  |  |

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting**

|             |            |                   |               |   |  |  |  |  |  |
|-------------|------------|-------------------|---------------|---|--|--|--|--|--|
| Hancock     | Louisiana  | 3-Nov-04          | presidential  | A woman called a radio talk show Tuesday and admitted casting fraudulent votes in Hancock County.<br>The woman said she voted once using her own name, but after realizing she was not required to show identification, she waited several hours and returned to the polls and used a friend's name .<br>The county clerks said the incident seems to be isolated and her office has not received evidence of other fraudulent votes elsewhere in the county.   | The Sun Herald                             |  |  |  |  |
| Duluth      | Minnesota  | 3-Nov-04          | presidential  | A voter claims someone forged his signature to vote under his name. He reported the incident to City Hall   | Duluth News-Tribune                        |  |  |  |  |
| Minneapolis | Minnesota  | 23-Feb-05         | presidential  | A felony charge filed Tuesday in Hennepin County District Court accuses Darin Randall Johnson, 34, of registering to vote and casting ballots in three different places in the November election.<br>The criminal complaint alleges he filled out same-day registration forms and voted once in Brooklyn Park and twice in Minneapolis.   | Saint Paul Pioneer Press                   |  |  |  |  |
| Kansas City | Missouri   | 28-Mar-05         | various       | Man pleads guilty to casting double votes in four elections by voting in both Kansas and Missouri   | Kansas City Star                           |  |  |  |  |
| Kansas City | Missouri   | September 6, 2004 | all           | Kansas City Star reports that their investigation shows there may be more than 300 voters voting twice in different counties. The exact number is impossible to determine because many counties have shredded their poll books and state computer files are rife with data errors. In fact, the number may be lower because the state computer files contain many errors that show people voting who did not actually vote. The study only flagged people registered in two places under exactly the same name and date of birth. | Kansas City Star, Belleville News-Democrat |  |  |  |  |
|             | New Jersey | 16-Sep-05         | presidential  | Republican Party claims 4,755 people who have died voted in the election and 4,397 people registered to vote in more than one county voted twice  | New York Times                             |  |  |  |  |
| Sandoval    | New Mexico | 9-Nov-02          | state house   | A comparison of names on absentee-ballot-request rosters and affidavits for the absentee-in-lieu-of-ballots made it appear that 5 people had voted twice absentee by mail and absentee-in-lieu-of at the polls.   | Albuquerque Journal                        |  |  |  |  |
| Sandoval    | New Mexico | 24-Nov-04         | presidential  | Bureau of Elections employees found a woman who voted on a provisional ballot at one precinct also had voted at the regular precinct where she is registered. The signatures at both precincts appeared to be the same, so elections officials sent the case to the district attorney.  | AP   |  |  |  |  |
| New York    | New York   | 23-Oct-02         | 2000 and 2001 | Former conservative party candidate for lieutenant governor is arraigned on an indictment for voting twice, from two different Manhattan addresses. He denies the charge  | Newsday                                    |  |  |  |  |

011597



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|        |                |           |               |   |                      |  |  |  |
|--------|----------------|-----------|---------------|---|----------------------|--|--|--|
|        | North Carolina | 24-Oct-04 | 2000 and 2002 | The Observer found up to 180 people who were listed as having voted in both Carolinas in either the 2000 or 2002 elections. Reporters found no one who admitted to double voting and discovered plausible explanations for many of the duplications. In one case, an Army captain in North Carolina shared the same name as his father in South Carolina. The father was likely mistakenly recorded under his son's name when he cast his ballot.   | AP                   |  |  |  |
| Jones  | North Carolina | 30-Oct-04 | primary       | Four men were charged with voting by absentee and on election day. Three denied the allegations or said they misunderstood the process.   | AP                   |  |  |  |
| Gaston | North Carolina | 16-Dec-04 | presidential  | There are differences in most precincts between the number of ballots cast and the number of people recorded as voting. State investigators have concluded there is no way to rule out double-voting or missing votes because poll workers cannot explain the discrepancies.  | Charlotte Observer   |  |  |  |
|        | Ohio           | 2-Nov-04  | presidential  | Republican attorney cites a Plain Dealer report saying more than 27,000 people are registered to vote in both Ohio and Florida and that 100 people cast votes in both places four years ago. A Dispatch investigation of the allegations found little proof of duplicate voting after comparing the Ohio and Florida state databases and conducting further research. After culling the list through those methods, the Dispatch interviewed the people left in question. This failed to turn up anyone who had ever voted twice. Many had never been to Florida; some had never lived in Ohio. | Columbus Dispatch    |  |  |  |
| Summit | Ohio           | 8-Dec-04  | local         | The Director of the Board of Elections says the number of people under investigation for voting twice has decreased from 19 to 10. The board already determined that there were legitimate explanations for about half of the votes. In one case it appeared a man voted absentee and at the polling place but it turned out the absentee ballot had been cast by his son who has the same name.  | Akron Beacon Journal |  |  |  |
| London | Ohio           | 9-Dec-04  | presidential  | A couple who admitted voting twice were not indicted -- they voted by absentee ballot and then voted in person because they thought their absentee ballots had been lost  | AP                   |  |  |  |
| Logan  | Oklahoma       | 24-Feb-01 | primary       | A man is charged with voting twice, once by absentee and once on election day. Although election board officials said they haven't seen a case like this in twenty years, they won't dismiss the charge.  | Daily Oklahoman      |  |  |  |
|        | Oregon         | 11-Apr-02 | 2000 general  | The Secretary of State has referred five cases of possible double voting to the Attorney General (Oregon votes entirely by mail)  | AP                   |  |  |  |
|        | Oregon         | 16-May-04 | 2000          | Republicans claimed 1,200 Oregonians had registered in two counties and voted twice. But a state Elections Division investigation found that just a handful of voters were registered to vote in two counties and one had cast more than one ballot   | AP                   |  |  |  |

011598

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|                 |              |           |                   |   |                              |  |  |  |
|-----------------|--------------|-----------|-------------------|---|------------------------------|--|--|--|
|                 | Oregon       | 1-Nov-04  | presidential      | The state Republican Chair claims in a news conference that he has uncovered six cases of people voting twice. The elections division immediately showed that five of the voters had only voted once, and the sixth case had immediately been caught by election workers.   | The Oregonian                |  |  |  |
| Pawtucket       | Rhode Island | 14-Jan-03 | General Assembly  | The Pawtucket Board of Canvassers determined there was no truth to the allegation that Louis C. Yip, owner of the China Inn restaurant and a well-known developer, had shepherded the same couple to two different polling places, getting them to vote twice. City Registrar of Voters Dawn M. McCormick said that when voting records were checked, it turned out that the couple that Yip was accused of getting to vote at Towers East and Kennedy Housing was actually two different couples, both elderly and Chinese.  | Providence Journal Bulletin  |  |  |  |
| Hamilton Courty | Tennessee    | 19-Dec-02 | county commission | The county election commissioner said she believed people were using other names to vote and that addresses were changed fraudulently. Voters sign fail-safe affidavits when they change their addresses and their voting records have not yet been updated. Oaths of identity are signed when voters have no other form of identification. The commissioner said she questioned the validity of 11 oaths of identity and 68 fail-safe affidavits in the District 4 election.   | Chattanooga Times Free Press |  |  |  |
|                 | Tennessee    | 14-Dec-05 | state senate      | A second dead voter cast a ballot in the September special election held to fill the seat vacated by former state senator John Ford. Like a similar case documented earlier this week, this one involves an elderly voter who died weeks before the Sept. 15 election, an investigation by The Commercial Appeal found. Both of the suspect votes occurred in Precinct 27-1, in the heart of heavily Democratic North Memphis. By law, health officials report deaths once a month to the state Election Commission, which then purges the dead from voter registration rolls. In that window of time - a month or so before the election - there's a good chance dead voters will remain on the rolls on Election Day. | Commercial Appeal            |  |  |  |
| Houston         | Texas        | 25-Nov-04 | state legislature | State legislator who lost by 32 votes alleges 32 people voted twice and 101 residents from other districts cast ballots   | Austin American Statesemen   |  |  |  |
| San Juan        | Texas        | 12-May-05 | city              | The county is investigating three voters suspected of voting early and on election day  | The Monitor                  |  |  |  |
| King            | Washington   | 22-Jun-05 | gubernatorial     | criminal charges filed against six voters for allegedly casting more than one ballot under a variety of circumstances: two for casting ballots in the names of recently deceased spouses; mother and daughter charged with casting a ballot in the name of recently deceased mother's dead husband; one for casting a ballot in the name of someone who had lived at the same address and died; one using someone else's name   | Seattle Times                |  |  |  |

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting**

|           |            |           |                                 |  |                            |  |  |  |  |
|-----------|------------|-----------|---------------------------------|--|----------------------------|--|--|--|--|
| King      | Washington | 13-Oct-05 | gubernatorial                   | Republican officials release the names of 16 people they say voted twice. One person is found to be two people with the same name but different birthdates. Two names were referred to the prosecutors office, files were charged against one.                     | Seattle Times              |  |  |  |  |
| King      | Washington | 14-Oct-05 | gubernatorial and local primary | Woman on Republican list under investigation for double voting   | Seattle Times              |  |  |  |  |
| Appleton  | Wisconsin  | 12-Jan-05 | nonpartisan election            | student who voted by absentee ballot and in person at college sentenced to probation   | Post Crescent              |  |  |  |  |
| Milwaukee | Wisconsin  | 22-Aug-05 | presidential                    | GOP claims there were nine cases where people voted in Milwaukee and another city. US Attorney says he found no fraud, but rather clerical errors.   | Journal Sentinel           |  |  |  |  |
| Milwaukee | Wisconsin  | 21-Sep-05 | presidential                    | Man charged with voting twice said he filled out two on-site registration cards by mistake but voted only once   | Journal Sentinel           |  |  |  |  |
| Milwaukee | Wisconsin  | 5-Dec-05  | presidential                    | Four people charged with double voting; none convicted   | Milwaukee Journal Sentinel |  |  |  |  |
| Laramie   | Wyoming    | 2-Nov-04  |                                 | Laramie County Clerks says there has never been any intentional double registration or double voting   |                            |  |  |  |  |
| national  |            | 23-Oct-02 | presidential                    | RNC compiles a national database of 3,273 people who voted twice in 2000. In North Carolina, the first name on the list was the chair of the Assembly's election law committee, and the California Secretary of State says they will be able to refute the claims. | USA Today                  |  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |  |
|           |            |           |                                 |  |                            |  |  |  |  |

011600

011601

2

011603

011604

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

| Resolution of Incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |

011605



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

011606

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

|                        |                                       |  |
|------------------------|---------------------------------------|--|
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |
| Two people are charged | Kansas City Star<br>(January 8, 2005) |  |
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |
|                        |                                       |  |

011607

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|  |                                    |  |
|--|------------------------------------|--|
|  |                                    |  |
|  |                                    |  |
|  |                                    |  |
|  |                                    |  |
| <p>The Board of Elections reviewed all of the allegations of double voting and found that of 18 cases, 11 did not vote twice and seven did but did not intend to. All of the double votes were caught by the board and not counted twice. The board forwarded only one case of alleged double voting to the sheriff for further investigation.</p> | <p>2/24/2005, Akron<br/>Beacon</p> |  |
|  |                                    |  |
|  |                                    |  |
|  |                                    |  |
|  |                                    |  |

0116008

0116008

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - 'Dead' Voters and Multiple Voting

|  |   |  |
|--|---|--|
|  |   |  |
|  |   |  |
|  |   |  |
|  |   |  |
| Most of the allegations seem to be cases of innocent mistakes that may have been technically illegal but not fraud | Houston Chronicle<br>(January 16, 2005) |  |
|  |   |  |
| See Washington summary   |   |  |

011609

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - 'Dead' Voters and Multiple Voting

|                                 |  |  |
|---------------------------------|--|--|
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
| see larger summary of Milwaukee |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |
|                                 |  |  |

011610

011611

011612







'Dead' Voters and Multiple Voting

5/9/2007

| Type:    | Absentee/In person | Partisan Allegation? | Other Source for Allegation? | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Other determination           | Follow-up possible? (Open investigations and/or pending charges) | City/County     | State       | Date      | Type of Election                        | Alleged instance of fraud:  | Original Source         | Resolution of incident / allegation: | Source of Resolution: 1 | Source of Resolution: 2 |
|----------|--------------------|----------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-------------------------------|--|-----------------|-------------|-----------|---|---|-------------------------|--------------------------------------|-------------------------|-------------------------|
| Multiple |                    |                      | Yes                          |                | BOE                         |                       |                     |                                      | BOE Dismissed                 |  | Apache          | Arizona     | 31-Aug-04 | 2002 general                            | County Attorney alleges some Navajo Nation voters cast multiple ballots. The Election Director dismisses many of the allegations and questioned why the county attorney had waited more than a year and a half to make them.  | Arizona Republic        |                                      |                         |                         |
| Multiple | In person          |                      |                              |                | DA                          | 1                     |                     |                                      |                               | Yes  | Eureka Springs  | Arkansas    | 29-Jun-01 | county judge                            | A special judge rules prosecutors must show the mayor intended to vote twice – he says he got confused when he voted early for a city bond election and the voting clerk offered him a primary ballot at the same time. He then voted in the primary at his precinct on election day.   | AP                      |                                      |                         |                         |
| Multiple | Absentee           |                      |                              |                |                             | 4                     |                     |                                      |                               | Yes  | La Puente       | California  | 3-Aug-02  | municipal                               | Four family members of a councilman were charged with voting twice because they voted absentee and on election day.   | Los Angeles Times       |                                      |                         |                         |
| Dead     | Both               | Yes                  |                              | Press          |                             |                       |                     |                                      |                               | Yes  | San Francisco   | California  | 1-Mar-04  | mayoral run-off                         | One of the candidates alleged that 400 people who are dead cast votes. The allegation was based on a computer program that cross-referenced voters and the social security death index using first and last names and date of birth. When the Chronicle also used middle initials and other identifying indicators, the list was whittled to five cases. Some were by absentee but a couple were in person. | San Francisco Chronicle |                                      |                         |                         |
| Multiple |                    |                      |                              | State          |                             |                       |                     |                                      |                               |  |                 | Colorado    | 25-Mar-05 |   | 58 of 64 counties responded to a request by the Secretary of State to report on fraud investigations. Only 13 counties have referred cases to prosecutors. Those cases included 41 instances of citizens voting twice. Denver County officials said they had 81 instances of double voting.   | Denver Post             |                                      |                         |                         |
| Multiple | In person          | Yes                  |                              | State          |                             |                       |                     |                                      | Found Untrue                  | Yes  |                 | Connecticut | 22-Oct-02 | all                                     | Secretary of State says that RNC allegations that 54 Connecticut voters cast ballots in 2 different states have been investigated and found to be false. 15 voted only in CT, 29 voted only in another state, four names were wrong because they had different birth dates, and three were referred to the FBI and US Attorney because information from the other state could not be obtained               | New Haven Register      |                                      |                         |                         |
| Multiple | In person          | Yes                  |                              |                |                             |                       |                     |                                      |                               |  | Bridgport       | Connecticut | 23-Sep-03 | mayoral primary                         | Losing candidate alleges some voters were able to vote twice  | News 12                 |                                      |                         |                         |
| Multiple | In person          |                      |                              |                |                             |                       |                     |                                      | Voters Deny/Possible mistakes |  | DC and Maryland |             | 31-Oct-02 | state primary and presidential election | Records indicate that 24 voters cast ballots in both DC and Maryland in the September 2002 primary and 90 voters did so in the 2000 election. Voters denied they had done so and election officials said it was possible for precinct workers to make mistakes when recording who voted.  | Washington Post         |                                      |                         |                         |

011615

'Dead' Voters and Multiple Voting

5/9/2007

| Type     | Absentee/In person | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City / County | State   | Date     | Type of Election | Alleged Instance of fraud  | Original Source            | Resolution of Incident/allegation | Source of Resolution #1 | Source of Resolution #2 |
|----------|--------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|---------------|---------|----------|------------------|--|----------------------------|-----------------------------------|-------------------------|-------------------------|
| Multiple | Absentee           |                     |                             | County         |                             |                       |                     |                                      | Ballots not counted | Yes  | Palm Beach    | Florida | 5-Dec-02 | 2002 general     | The County State Attorney will be investigating about a dozen people accused of voting twice. Each cast an absentee ballot and voted on Election Day. The Secretary of State says they may have forgotten they voted absentee. They all had to vote by provisional ballots so none of the second votes were counted. This is the first time the Secretary's office has found people who voted twice.   | Sun-Sentinel               |                                   |                         |                         |
| Multiple | Absentee           |                     |                             |                |                             |                       |                     |                                      | Ballots discarded   |  | Indian River  | Florida | 2-Nov-04 | presidential     | One voter returned two absentee ballots – the first one was counted and the second discarded. A woman voted by absentee and then during early voting. Her absentee ballot will be thrown out.  | Press Journal (Vero Beach) |                                   |                         |                         |
| Multiple | Absentee           |                     | Press                       |                |                             |                       |                     |                                      |                     | Yes  | Palm Beach    | Florida | 6-Nov-04 | presidential     | The Palm Beach Post reports that three voters cast absentee ballots and then filled out provisional ballots on Election Day. Local officials have asked the Attorney General to investigate. The Post reached two of the voters and they said they cast provisional ballots because when they tried to check on their absentee ballots they were unable to confirm they had been received.   | Florida Times Union        |                                   |                         |                         |
| Multiple | Both               |                     |                             | State          |                             | 12                    |                     |                                      |                     | Yes  | Volusia       | Florida | 6-Nov-04 | presidential     | Volusia officials said Friday they have identified 12 cases of suspected election fraud stemming from Tuesday's presidential election. All involved people trying to vote twice, said County Judge Steven deLaroché, a member of the county canvassing board. In one case, which occurred during early voting, a person was caught trying to feed an absentee ballot into a tabulating machine after casting a traditional ballot, deLaroché said. That person was stopped by a poll worker. In the other 11 cases, people who had voted by absentee ballot or at an early-voting site tried to vote a second time on Election Day, he said. In those cases, election workers discovered the attempts when computers showed those voters had already cast ballots. All the cases will be forwarded to the State Attorney's Office for prosecution. | Orlando Sentinel           |                                   |                         |                         |

011616

'Dead' Voters and Multiple Voting

5/9/2007

| Type     | Absentee/In person | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City / County   | State     | Date      | Type of Election | Alleged Instance of fraud  | Original Source              | Resolution of Incident / allegation | Source of Resolution 1. | Source of Resolution 2. |
|----------|--------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|-------------------------------|---------------------|--|-----------------|-----------|-----------|------------------|--|------------------------------|-------------------------------------|-------------------------|-------------------------|
| Multiple | Absentee           |                     |                             | Federal        |                             |                       |                     |                               | Clerical Error      |  | Duval           | Florida   | 31-Jul-05 | presidential     | Officials said in January that a review of records found more than 50 cases in which the same person had cast an absentee and in person ballot. An FBI investigation found that every one of those instances was due to a clerical error, such as someone signing the voter rolls before they were told they had to vote elsewhere.  | AP                           |                                     |                         |                         |
| Multiple | In person          |                     |                             | County         |                             |                       |                     |                               | Ballot discarded    |  | Fulton          | Georgia   | 30-Sep-04 | primary          | A man who may be facing felony charges for voting twice says he voted during the early period and that when he went to his precinct on election day to make sure that vote had been recorded, he was told it was not. The poll worker told him he should vote again. Fulton County investigated and found no other advance voters had voted again on the day of the election. The registration chief acknowledged the county was late getting names of advance voters to the polls. The advance vote was tossed out after it was discovered. | Atlanta Journal Constitution |                                     |                         |                         |
| Multiple |                    |                     |                             |                |                             | 1                     |                     |                               | Yes                 |  | Marshall        | Illinois  | 13-Nov-04 | 2002 and 2004    | A man has been charged for voting twice, in both Kane County and Marshall County   | South Bend Tribune           |                                     |                         |                         |
| Dead     |                    |                     |                             | Press          |                             |                       |                     |                               | Yes                 |  | Lake County     | Indiana   | 16-May-04 | county primary   | A newspaper analysis shows that five votes cast were attributed to people who were dead well before the election.  | AP                           |                                     |                         |                         |
| Multiple | Absentee           |                     |                             |                |                             |                       |                     | 1                             |                     |  | Prairie Village | Kansas    | 8-Jan-05  | 2002 general     | A woman who voted twice pled guilty -- she had voted from her business address and cast an absentee ballot from a different location in the same election.   | Kansas City Star             |                                     |                         |                         |
| Multiple | In person          |                     |                             | County         |                             |                       |                     |                               |                     |  | Hancock         | Louisiana | 3-Nov-04  | presidential     | A woman called a radio talk show Tuesday and admitted casting fraudulent votes in Hancock County. The woman said she voted once using her own name, but after realizing she was not required to show identification, she waited several hours and returned to the polls and used a friend's name. The county clerks said the incident seems to be isolated and her office has not received evidence of other fraudulent votes elsewhere in the county.   | The Sun Herald               |                                     |                         |                         |
| Multiple |                    |                     |                             |                |                             |                       |                     |                               |                     |  | Duluth          | Minnesota | 3-Nov-04  | presidential     | A voter claims someone forged his signature to vote under his name. He reported the incident to City Hall  | Duluth News-Tribune          |                                     |                         |                         |

011617

'Dead' Voters and Multiple Voting

5/9/2007

| Type:         | Absentee/In person | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State      | Date               | Type of Election | Alleged instance of fraud   | Original Source                            | Resolution of Incident/allegation | Source of Resolution #1            | Source of Resolution #2 |
|---------------|--------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|-------------|------------|--------------------|------------------|---|--|-----------------------------------|------------------------------------|-------------------------|
| Multiple      | In person          |                     |                              |                |                             | 1                     |                     |                                      |                     | Yes  | Minneapolis | Minnesota  | 23-Feb-05          | presidential     | A felony charge filed Tuesday in Hennepin County District Court accuses Darin Randall Johnson, 34, of registering to vote and casting ballots in three different places in the November election. The criminal complaint alleges he filled out same-day registration forms and voted once in Brooklyn Park and twice in Minneapolis.  | Saint Paul Pioneer Press                   |                                   |                                    |                         |
| Multiple      | In person          |                     |                              |                |                             |                       |                     | 1                                    |                     |  | Kansas City | Missouri   | 28-Mar-05          | various          | Man pleads guilty to casting double votes in four elections by voting in both Kansas and Missouri   | Kansas City Star                           |                                   |                                    |                         |
| Multiple      |                    |                     |                              | Press          |                             | 2                     |                     |                                      |                     | Yes  | Kansas City | Missouri   | September 6, 2004  | all              | Kansas City Star reports that their investigation shows there may be more than 300 voters voting twice in different counties. The exact number is impossible to determine because many counties have shredded their poll books and state computer files are rife with data errors. In fact, the number may be lower because the state computer files contain many errors that show people voting who did not actually vote. The study only flagged people registered in two places under exactly the same name and date of birth. | Kansas City Star, Belleville News-Democrat | Two people are charged            | Kansas City Star (January 8, 2005) |                         |
| Dead/Multiple |                    | Yes                 |                              |                |                             |                       |                     |                                      |                     | Yes  |             | New Jersey | 16-Sep-05          | presidential     | Republican Party claims 4,755 people who have died voted in the election and 4,397 people registered to vote in more than one county voted twice  | New York Times                             |                                   |                                    |                         |
| Multiple      | Absentee           |                     |                              |                |                             |                       |                     |                                      |                     |  | Sandoval    | New Mexico | 9-Nov-02           | state house      | A comparison of names on absentee-ballot-request rosters and affidavits for the absentee-in-lieu-of-ballots made it appear that 5 people had voted twice absentee by mail and absentee-in-lieu-of at the polls.   | Albuquerque Journal                        |                                   |                                    |                         |
| Multiple      | In person          |                     |                              | DA             |                             |                       |                     |                                      |                     | Yes  | Sandoval    | New Mexico | 24-Nov-04          | presidential     | Bureau of Elections employees found a woman who voted on a provisional ballot at one precinct also had voted at the regular precinct where she is registered. The signatures at both precincts appeared to be the same, so elections officials sent the case to the district attorney.  | AP   |                                   |                                    |                         |
| Multiple      |                    |                     |                              |                |                             | 1                     |                     |                                      |                     | Yes  | New York    | New York   | 23-Oct-02 and 2001 |                  | Former conservative party candidate for lieutenant governor is arraigned on an indictment for voting twice, from two different Manhattan addresses. He denies the charge  | Newsday                                    |                                   |                                    |                         |

011618

'Dead' Voters and Multiple Voting

5/9/2007

| Type     | Absentee/In person | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Other determination                   | Follow-up possible? (Open investigations and/or pending charges) | City/County    | State          | Date               | Type of Election | Alleged Instance of fraud   | Original Source      | Resolution of Incident/ allegation  | Source of Resolution 1  | Source of Resolution 2 |
|----------|--------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------------------------|--|----------------|----------------|--------------------|------------------|---|----------------------|---|-------------------------|------------------------|
| Multiple |                    |                     |                              | Press          |                             |                       |                     |                                      | Many likely errors                    |  | North Carolina |                | 24-Oct-04 and 2002 |                  | The Observer found up to 180 people who were listed as having voted in both Carolinas in either the 2000 or 2002 elections. Reporters found no one who admitted to double voting and discovered plausible explanations for many of the duplications. In one case, an Army captain in North Carolina shared the same name as his father in South Carolina. The father was likely mistakenly recorded under his son's name when he cast his ballot.   | AP                   |   |                         |                        |
| Multiple | Absentee           |                     |                              |                |                             | 4                     |                     |                                      | Yes                                   |  | Jones          | North Carolina | 30-Oct-04          | primary          | Four men were charged with voting by absentee and on election day. Three denied the allegations or said they misunderstood the process.   | AP                   |   |                         |                        |
| Multiple |                    |                     |                              | State          |                             |                       |                     |                                      |                                       |  | Gaston         | North Carolina | 16-Dec-04          | presidential     | There are differences in most precincts between the number of ballots cast and the number of people recorded as voting. State investigators have concluded there is no way to rule out double-voting or missing votes because poll workers cannot explain the discrepancies.  | Charlotte Observer   |   |                         |                        |
| Multiple |                    | Yes                 |                              | Press          |                             |                       |                     |                                      | Turned out to be untrue               |  | Ohio           |                | 2-Nov-04           | presidential     | Republican attorney cites a Plain Dealer report saying more than 27,000 people are registered to vote in both Ohio and Florida and that 100 people cast votes in both places four years ago. A Dispatch investigation of the allegations found little proof of duplicate voting after comparing the Ohio and Florida state databases and conducting further research. After culling the list through those methods, the Dispatch interviewed the people left in question. This failed to turn up anyone who had ever voted twice. Many had never been to Florida; some had never lived in Ohio. | Columbus Dispatch    |   |                         |                        |
| Multiple |                    |                     |                              |                | BOE                         |                       |                     |                                      | 1 of 18 found worthy of investigation | Yes  | Summit         | Ohio           | 8-Dec-04           | local            | The Director of the Board of Elections says the number of people under investigation for voting twice has decreased from 19 to 10. The board already determined that there were legitimate explanations for about half of the votes. In one case it appeared a man voted absentee and at the polling place but it turned out the absentee ballot had been cast by his son who has the same name.  | Akron Beacon Journal | The Board of Elections reviewed all of the allegations of double voting and found that of 18 cases, 11 did not vote twice and seven did but did not intend to. All of the double votes were caught by the board and not counted twice. The board forwarded only one case of alleged double voting to the sheriff for further investigation. | 2/24/2005, Akron Beacon |                        |
| Multiple | Absentee           |                     |                              |                |                             |                       |                     |                                      | No indictment                         |  | London         | Ohio           | 9-Dec-04           | presidential     | A couple who admitted voting twice were not indicted -- they voted by absentee ballot and then voted in person because they thought their absentee ballots had been lost  | AP                   |   |                         |                        |

011619

'Dead' Voters and Multiple Voting

5/9/2007

| Type     | Absentee/In person | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals)   | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County     | State        | Date      | Type of Election  | Alleged Instance of fraud  | Original Source              | Resolution of incident/allegation | Source of Resolution 1 | Source of Resolution 2 |
|----------|--------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--|---------------------|--|-----------------|--------------|-----------|-------------------|--|------------------------------|-----------------------------------|------------------------|------------------------|
| Multiple | Absentee           |                     |                              |                | BOE                         | 1                     |                     |  |                     | Yes  | Logan           | Oklahoma     | 24-Feb-01 | primary           | A man is charged with voting twice, once by absentee and once on election day. Although election board officials said they haven't seen a case like this in twenty years, they won't dismiss the charge.   | Daily Oklahoman              |                                   |                        |                        |
| Multiple | Absentee           |                     |                              | State          |                             |                       |                     |  |                     | Yes  |                 | Oregon       | 11-Apr-02 | 2000 general      | The Secretary of State has referred five cases of possible double voting to the Attorney General (Oregon votes entirely by mail)   | AP                           |                                   |                        |                        |
| Multiple | In person          | Yes                 |                              | State BOE      |                             |                       |                     | 1 of 1200 accusations found legitimate |                     | Accusations  |                 | Oregon       | 16-May-04 | 2000              | Republicans claimed 1,200 Oregonians had registered in two counties and voted twice. But a state Elections Division investigation found that just a handful of voters were registered to vote in two counties and one had cast more than one ballot  | AP                           |                                   |                        |                        |
| Multiple | In person          | Yes                 |                              | BOE            |                             |                       |                     |  | Found Untrue        |  |                 | Oregon       | 1-Nov-04  | presidential      | The state Republican Chair claims in a news conference that he has uncovered six cases of people voting twice. The elections division immediately showed that five of the voters had only voted once, and the sixth case had immediately been caught by election workers.  | The Oregonian                |                                   |                        |                        |
| Multiple | In person          |                     |                              | BOE            |                             |                       |                     |  | Found Untrue        |  | Pawtucket       | Rhode Island | 14-Jan-03 | General Assembly  | The Pawtucket Board of Canvassers determined there was no truth to the allegation that Louis C. Yip, owner of the China Inn restaurant and a well-known developer, had shepherded the same couple to two different polling places, getting them to vote twice. City Registrar of Voters Dawn M. McCormick said that when voting records were checked, it turned out that the couple that Yip was accused of getting to vote at Towers East and Kennedy Housing was actually two different couples, both elderly and Chinese. | Providence Journal Bulletin  |                                   |                        |                        |
| Multiple |                    |                     |                              | BOE            |                             |                       |                     |  |                     |  | Hamilton County | Tennessee    | 19-Dec-02 | county commission | The county election commissioner said she believed people were using other names to vote and that addresses were changed fraudulently. Voters sign fail-safe affidavits when they change their addresses and their voting records have not yet been updated. Oaths of identity are signed when voters have no other form of identification. The commissioner said she questioned the validity of 11 oaths of identity and 68 fail-safe affidavits in the District 4 election.  | Chattanooga Times Free Press |                                   |                        |                        |

011620

'Dead' Voters and Multiple Voting

5/9/2007

| Type     | Absentee/In person | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official involvement? | Charged (individuals) | Acquittal/Dismissal | Convicted/guilty pleas (individuals) | Other determination  | Follow-up possible? (Open investigations and/or pending charges) | City/County | State      | Date      | Type of Election                | Alleged instance of fraud   | Original Source           | Resolution of incident/allegation  | Source of Resolution 1               | Source of Resolution 2 |
|----------|--------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|----------------------|--|-------------|------------|-----------|---------------------------------|---|---------------------------|--|--------------------------------------|------------------------|
| Dead     |                    |                     |                              | Press          |                             |                       |                     |                                      |                      | Yes  |             | Tennessee  | 14-Dec-05 | state senate                    | A second dead voter cast a ballot in the September special election held to fill the seat vacated by former state senator John Ford. Like a similar case documented earlier this week, this one involves an elderly voter who died weeks before the Sept. 15 election, an investigation by The Commercial Appeal found. Both of the suspect votes occurred in Precinct 27-1, in the heart of heavily Democratic North Memphis. By law, health officials report deaths once a month to the state Election Commission, which then purges the dead from voter registration rolls. In that window of time - a month or so before the election - there's a good chance dead voters will remain on the rolls on Election Day. | Commercial Appeal         |  |                                      |                        |
| Multiple |                    | Yes                 |                              |                |                             |                       |                     |                                      | Found to be mistakes |  | Houston     | Texas      | 25-Nov-04 | state legislature               | State legislator who lost by 32 votes alleges 32 people voted twice and 101 residents from other districts cast ballots   | Austin American Statesman | Most of the allegations seem to be cases of innocent mistakes that may have been technically illegal but not fraud | Houston Chronicle (January 16, 2005) |                        |
| Multiple | In person          |                     |                              | County         |                             |                       |                     |                                      |                      | Yes  | San Juan    | Texas      | 12-May-05 | city                            | The county is investigating three voters suspected of voting early and on election day  | The Monitor               |  |                                      |                        |
| Both     |                    |                     |                              |                |                             | 6                     |                     |                                      |                      | Yes  | King        | Washington | 22-Jun-05 | gubernatorial                   | criminal charges filed against six voters for allegedly casting more than one ballot under a variety of circumstances: two for casting ballots in the names of recently deceased spouses; mother and daughter charged with casting a ballot in the name of recently deceased mother's dead husband; one for casting a ballot in the name of someone who had lived at the same address and died; one using someone else's name   | Seattle Times             | See Washington summary   |                                      |                        |
| Multiple |                    | Yes                 |                              |                |                             | 1                     |                     |                                      |                      | Yes  | King        | Washington | 13-Oct-05 | gubernatorial                   | Republican officials release the names of 16 people they say voted twice. One person is found to be two people with the same name but different birthdates. Two names were referred to the prosecutors office, files were charged against one.  | Seattle Times             |  |                                      |                        |
| Multiple |                    |                     |                              |                |                             |                       |                     |                                      |                      | Yes  | King        | Washington | 14-Oct-05 | gubernatorial and local primary | Woman on Republican list under investigation for double voting  | Seattle Times             |  |                                      |                        |
| Multiple | Absentee           |                     |                              |                |                             |                       |                     | 1                                    |                      |  | Appleton    | Wisconsin  | 12-Jan-05 | nonpartisan election            | student who voted by absentee ballot and in person at college sentenced to probation  | Post Crescent             |  |                                      |                        |

011621



'Dead' Voters and Multiple Voting

5/9/2007

| Type:    | Absentee/In person: | Partisan Allegation: | Other Source for Allegation? | Investigation? | Other Official involvement? | Charged (Individuals): | Acquitted/Dismissed: | Convicted/guilty pleas (Individuals): | Other determination: | Follow-up possible? (Open investigation and/or pending charges): | City/County: | State:    | Date:     | Type of Election: | Alleged Instance of fraud:   | Original Source:           | Resolution of incident/allegation: | Source of Resolution 1: | Source of Resolution 2: |
|----------|---------------------|----------------------|------------------------------|----------------|-----------------------------|------------------------|----------------------|---------------------------------------|----------------------|--|--------------|-----------|-----------|-------------------|--|----------------------------|------------------------------------|-------------------------|-------------------------|
| Multiple |                     | Yes                  |                              |                | US Attorney                 |                        |                      |                                       | clerical errors      |  | Milwaukee    | Wisconsin | 22-Aug-05 | presidential      | GOP claims there were nine cases where people voted in Milwaukee and another city. US Attorney says he found no fraud, but rather clerical errors.   | Journal Sentinel           |                                    |                         |                         |
| Multiple | In person           |                      |                              |                |                             | 1                      |                      |                                       |                      | Yes  | Milwaukee    | Wisconsin | 21-Sep-05 | presidential      | Man charged with voting twice said he filled out two on-site registration cards by mistake but voted only once   | Journal Sentinel           |                                    |                         |                         |
| Multiple |                     |                      |                              |                |                             |                        | 4                    |                                       |                      |  | Milwaukee    | Wisconsin | 5-Dec-05  | presidential      | Four people charged with double voting; none convicted   | Milwaukee Journal Sentinel | see larger summary of Milwaukee    |                         |                         |
| Multiple |                     |                      |                              |                |                             |                        |                      |                                       |                      |  | Laramie      | Wyoming   | 2-Nov-04  |                   | Laramie County Clerks says there has never been any intentional double registration or double voting   |                            |                                    |                         |                         |
| Multiple |                     | Yes                  |                              | State          |                             |                        |                      |                                       |                      | Yes  | national     |           | 23-Oct-02 | presidential      | RNC compiles a national database of 3,273 people who voted twice in 2000. In North Carolina, the first name on the list was the chair of the Assembly's election law committee, and the California Secretary of State says they will be able to refute the claims. | USA Today                  |                                    |                         |                         |

011622

'Dead' Voters and Multiple Voting

5/9/2007

| Type: | Absentee/In person | Partisan Allegation | Other Source for Allegation | Investigation ? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of incident/allegation | Source of Resolution #1 | Source of Resolution #2 |
|-------|--------------------|---------------------|-----------------------------|-----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|-------------|-------|------|------------------|---------------------------|-----------------|-----------------------------------|-------------------------|-------------------------|
|       |                    |                     |                             |                 |                             |                       |                     |                                      |                     |  |             |       |      |                  |                           |                 |                                   |                         |                         |

011623

| Type: | Absente/In person | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official involvement? | Charged (individuals) | Acquittal/Dismissal | Convicted/guilty pleas (individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of incident/allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------|-------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|-------------|-------|------|------------------|---------------------------|-----------------|-----------------------------------|------------------------|------------------------|
|       |                   |                     |                              |                |                             |                       |                     |                                      |                     |  |             |       |      |                  |                           |                 |                                   |                        |                        |

011624

| Type: | Absentee/ person | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/ Dismissal | Convicted/ guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigation and/or pending charges) | City/ County | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of incident/ allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------|------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|----------------------|---------------------------------------|---------------------|---|--------------|-------|------|------------------|---------------------------|-----------------|------------------------------------|------------------------|------------------------|
|       |                  |                     |                             |                |                             |                       |                      |                                       |                     |   |              |       |      |                  |                           |                 |                                    |                        |                        |

011625

| Type: | Absent/In person | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquitted/Dismissed | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | County | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident/allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------|------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|--------|-------|------|------------------|---------------------------|-----------------|-----------------------------------|------------------------|------------------------|
|-------|------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|--------|-------|------|------------------|---------------------------|-----------------|-----------------------------------|------------------------|------------------------|

011626

Absentee

5/9/2007

| Type                 | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charge (Individual) | Acquittal/Dissal | Convicted/guilty pleas (Individual) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City/County              | State       | Date      | Type of Election                  | Alleged instance of fraud  | Original Source           | Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|----------------------|---------------------|-----------------------------|----------------|-----------------------------|---------------------|------------------|-------------------------------------|----------------------|--|--------------------------|-------------|-----------|-----------------------------------|--|---------------------------|-------------------------------------|------------------------|------------------------|
|                      |                     |                             |                |                             |                     |                  |                                     |                      |  | Phillips                 | Arkansas    | 2-Nov-02  | primary                           | The sanitation director for Helena, the Phillips County seat, admitted in court to illegally casting more than 25 absentee ballots in the Democratic primary in May.   | Arkansas Democrat-Gazette |                                     |                        |                        |
|                      |                     |                             |                |                             |                     |                  |                                     |                      |  | South Gate               | California  | 28-Jan-03 | Treasurer and city council recall | Supporters of the recall, which is being led by the city's two police unions, say city employees have been illegally filling out absentee ballots against the recall.  | Los Angeles Times         |                                     |                        |                        |
| Forgery-Dead         |                     |                             |                |                             |                     |                  |                                     |                      |  | Bridgeport               | Connecticut | 6-Sep-02  |                                   | Election officials found an absentee ballot application for someone who is dead  | Connecticut Post          |                                     |                        |                        |
|                      |                     |                             | Federal        |                             | 2                   |                  |                                     |                      |  | Bridgeport and New Haven | Connecticut | 4-Nov-02  | probate judge                     | FBI is investigating potential absentee ballot fraud in Bridgeport Democratic primary and two men face absentee ballot charges involving 2 New Haven primaries   | Connecticut Post          |                                     |                        |                        |
| Coercion             |                     |                             |                |                             | 1                   |                  |                                     | Yes                  |  | Hartford                 | Connecticut | 12-Aug    | state legislature                 | former state representative is charged with seven counts of absentee ballot fraud for absentee ballot coercion in a particular apartment complex   | Hartford Courant          |                                     |                        |                        |
| Ineligible           |                     |                             | BOE            |                             |                     |                  |                                     | Yes                  |  | Bridgeport               | Connecticut | 3-Dec-03  | town committee                    | The elections commission wants four brothers to be charged with fraudulent voting for allegedly submitting illegal absentee ballots in the March 2002 Democratic Town Committee primary. The commission alleges that none of the brothers lived in Bridgeport when they voted in those city elections. | Connecticut Post          |                                     |                        |                        |
| Ineligible           |                     |                             |                |                             |                     |                  |                                     | Yes                  |  | Smyrna                   | Delaware    | 3-Aug-05  | town                              | A challenger to the mayor who lost by 2 votes is suing the mayor for personally delivering absentee ballots to minority residents, some of whom were not eligible to vote  | The News Journal          |                                     |                        |                        |
| Forgery-Unknown      |                     |                             |                |                             | 4                   |                  |                                     | Yes                  |  | Winter Garden            | Florida     | 5-Mar-02  | city commissioner                 | Four are charged with forging names on absentee ballots  | AP                        |                                     |                        |                        |
| Forgery-Other Voters |                     |                             | BOE            |                             |                     |                  |                                     | Yes                  |  | Volusia                  | Florida     | 3-Oct-03  | city                              | Elections officials inquire into 43 absentee ballot request forms with the wrong date of birth and 3 requests with forged signatures   | Orlando Sentinel          |                                     |                        |                        |
| Ineligible           |                     |                             |                |                             | 1                   |                  |                                     | Yes                  |  | Winter Haven             | Florida     | 6-Jan-04  | town                              | criminal complaint filed against woman for voting by absentee ballot when she did not live in the district   | Polk Online               |                                     |                        |                        |

011627

Absentee

5/9/2007

| Type                     | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charge (Individuals) | Acquittal/Diagnosis | Convicted/guilty (Individuals) | Other determination?                               | Follow-up possible? (Open investigations and/or pending charges) | City/County  | State    | Date      | Type of Election | Alleged Instance of fraud  | Original Source        | Resolution of incident / allegation  | Source of Resolution 1          | Source of Resolution 2             |
|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|--------------------------------|--|--|--------------|----------|-----------|------------------|--|------------------------|--|---------------------------------|------------------------------------|
| Coercion                 |                     |                             | County         |                             |                      |                     |                                | Special Prosecutor found no determination of fraud |  | Hialeah      | Florida  | 21-Mar-04 | city council     | Miami-Dade public corruption detectives fanned across Hialeah on Friday, questioning employees of the city's public housing agency, as well as friends and relatives of politicians aligned with Mayor Raul Martinez. Sources close to the investigation say those interviewed were asked about their alleged handling of absentee ballots gathered from voters - many of them elderly - in the city's public housing units. | Miami Herald           | A special state prosecutor said he found no evidence of election fraud after a yearlong investigation of absentee voting at the Hialeah Housing Authority during that city's 2003 elections  | Miami Herald, May 11, 2005      |                                    |
| Mishandling              |                     |                             | Grand Jury     |                             |                      |                     |                                |  |  | Orlando      | Florida  | 5-Mar-05  | mayoral          | A grand jury is investigating the possible mishandling of absentee ballots by a minority voting advocate who has worked for many campaigns   | Orlando Sentinel       | All charges are dropped. Democrats allege the whole case was politically motivated; Florida prosecutors dropped a case charging the mayor with paying a campaign worker to collect absentee ballots. Three others indicted on the same charge were also cleared. | April 21, 2005 Orlando Sentinel | April 21, 2005, The New York Times |
| Coercion                 |                     | Yes                         |                |                             |                      |                     |                                |  |  | Cook         | Illinois | 15-Mar-02 | state            | ACORN alleges that a man went to a senior citizen home and voted the seniors' absentee ballots   | Chicago Sun-Times      |  |                                 |                                    |
| Coercion                 |                     |                             |                | Court                       |                      |                     |                                | Election thrown out                                |  | Calumet City | Illinois | 3-Sep-03  | mayoral          | A county judge threw out and reversed an election because of absentee coercion of disabled voters  | Chicago Tribune        |  |                                 |                                    |
| Other Voters             |                     |                             | DA             |                             |                      |                     |                                | Yes  |  | Marion       | Indiana  | 1-Nov-02  | county           | The county prosecutor is investigating absentee ballots in which signatures don't match, voter's names were misspelled, and correction fluid was used to change the address  | Indianapolis Star      |  |                                 |                                    |
|                          |                     |                             | State Police   |                             |                      |                     |                                | Yes  |  | Madison      | Indiana  | 29-Apr-03 | primary          | State police are investigating whether Democratic primary absentee ballots were delivered to nursing homes that traditionally vote Republican  | Herald Bulletin        |  |                                 |                                    |
| Forgery-Voters Who Moved |                     |                             | County         |                             |                      |                     |                                | Yes  |  | Lake         | Indiana  | 11-Jul-03 | town             | Allegations are made of absentee ballots from voters who moved and forged signatures by one person. Case will be heard by a county judge   | Northwest Indiana News |  |                                 |                                    |
| Ineligible               |                     |                             | BOE            |                             |                      |                     |                                | Yes  |  | Porter       | Indiana  | 31-Mar-04 | town             | Elections board investigates allegations that two ineligible voters voted by absentee ballots  | Northwest Indiana News |  |                                 |                                    |

011628

Absentee

5/9/2007

| Type                   | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismitted | Convicted/guilty pleas (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City / County | State    | Date                           | Type of Election | Alleged instance of fraud  | Original Source        | Resolution of Incident / allegation   | Source of Resolution 1  | Source of Resolution 2 |
|------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|----------------------|--|---------------|----------|--------------------------------|------------------|--|------------------------|---|---|------------------------|
| Forgery-Dead           |                     |                             |                | Court                       |                       |                     |                                      |                      | Yes  | East Chicago  | Indiana  | 23-Jun-04                      | mayoral          | The Indiana Supreme Court is considering whether to order a special mayoral election. The losing candidate claims he would have won if not for hundreds of fraudulent absentee votes cast for his opponent, including some cast on behalf of dead voters   | AP                     |   |   |                        |
| Mishandling/Ineligible |                     |                             |                |                             | 3                     |                     |                                      |                      | Yes  | Anderson      | Indiana  | 11-Dec-04                      | mayoral          | The longtime Democratic Party chairman in Madison County is accused of illegally delivering absentee ballots cast by two Anderson residents. Another man is accused of 17 Class D felony charges for allegedly registering absentee voters, then telling them how to vote and picking up their ballots. A woman is accused of completing an absentee ballot in September 2003 that listed an address where she did not live. | Indianapolis Star      |   |   |                        |
| Multiple               |                     |                             |                | Court                       | 4                     |                     | Court invalidates 155 ballots        |                      | Yes  | East Chicago  | Indiana  | August 6, 2003, August 8, 2003 | mayoral primary  | It is alleged that city workers were asked to vote absentee, acquire absentee applications, and given paid election day positions for bringing in absentee votes   | Northwest Indiana News | four people indicted, one for receiving absentee ballots for people ineligible to vote, one for failing to appear before the grand jury, and two for voter fraud and lying to the grand jury; county judges tosses out 155 absentee ballots but this does not change the election outcome; DOJ begins investigating | WISH TV, November 18, 2003; Northwest Indiana Times, January 21, 2004 |                        |
| Coercion               |                     |                             | Police         |                             |                       |                     |                                      |                      | Yes  |               | Maine    | 13-Feb-04                      | state house      | Police have begun investigating allegations that elderly voters were pressured into casting absentee ballots for a Green Independent candidate in Maine's special election. Chief Roger Beaupre said Thursday his department has received 10 complaints of voter intimidation from elderly voters who were told votes for candidates other than Green Independent candidate Dorothy Lafortune did not count.                 | AP                     |   |   |                        |
| Coercion               |                     |                             | State Police   |                             |                       |                     |                                      |                      |  | River Rouge   | Michigan | 4-Apr-01                       | mayoral          | state police investigating absentee coercion in a senior apartment building  | Yahoo News             |   |   |                        |

011629



Absentee

5/9/2007

| Type:                | Partisan Allegation: | Other Source for Allegation: | Investigation? | Other Official involvement? | Charge (Individuals): | Acquittal/Dismittal: | Convicted/guilty pleas (Individuals): | Other determination? | Follow-up possible? (Open investigations and/or pending charges): | City/County:   | State:      | Date:     | Type of Election:                  | Alleged Instance of fraud:  | Original Source:      | Resolution of Incident / allegation:  | Source of Resolution 1:   | Source of Resolution 2: |
|----------------------|----------------------|------------------------------|----------------|-----------------------------|-----------------------|----------------------|---------------------------------------|----------------------|---|----------------|-------------|-----------|------------------------------------|---|-----------------------|---|---|-------------------------|
| Multiple             |                      |                              | Federal        | Court                       |                       |                      |                                       |                      | Yes   | Detroit        | Michigan    | 8-Nov-05  | mayoral                            | A lawsuit alleges the City Clerk's assistants have allowed voters to fill out ballots in group settings, didn't sign their names on ballot envelopes and advertised their services in nursing homes. She also sent 130,000 unsolicited absentee ballot applications defying a court order.  | Detroit Free Press    | County Circuit Court Judge ruled the Clerk violated the law; There is an election contest and a federal investigation involving irregularities with absentee ballots. | November 9, 2005 Detroit Free Press; November 24, 2005 Detroit Free Press |                         |
| Coercion             | Yes                  |                              |                |                             |                       |                      |                                       |                      | Yes   | Houston        | Mississippi | 10-Nov-05 | mayoral                            | Candidate files a complaint alleging 59 absentee ballots are questionable. He produced a letter from two elderly absentee voters saying they were given plates of food in exchange for allowing his opponent to fill out their ballots.   | AP                    |   |   |                         |
| N/A                  | Yes                  |                              |                |                             |                       |                      |                                       |                      |   | East St. Louis | Missouri    | 19-Sep-04 | gubernatorial                      | The state Democratic Party accused Republicans of coercion when they asked county clerks to send the names of people who had requested absentee ballots   | AP                    |   |   |                         |
|                      |                      |                              | State/Federal  |                             |                       |                      |                                       |                      | Yes   | East St. Louis | Missouri    | 5-Jan-05  | city                               | Investigations by the state attorney and the FBI into unspecified absentee ballot fraud   | Post Dispatch         |   |   |                         |
|                      |                      |                              | Federal        |                             |                       |                      |                                       |                      | Yes   | Tonopah        | Nevada      | 23-Oct-02 | local general and primary election | The FBI investigates questionable absentee ballot requests  | Pahrump Valley Times  |   |   |                         |
| Forgery-Other Voters |                      |                              |                |                             | 1                     |                      |                                       |                      | Yes   | Las Vegas      | Nevada      | 26-Apr-03 | assembly                           | Man is indicted because he voted other people's ballots using absentee voter forms for people who lived outside the district.   | AP                    |   |   |                         |
| Coercion             | Yes                  |                              |                |                             |                       |                      |                                       |                      |   | Atlantic City  | New Jersey  | 31-Oct-01 | Mayoral                            | Mayor Whelan's campaign has alleged that street operatives for the mayor's challenger, Councilman Lorenzo Langford, tricked voters into requesting absentee ballots and then went to their homes to bully them into filling the ballots out for Langford. The Whelan campaign has also alleged that Langford has stockpiled absentee ballots to fill out fraudulently. The Langford campaign yesterday denounced Whelan's actions as a means of suppressing voter rights and said it would file a federal civil-rights lawsuit this week. | Philadelphia Inquirer |   |   |                         |

011630

Absentee

5/9/2007

| Type:                | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charge (Individuals) | Acquittal/Damages | Convicted/guilty (Individuals) | Other determination?   | Follow-up possible? (Open investigations and/or pending charges) | City/County    | State        | Date      | Type of Election   | Alleged instance of fraud  | Original Source             | Resolution of incident / allegation:   | Source of Resolution 1:     | Source of Resolution 2: |
|----------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|-------------------|--------------------------------|------------------------|--|----------------|--------------|-----------|--------------------|--|-----------------------------|--|-----------------------------|-------------------------|
| Multiple             |                     |                             | State          |                             |                      |                   |                                |                        | Yes  | Palisades Park | New Jersey   | 6-Nov-02  |                    | The Deputy Attorney General said in a court filing that the prosecutor is investigating four types of irregularities: "1) improprieties in the manner in which voters requested absentee ballots; 2) instances where the voter has stated that they received assistance in voting but that fact is not noted on the voter certification; 3) instances where the absentee ballot was delivered to the Board of Elections by a person other than the one to whom the voter gave the ballot; 4) instances where the voter gave an unmarked ballot to another person." | The Record                  | 276 absentee ballots from the 2002 election in Palisades Park are still impounded in the office of Patricia DiCostanzo, the Bergen County superintendent of elections. | October 4, 2004, The Record |                         |
| Forgery              |                     |                             | BOE            |                             |                      |                   |                                |                        | Yes  | Atlantic City  | New Jersey   | 9-Jul-03  | county primary     | Board of elections requests an inquiry into alleged forged absentee ballots  | Atlantic County News        |  |                             |                         |
| Coercion/Forgery     |                     |                             | Federal        |                             |                      |                   |                                |                        | Yes  | Passaic        | New Jersey   | 22-Sep-04 | county             | The FBI is investigating charges that voters targeted by a Democratic campaign had their signatures forged or had been pressured or misled into voting absentee  | Heral News (Passaic)        |  |                             |                         |
| Forgery-Other Voters |                     |                             |                |                             |                      |                   |                                |                        |  |                | New Jersey   | 4-Oct-04  |                    | In the city of Passaic, three dozen voters claimed they'd been victims of absentee ballot fraud in 2003.   | The Record                  |  |                             |                         |
| Coercion             |                     |                             |                | Court                       |                      |                   |                                |                        | Yes  | Albany County  | New York     | 8-Mar-04  | special primaries  | 131 absentee ballots were delivered by a ward leader, leading to vague allegations of coercion. All absentee ballots and machines impounded under a court order  | Albany Times Union          |  |                             |                         |
|                      |                     |                             |                | Court                       |                      |                   |                                | 140 ballots thrown out |  | Albany County  | New York     | 10-Mar-04 | county legislature | One person filled in more than 140 signed absentee ballot applications, and there were other administrative errors in absentee ballot distribution and return. The candidates made a deal before the judge ruled on the case to have a special election; the absentee ballots are not counted  | Albany Times Union          |  |                             |                         |
|                      |                     |                             | DA             |                             |                      |                   |                                |                        | Yes  | Haskell        | Oklahoma     | 7-Nov-02  | district attorney  | An absentee ballot scandal is being investigated in Haskell County, where one man allegedly admitted notarizing 42 absentee ballots without having the voters present while another man helped him, the District Attorney said.  | Daily Oklahoman             |  |                             |                         |
| Coercion             |                     |                             |                |                             |                      |                   |                                |                        |  | Providence     | Rhode Island | 23-Aug-02 | mayoral            | Elderly woman says strangers coerced her into giving them her ballot   | Providence Journal-Bulletin |  |                             |                         |

011631

Absentee

5/9/2007

| Type            | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charge (Individuals) | Acquittal/Dissal | Convicted/guilty please (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City/County        | State          | Date      | Type of Election     | Alleged Instance of fraud  | Original Source | Resolution of Incident / allegation   | Source of Resolution 1 | Source of Resolution 2 |
|-----------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|------------------|---------------------------------------|----------------------|--|--------------------|----------------|-----------|----------------------|--|-----------------|---|------------------------|------------------------|
| Multiple        |                     |                             |                |                             |                      |                  |                                       |                      |  | Senate District 30 | South Carolina | 27-Sep-04 | state senate primary | A person with connections to the Williams campaign nicknamed "The Voter Man" convinced elderly voters, some living in residential care facilities, to fill out absentee ballot registration forms. Some say they never received a ballot, even though records indicate a ballot was cast in their names.<br>* At least one staff member at a Mullins care facility said non-communicative Alzheimer's patients were coaxed into casting absentee ballots.<br>* Another person with ties to the Williams campaign turned in nearly 60 absentee ballots to election officials, many from elderly voters. While not technically illegal, the volume of absentee votes raised eyebrows within the Norwood campaign. As a result of suspected fraud the party ordered a new election and the cases are being criminally investigated. | The State       |   |                        |                        |
|                 |                     |                             | State Federal  |                             |                      | 1                |                                       |                      |  |                    | South Dakota   | 20-Oct-02 | state wide           | several counties forward questionable absentee ballot requests   | Angus Leader    | October 25, 2002: Red Earth Villeda, a former Democratic contractor is investigated; October 27, 2002: State and federal agents target 25 South Dakota counties; October 31, 2002: no illegally cast ballots are found (see South Dakota summary) | Argus Leader           |                        |
| Forgery-Unknown |                     |                             | DA             |                             |                      |                  |                                       |                      | Yes  | Shannon            | South Dakota   | 30-Oct-04 | presidential         | The prosecutor in Fall River County says he will investigate possible multiple voting by absentee ballot. The multiple ballots were cast by fewer than 10 people   | AP              |   |                        |                        |

011632

Absentee

5/9/2007

| Type                 | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Diagnosed | Convicted/guilty pleas (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City/County | State        | Date      | Type of Election | Alleged Instance of fraud   | Original Source          | Resolution of Incident / allegation  | Source of Resolution 1                      | Source of Resolution 2 |
|----------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|----------------------|--|-------------|--------------|-----------|------------------|---|--------------------------|--|---|------------------------|
|                      |                     |                             |                |                             |                       |                     | 4                                    | 4                    |  | Sioux Falls | South Dakota | 2-Nov-04  | senatorial       | Three former Republican notary publics pled guilty to signing absentee ballots without witnessing the signatures. Three other former GOP workers are charged, as is one Daschle staff person accused of not being present for two notary applications. Officials say none of the incidents affected any votes | AP                       | A fourth former employee of the South Dakota Republican Party's get-out-the-vote operation has pleaded guilty to improperly notarizing absentee-ballot re-quests, and another who had pleaded not guilty will appear in court next week to change his plea. Six workers for the GOP Victory effort resigned last month after questions surfaced about some absentee-ballot applications collected at college campuses across the state. Charges were filed after officials said the workers notarized applications collected by other workers, violating a state law that requires notaries to witness documents being signed before they can give them their official seal. | November 4, 2004, Argus Leader              |                        |
| Coercion             | Yes                 |                             |                |                             |                       |                     |                                      |                      |  | Dallas      | Texas        | 10-May-01 | district council | Both candidates accuse the other of manipulating the absentee ballot votes of senior citizens   | Dallas Observer          |  |   |                        |
| Forgery-Other Voters |                     |                             |                |                             | 1                     |                     |                                      |                      | Yes  | Dallas      | Texas        | 16-May-01 | city council     | Several affidavits alleging mail-in voter fraud have been submitted to the Dallas County district attorney's office, according to election officials. But prosecutors have declined to comment about whether those allegations, or any others, would result in a criminal complaint.                          | Dallas Morning News      | A voter fraud investigation has resulted in the indictment of a Dallas woman who is accused of filling out a mail-in ballot in May without the voter's permission, a Dallas prosecutor said Tuesday.   | February 13, 2002, Fort-Worth Star Telegram |                        |
| Forgery              |                     |                             |                |                             |                       |                     |                                      |                      |  | Dallas      | Texas        | 27-Jul-02 | district council | A candidate for the council alleged three campaign workers spent Friday reviewing mail-in ballots and applications for the ballots and found at least 69 that they believe might have forged signatures on either document.   | Fort Worth Star-Telegram |  |   |                        |
| Forgery-Unknown      |                     |                             | DA             |                             |                       |                     |                                      |                      | Yes  | Dallas      | Texas        | 22-Apr-03 | city council     | A candidate submitted 12 absentee ballot applications with forged signatures. The DA is investigating.  | Dallas Morning News      |  |   |                        |

011633

Absentee

5/9/2007

| Type                              | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City / County | State | Date      | Type of Election                             | Alleged instance of fraud  | Original Source          | Resolution of Incident / allegation   | Source of Resolution 1   | Source of Resolution 2 |
|-----------------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|----------------------|--|---------------|-------|-----------|--|--|--------------------------|---|--------------------------|------------------------|
| Forgery-Other Voters              |                     |                             |                |                             | 17                    |                     | 5                                    |                      |  | Hearne        | Texas | 18-Oct-03 | municipal                                    | Man fined and sentenced to five years probation for voting in the names of three dozen other people by absentee ballot. He is the fifth person to plead guilty to similar charges brought by a grand jury in August.17 were indicted.  | Houston Chronicle        |   |                          |                        |
| Forgery-Unknown                   |                     |                             |                |                             | 30                    |                     |                                      | Yes                  |  | Heame         | Texas | 28-Dec-03 | mayoral                                      | 30 people were indicted for forged absentee ballot applications and sending in multiple absentee ballots   | Star Telegram            |   |                          |                        |
| Forgery-Unknown/Dead/Other Voters |                     |                             |                |                             | 5                     |                     |                                      |                      |  | El Paso       | Texas | 12-Feb-04 | water board                                  | Several mail in ballot requests appeared to be filled out by the same person and a few were in the names of dead people. A precinct chairwoman was charged with four counts of tampering with government records   | Assoc Press              | Five people have been charged with sending in absentee ballot applications in the names of other people | 2/13/2004, El Paso Times |                        |
| Multiple                          |                     |                             |                |                             |                       |                     |                                      |                      |  | Hidalgo       | Texas | 3-Mar-04  | miscellaneous, from congress to judge's race | Complaints were made to the Board of Elections against workers for several campaigns of irregularities concerning absentee ballots, including coercion of elderly voters, a complaint that someone requested an absentee ballot for a dead voter; four people said their ballots were already sealed when they received them, and a voter whos absentee ballot that was sent elsewhere   | The Monitor              |   |                          |                        |
| Forgery-Dead                      |                     |                             | DA             |                             |                       |                     |                                      | Yes                  |  | Bexar         | Texas | 25-Mar-04 | congressional                                | The names of 42 deceased people, most of whom lived on the South Side, appeared on applications for mail-in ballots that were submitted to election officials for the primaries. A computer at the Bexar County elections office flagged the applications and the district attorney's office is investigating. No ballots appear to have been sent to a dead person as a result of the applications, election officials have said. However, the applications were cited by Henry Cuellar - a Democratic candi-date for the District 28 congressional seat who lost by 145 votes - as one of several concerns that persuaded him to call for a recount this week. The list of applicants includes next-door neighbors, people who never voted when they were alive, and two who died in 1988. | San Antonio Express-News |   |                          |                        |

011634

Absentee

5/9/2007

| Type         | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquitted/Dismitted | Convicted/guilty pleas (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City/County       | State | Date      | Type of Election | Alleged Instance of fraud  | Original Source             | Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|--------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|----------------------|--|-------------------|-------|-----------|------------------|--|-----------------------------|-------------------------------------|------------------------|------------------------|
|              |                     |                             |                |                             |                       |                     |                                      |                      |  |                   |       |           |                  | All but one bear the deceased's correct voter registration number. Each had the correct address and voting precinct, and all indicated the voter was older than 65, which is one of the reasons individuals may obtain a mail-in ballot. But whoever filled out many of the applications didn't alter his or her handwriting on the forms, all of which supposedly were done by the individual voters. Two batches of the falsified documents show clear similarities. |                             |                                     |                        |                        |
| Coercion     |                     |                             |                |                             |                       |                     |                                      |                      |  | South San Antonio | Texas | 23-May-04 |                  | Elderly voters complain of "vote brokering" whereby "coyotes" pressure them into voting by absentee ballot. Investigators have looked into this in the past, and there has only been one conviction of someone pressuring others to vote absentee.   | San Antonio Express-News    |                                     |                        |                        |
| Forgery-Dead |                     |                             | DA             |                             |                       |                     |                                      | Yes                  |  | Robstown          | Texas | 27-May-04 | school district  | The District Attorney requested a recount of ballots because of many complaints of people filing mail-in ballots sent to homes of people who have died. One of the candidates says that in one instance a wife mailed in the ballot of her husband who just died, and another was a son's vote being mistaken for the father's because they had the same name.   | Corpus Christi Caller-Times |                                     |                        |                        |

011635

Absentee

5/9/2007

| Type      | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charge (Individuals) | Acquitted/Dismittal | Convicted/guilty pleas (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City/County | State    | Date          | Type of Election | Alleged instance of fraud   | Original Source             | Resolution of incident / allegation  | Source of Resolution 1   | Source of Resolution 2 |
|-----------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|--------------------------------------|----------------------|--|-------------|----------|---------------|------------------|---|-----------------------------|--|--------------------------|------------------------|
| Multiple  |                     |                             | Police         |                             | 5                    |                     |                                      |                      | Yes  | Falfurrias  | Texas    | 11-Sep-04     | city             | After a May 26 recount, Jaime received 501 votes and Martinez wound up with 500 votes. In June, Martinez filed an election contest in district court claiming that "numerous co-conspirators" obtained votes by instructing the voters to cast their ballots for particular candidates. But a criminal investigation into voting violations started before voters cast the final ballots, according to a police report. So far, the criminal investigation has resulted in five felony and one misdemeanor indictments: Santiago Vela was indicted on a bribery charge; Armando Gonzalez, Vanessa Kiser and Roel Mireles were indicted on illegal voting charges; Magdalena Saenz was indicted on an unlawful delivery of a voting certificate charge. One woman, Mima Quintanilla, was indicted on a misdemeanor charge for allegedly filling out a mail-in ballot for a voter without permission. | Corpus Christi Caller-Times |  |                          |                        |
|           | Yes                 |                             |                |                             |                      |                     |                                      |                      |  | Houston     | Texas    | 11-Nov-05     | mayoral          | Candidate alleges that 64 of the 579 absentee ballots cast in the primary are questionable.   | AP                          |  |                          |                        |
| Tampering |                     |                             | Police         |                             |                      |                     |                                      |                      |  | Hidalgo     | Texas    | 004, March 6, | primary          | Texas Rangers investigate tampering with mail ballots by "politiqueras"   | The Monitor                 |  |                          |                        |
| Coercion  |                     |                             |                |                             | 1                    |                     |                                      |                      | Yes  | Gate City   | Virginia | 2-Aug-05      | mayor            | mayor is indicted on 37 felony counts of voter fraud for coercing choices on absentee ballots   | Roanoke Times               | The former mayor was arraigned in Scott County Circuit Court. He entered not guilty pleas to 18 charges of aiding and abetting in violating the absentee voting process, 17 charges of making a false statement on an absentee ballot application, and two charges of conspiracy. Authorities say he targeted elderly and unsophisticated voters, pressuring them to give false reasons for voting absentee and sometimes filling out their ballots himself. | 8/17/2005, Roanoke Times |                        |

011635

Absentee

5/9/2007

| Type:                   | Partisan Allegation: | Other Source for Allegation: | Investigation? | Other Official involvement? | Charge (Individuals): | Acquittal/Dissal: | Convicted/guilty (Individuals): | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City/County: | State:    | Date:     | Type of Election:   | Alleged instance of fraud:  | Original Source:           | Resolution of Incident / allegation: | Source of Resolution 1: | Source of Resolution 2: |
|-------------------------|----------------------|------------------------------|----------------|-----------------------------|-----------------------|-------------------|---------------------------------|----------------------|--|--------------|-----------|-----------|---------------------|---|----------------------------|--------------------------------------|-------------------------|-------------------------|
| Forgery-Voters/Coercion |                      |                              | DA             |                             |                       |                   |                                 |                      | Yes  | Milwaukee    | Wisconsin | 5-Mar-03  | county board recall | A police handwriting expert labeled signatures on 60 absentee ballot envelopes suspicious and elections officials and the DA questioned 36 more. The 96 are among 162 that were distributed to 5th District voters by the African American Coalition for Empowerment. The group had residents agree to ask the city to send absentee ballots to their offices rather than directly to the voters. The group then went to the homes, witnessed the votes and returned the ballots. | Milwaukee Journal Sentinel |                                      |                         |                         |
| Forgery-Other Voter     |                      |                              |                |                             |                       |                   | 1                               |                      |  | Milwaukee    | Wisconsin | 15-Jan-04 | county recall       | A voting rights activist was convicted of three felony counts stemming from his management of an absentee ballot campaign. Although evidence suggested forgery and other mischief, the case turned on one voter registration card. The voter had his signature forged by his girlfriend, and the activist had signed the form as a deputy registrar.  | Milwaukee Journal Sentinel |                                      |                         |                         |
| Forgery-Unknown         |                      |                              |                |                             |                       |                   | 1                               |                      |  | Milwaukee    | Wisconsin | 20-Feb-04 | county recall       | One person is convicted for forging absentee ballots  | Milwaukee Journal Sentinel |                                      |                         |                         |



Absentee

5/9/2007

| Type: | Partisan Allegation: | Other Source for Allegation: | Investigation? | Other Official involvement? | Charge (Individuals) | Acquitted/Dismissal? | Convicted/guilty pleas (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City/County | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution 1: | Source of Resolution 2: |
|-------|----------------------|------------------------------|----------------|-----------------------------|----------------------|----------------------|--------------------------------------|----------------------|--|-------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|-------------------------|-------------------------|
|       |                      |                              |                |                             |                      |                      |                                      |                      |  |             |       |      |                  |                           |                 |                                     |                         |                         |

011638

Absentee

5/9/2007

| Type | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charge (individuals) | Acquitted/Dismisssal | Convicted/guilty (individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City/County | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|----------------------|--------------------------------|----------------------|--|-------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|------------------------|------------------------|
|      |                     |                             |                |                             |                      |                      |                                |                      |  |             |       |      |                  |                           |                 |                                     |                        |                        |

011639

Absentee

5/9/2007

| Type: | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involved? | Charge (Individuals) | Acquitted/Demission? | Convicted/guilty pleas (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------|---------------------|-----------------------------|----------------|--------------------------|----------------------|----------------------|--------------------------------------|----------------------|--|------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|------------------------|------------------------|
|       |                     |                             |                |                          |                      |                      |                                      |                      |  |      |       |      |                  |                           |                 |                                     |                        |                        |

011640

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Noncitizen Voting

| City / County   | State          | Date      | Type of Election       | Alleged instance of fraud  | Original Source          | Source1 | Source 2 | Source 3 |
|-----------------|----------------|-----------|------------------------|--|--------------------------|---------|----------|----------|
| Maricopa County | Arizona        | 5-Nov-05  |                        | 159 noncitizens were found on the voting rolls. The county recorder said all of the cases involved people who misunderstood voting requirements. The county attorney nonetheless has charged ten of the immigrants with felonies.  | LA Times                 |         |          |          |
| Compton         | California     | 12-Feb-02 | mayor and city council | After an electon legal challenge, two incumbents who originally lost were reinstated. In her ruling, the judge said numerous noncitizens voted illegally.  | Los Angeles Times        |         |          |          |
| Pontiac         | Michigan       | 11-Dec-01 | mayor                  | Losing candidate claims there was "suspect" noncitizen voting  | Detroit Free Press       |         |          |          |
|                 | Minnesota      | 23-Feb-05 | presidential           | Secretary of State Kiffmeyer said that she has asked several county attorneys across Minne-sota to investgate evidence her staff uncovered that suggests some noncitizens illegally registered to vote in the November election. "So far, at least, we have 32 people who have registered to vote and seem to be -- allegedly -- not U.S. citizens," Kiffmeyer said. Some of the 32 also voted in the election. Both registering and voting are illegal for noncitizens. Kiffmeyer said her staff discovered the possible crminal offenses by compar-ing voter registration cards to driver's license records, which now identify noncitizens visiting the United States on visas. | Saint Paul Pioneer Press |         |          |          |
|                 | North Carolina | 24-Oct-04 |                        | A Washington-based advocacy group for tougher immigration laws recently said that it believes illegal immigrants may be registered to vote in North Carolina because they were able to sign up when obtaining driver's licenses without Social Security numbers.State elections and Division of Motor Vehicles officials say they've run two checks - one in 2002 and again this year - of people who received driver's li-censes without proof of citizenship and found only a handful who had registered to vote. Those cases are being investigated, they said.   | AP                       |         |          |          |
| Houston         | Texas          | 28-Jan-05 | state house            | Republican representative ousted narrowly by Democratic opponent alleges there was noncitizen voting in the election   | Dallas Morning News      |         |          |          |
|                 | Utah           | 30-Aug-05 |                        | The Attorney General will investigate allegations in a legislative audit that found evidence of fourteen people believed to be noncitizes who have voted in a past election. The auditors office has said that a follow up investigation found that 6 of the 14 were actually citizens, two were confirmed by immigration authorities as having prior deportation orders and the other 6 are still under review. Of the six that were citizens, three had their Social Security numbers mistyped in the database and three were naturalized citizens.  | Desert Morning News      |         |          |          |

011641

011642

011643

011644

011645



| Resolution of Incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |

011646

011647

011648

011649

011650

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Vote Buying

| City / County   | State     | Date      | Type of Election       | Alleged instance of fraud   | Original Source           | Source1 | Source 2 | Source 3 |
|-----------------|-----------|-----------|------------------------|---|---------------------------|---------|----------|----------|
| Phenix City     | Alabama   | 31-Aug    | municipal              | The Attorney General and DA are investigating allegations of buying of absentee ballot votes  | Columbus Ledger-Enquirer  |         |          |          |
| Pulaski         | Arkansas  | 29-Aug-02 | US House               | Candidate says opposing campaign's consultant was paying residents of black nursing homes to cast absentee ballots and trying to skew the vote of black voting precincts in some cases.   | Arkansas Democrat-Gazette |         |          |          |
| Washington Park | Illinois  | 17-May-01 | village                | Candidate alleges that one voter was paid not to vote after being paid to vote absentee and two other people, possibly noncitizens, were paid for absentee ballots.   | Belleville News-Democrat  |         |          |          |
| East St. Louis  | Illinois  | 30-Jun-05 | county                 | 5 convicted of conspiring to buy votes with cash, cigarettes and liquor   | Chicago Sun Times         |         |          |          |
| Berrien County  | Indiana   | 16-Apr-05 | city commission        | A Berrien County judge Friday overturned the recall of Glenn Yarbrough in a civil trial against the city of Benton Harbor and Clerk Jean Nesbitt. In his ruling, Judge Paul Maloney said the true will of the people was violated by gross voter fraud in February's recall election. He cited bought votes, forged ballots, and jobs promised in return for "yes" votes, crimes allegedly committed by someone other than Yarbrough. | South Bend Tribune        |         |          |          |
| Clay            | Kentucky  | 24-Oct-02 | county                 | federal prosecutors are investigating absentee vote buying  | Courier Journal           |         |          |          |
|                 | Kentucky  | 6-Nov-02  | primary                | In Knott County, there were nearly a dozen complaints in the primary alleging vote-selling for drugs, said assistant commonwealth's attorney Lori Daniel, but no one has admitted it. She said the attorney general's office has a pending investigation in Knott County. Reports of vote-buying also were reported in Magoffin, Pike and Floyd counties during the primary.  | Courier Journal           |         |          |          |
| London          | Kentucky  | 16-Sep-04 | 2002 Judicial          | Man found guilty of paying \$10 each to a group in a church parking lot after voting  | AP                        |         |          |          |
| Winnfield       | Louisiana | 12-Apr-02 | police chief and mayor | Losing candidate accuses opponent of paying ten people to vote  | Daily Town Talk           |         |          |          |
| Marksville      | Louisiana | 15-May-02 | mayoral                | Two men accused of buying votes for small amounts of money  | AP                        |         |          |          |
| Iberville       | Louisiana | 13-Dec-02 | primary                | Iberville Parish Councilman Howard Oubre Jr. and three other Plaquemine residents were arrested Thursday for allegedly paying people to vote absentee in a recent election. Oubre went into the community and solicited people to vote absentee in the Oct. 5 primary election. Oubre allegedly paid these people between \$3 and \$10  | The Advocate              |         |          |          |
| River Rouge     | Michigan  | 4-Apr-04  | mayoral                | State police are looking into allegations that the mayor's supporters offered payments of up to \$25 for absentee votes   | Yahoo News                |         |          |          |

011651

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

|                |                |           |              |  |                         |  |  |  |
|----------------|----------------|-----------|--------------|--|-------------------------|--|--|--|
| Ingham         | Michigan       | 6-Oct-04  | presidential | The Michigan Republican Party accused Michael Moore of bribing students to vote in the presidential election. The party sent letter to prosecutors in four counties. As part of his tour, Moore tossed out packets of low-priced instant noodles and 12-packs of Hanes briefs to students who promised they would vote.  | Lansing State Journal   |  |  |  |
| Detroit        | Michigan       | 15-Dec-05 | mayoral      | Detroit's top elections official said Wednesday she is concerned that people may have sold votes on the eve of the city's Nov. 8 election, and said she may ask the Wayne County prosecutor to investigate.<br>Gloria Williams, director of elections for City Clerk Jackie Currie, cited a Nov. 7 incident in which a Detroit man told police he thought he witnessed a scheme to pay people for votes as he stood in line to cast an absentee ballot.<br>Detroit police took a report from the man but closed the case without further contact with the suspects or witnesses. A woman cited in the police report said nothing improper happened - political activists were coordinating with poll workers. Williams said the question is whether the people were required to vote a certain way in exchange for jobs handing out literature and promoting candidates at voting places the next day. | Detroit Free Press      |  |  |  |
| Tippah         | Mississippi    | 27-Mar-04 | sheriff      | Seven people have been charged for buying people's votes on absentee ballots   | AP                      |  |  |  |
| East St. Louis | Missouri       | 2-Jun-05  | mayoral      | A precinct committeeman and four others are on trial, accused of using money from the County Democrats to buy votes  | St. Louis Post-Dispatch |  |  |  |
| Lenoir         | North Carolina | 9-Mar-03  | sheriff      | For \$ 10, \$ 20 or \$ 25, dozens of people -- perhaps more than 300 -- sold their votes in a race that saw a veteran Democratic sheriff turned out of office. The State Bureau of Investigation has been on the case for months, assigning as many as 10 agents to it. The U.S. Attorney's Office in Charlotte is also involved. So far, there have been no indictments.  | News and Observer       |  |  |  |

011652

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

|                            |               |           |  |   |                              |  |  |  |
|----------------------------|---------------|-----------|--|---|------------------------------|--|--|--|
| Rosebud Indian Reservation | South Dakota  | 23-Dec-02 | US Senate                              | <p>Republicans investigating Election Day irregularities in South Dakota based allegations of vote buying on rumors discussed on the Rosebud Indian Reservation, says David Norcross, a New Jersey lawyer who presided over the search for fraud.</p> <p>Republicans collected statements on a wide range of events, including accusations of people offering multiple names to vote and improper use of polling places by Democratic workers. The most serious claims, however, were three affidavits signed by Native Americans from the Mission area who said they were offered \$10 to vote by the driver of a van with a Tim Johnson for Senate sign in the window.</p> <p>Attorney General Mark Barnett has said that two of those statements were false and the third was suspect, but not before the allegations became the basis of reports in several national media outlets.</p> | Argus Leader                 |  |  |  |
| Pine Ridge Reservation     | South Dakota  | 2-Nov-04  | presidential constitutional amendments | <p>On the Pine Ridge Indian Reservation, investigators are looking into Republican allegations of vote-buying.</p> <p>DA is investigating an employer for allegedly giving concert tickets to workers who cast early ballots</p>  | AP                           |  |  |  |
| Gregg                      | Texas         | 9-Sep-03  | mayoral                                | <p>Grand jury is investigating whether "politiqueras" tried to buy absentee ballots</p>   | Tyler Morning Telegraph      |  |  |  |
| McAllen                    | Texas         | 20-Aug-05 | mayoral                                | <p>Ten people were indicted on allegations of telling people who to vote for and unlawful solicitation of ballots for money.</p>  | The Monitor                  |  |  |  |
| Hidalgo                    | Texas         | 22-Dec-05 | mayoral                                | <p>Candidate alleges the opposing campaign bribed some voters with money, beer and cigarettes in exchange for their votes, according to his lawsuit contesting the election</p>   | AP                           |  |  |  |
| Falfurrias                 | Texas         | 11-Sep-04 | city                                   | <p>State police are looking at claims that supporters of a candidate offered food, cigarettes and liquor to residents in a public housing complex for letting the supporter fill out absentee ballots for them</p>  | Corpus Christie Caller Times |  |  |  |
| Appalachia                 | Virginia      | 11-May-05 | council                                | <p>County sheriff pleads guilty to conspiring to buy votes in elections he was running in</p>   | The Post                     |  |  |  |
| Logan                      | West Virginia | 19-Jul-04 | federal primaries                      | <p>12 people are indicted for selling their votes for \$20 or \$40.</p>   | AP                           |  |  |  |
| Lincoln                    | West Virginia | 31-May-05 | primary                                | <p>Logan County Clerk plans to plead guilty to conspiring to bribe voters between 1992 and 2002. Prosecutors already have guilty pleas from the county sheriff and the police chief.</p>  | AP                           |  |  |  |
| Logan                      | West Virginia | 29-Nov-05 | various                                | <p>FBI operates a sting operation by putting up a phony candidate to catch a man engaging in buying votes. Man is being tried for conspiracy to buy votes</p>   | Washington Post              |  |  |  |

011653



**EAC Voting Fraud-Voter Intimidation Preliminary Research**  
**Nexis Articles - Vote Buying**

|       |               |           |         |  |    |  |  |  |  |
|-------|---------------|-----------|---------|--|----|--|--|--|--|
|       | West Virginia | 1-Jan-06  |         | Thirteen people have been convicted of vote buying in the southern part of West Virginia over the last several years, including the 2004 primaries. However, the federal investigation is ongoing. In terms of cooperating witnesses, prosecutors may also continue to rely on Thomas Esposito. In an apparently unprecedented move, the FBI briefly planted the former longtime Logan mayor as a candidate in a 2004 legislative race. Evidence supplied by Esposito and his 75-day candidacy yielded December guilty pleas from two Logan County residents | AP |  |  |  |  |
| Hanna | Wyoming       | 27-Apr-01 | mayoral | State Division of Criminal Investigation said gratuities, such as alcoholic beverages, were allegedly offered in exchange for votes.   | AP |  |  |  |  |
|       |               |           |         |  |    |  |  |  |  |

011654

011655

011656

011657

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

| Resolution of Incident / allegation  | Source of Resolution 1   | Source of Resolution 2     |
|--|--|----------------------------|
|  |  |                            |
|  |  |                            |
|  |  |                            |
|  |  |                            |
| <p>1. August 2003 two acquitted of vote buying in the primary. In June 2003 another man in Lackey was found innocent of vote buying. Two indicted in Knott County pled guilty earlier in August 2003. 15 still under indictment 2. February 3, 2004: Knott County man sentenced to 20 months in prison for vote buying in the 1998 primary. The Knott County Judge-Executive and another man were convicted October 1 of vote buying</p> | <p>August 16, 2003,<br/>         Courier Journal</p>   | <p>AP February 3, 2004</p> |
|  |  |                            |
| <p>1. Both were convicted. 2. One of the accused had his conviction overturned by the 3rd circuit</p>  | <p>1. Daily Town Talk,<br/>         September 21, 2002 2.<br/>         Daily Town Talk, April 3,<br/>         2003</p> |                            |
|  |  |                            |
|  |  |                            |

011658

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Vote Buying

|  |   |  |
|--|---|--|
|  |   |  |
|  |   |  |
|  |   |  |
|  |   |  |
| 5 Democratic operatives were convicted, four pled guilty | Belleville News Democrat (July 3, 2005) |  |
|  |   |  |

011659

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

|   |  |  |
|---|--|--|
| <p>Republican attorneys fanned out across the state on Election Day to gather affidavits to show vote buying. The State Attorney General (a Republican) says that of the 50 affidavits only three alleged criminal activity, and two of those proved to be false. One person is being investigated. Two of the affidavits were found to have been forged or perjurious. Each affidavit states that the person allegedly signing it calimed to have been picked up by a van driver, offered 10 to vote, taken to the polling place and home again and again offered the 10. Most of the allegations focused on the Rosebud Reservation</p> | <p>1/1/2003, Indian Country Today (Lakota Times)</p> |  |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |
| <p>A special prosecutor was named to oversee an investigation into al-legged vote buying and ballot theft in Appalachia</p>   | <p>Roanoke Times, September 24, 2004</p>             |  |
|   |  |  |
|   |  |  |
|   |  |  |

011660

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Vote Buying

|  |  |                            |
|--|--|----------------------------|
|  |  |                            |
|  |  |                            |
| <p>1. August 2003 two acquitted of vote buying in the primary. In June 2003 another man in Lackey was found innocent of vote buying. Two indicted in Knott County pled guilty earlier in August 2003. 15 still under indictment 2. February 3, 2004: Knott County man sentenced to 20 months in prison for vote buying in the 1998 primary. The Knott County Judge-Executive and another man were convicted October 1 of vote buying</p> | <p>August 16, 2003,<br/>         Courier Journal</p> | <p>AP February 3, 2004</p> |

011661



011662

011663

011664

Intimidation and Suppression

5/9/2007

| Type                     | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigator? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State    | Date      | Type of Election | Alleged instance of fraud  | Original Source           | Resolution of Incident / allegation | Source of Resolution 1 |
|--------------------------|--------------------------|---------------------|-----------------------------|---------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|----------|-----------|------------------|--|---------------------------|-------------------------------------|------------------------|
| Challenges               | Yes                      |                     | third-party                 |               |                             |                       |                     |                                      |                       | Alabama  | 29-Aug-04 | city council     | About 50 challenged ballots in a Bayou La Batre City Council contest have stirred discrimination concerns because they were all demanded from Asian-American voters. Fred Marceaux of Coden, an advocate for the Asian community, called the challenged ballots "scare tactics." By all accounts, the voters were challenged to their faces as they walked into the polling place at the Bayou La Batre Community Center. Being publicly confronted on their first trip to the voting booth visibly up-set many of those who were challenged. Until this year, Asians here have seemed reluctant to step into local politics, preferring to live as a self-contained community for the most part.  | AP                        |                                     |                        |
| Polling Place Harassment |                          |                     | Pollworker/third-party      |               |                             |                       |                     | Yes                                  |                       | Arizona  | 1-Oct-04  | presidential     | A pollworker says that during the primary two men came in and said they were checking the polls to see if illegal aliens were voting. They said the name of their organization was Truth in Action. A voting rights advocate says the group was visiting many poll sites. The editor of the organization's website says he visited the polls wearing a black t-shirt with "US Constitutional Enforcement" on the back and the image of a badge on the front. He carried tools, a camera and a video recorder to "film all the conversations I had." He said that for the general election, if he sees "a busload of Hispanic individuals who didn't speak English and who voted," he plans to follow that bus to make sure they aren't voting more than once.  | The Progressive           |                                     |                        |
| Structural Barrier       |                          |                     |                             |               |                             |                       |                     | Yes                                  |                       | Arizona  | 6-Nov-05  |                  | In Phoenix (Maricopa County) more than 10,000 people trying to register have been rejected for being unable to prove their citizenship. Yvonne Reed, a spokesman for the recorder's office, said that most are probably U.S. citizens whose married names differ from the ones on their birth certificates or who have lost documentation. She hopes the number of rejected voters shrinks as election officials explain the new requirements. But, she said, "there will be an amount of people who we will not be able to get on the rolls because of not being able to find the right documents or just losing interest." In Tucson (Pima County) 60 percent of those who tried to register initially could not. Elections chief Chris Roads said that all appeared to be U.S. citizens, but many had moved to Arizona recently and couldn't access their birth certificates or passports. Many of those prospective voters have since been able to register, but Roads said about 1,000 citizens are still unable to vote in this week's election because of Proposition 200 requirements. | Los Angeles Times         |                                     |                        |
| Challenges               | Yes                      | Yes                 |                             |               |                             |                       |                     |                                      |                       | Arkansas | 31-Oct-02 |                  | Slate Democratic Party Chair accuses a Republican poll worker of focusing only on black and elderly voters during his challenges.  | Arkansas Democrat Gazette |                                     |                        |

Intimidation and Suppression

5/9/2007

| Type                     | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation?    | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty plea (Individuals) | Follow-up recommended | State       | Date      | Type of Election                  | Alleged Instance of fraud   | Original Source       | Resolution of Incident / allegation | Source of Resolution |
|--------------------------|--------------------------|---------------------|-----------------------------|-------------------|-----------------------------|-----------------------|---------------------|-------------------------------------|-----------------------|-------------|-----------|-----------------------------------|---|-----------------------|-------------------------------------|----------------------|
| Polling Place Harassment | Yes                      | Yes                 |                             |                   |                             |                       |                     |                                     | Yes                   | Arkansas    | 6-Nov-02  |                                   | In Arkansas, where voters were allowed to cast their ballots up to two weeks early to lessen the pressure on election day, there were allegations of intimidation in the early voting. Democrats claimed that black voters were photographed as they arrived at polling booths and had their identities subjected to disproportionate scrutiny.         | The Guardian          |                                     |                      |
| Polling Place Harassment | Yes                      | Yes                 |                             |                   |                             |                       |                     |                                     | Yes                   | Arkansas    | 30-Dec-02 |                                   | Democrats accused Republican poll watchers of driving away voters in predominantly black precincts by taking photos of them and demanding identification during early voting  | The American Prospect |                                     |                      |
| Polling Place Harassment | Yes                      | Yes                 |                             |                   |                             |                       |                     |                                     |                       | Arkansas    | 17-Nov-04 | presidential                      | DNC Chair says black voters in Arkansas were harassed during early voting   | Ethnic News Watch     |                                     |                      |
| Polling Place Harassment |                          | Yes                 |                             |                   |                             |                       |                     |                                     | Yes                   | California  | 14-Nov-01 | mayoral                           | The ousted mayor's attorney, in a legal challenge to the election, said he intends to show that Perrodin's supporters pulled guns on voters at precincts  | AP                    |                                     |                      |
| Police                   |                          | Yes                 |                             |                   |                             |                       |                     |                                     |                       | California  | 28-Jan-03 | treasurer and city council recall | The anti-recall camp accuses police officers of harassment and of "staring down" residents.   | Los Angeles Times     |                                     |                      |
| Pollworkers              | Yes                      |                     | Third-party                 |                   |                             |                       |                     |                                     |                       | California  | 5-Nov-03  | local                             | Latino community organizer tells city council panel that Latinos have experienced poll workers who intimidate Latinos by illegally asking them to show identification   | Union-Tribune         |                                     |                      |
| Pollworkers/ID           | Yes                      |                     | Third-party                 |                   |                             |                       |                     |                                     | Yes                   | California  | 2-Feb-04  | mayoral                           | A group called the People of Color Caucus alleged that some Latinas wearing Gonzalez buttons were told they were not allowed to vote  | Los Angeles Times     |                                     |                      |
| Challenges               |                          | Yes                 |                             |                   |                             |                       |                     |                                     | Yes                   | Colorado    | 28-Oct-04 | presidential                      | Democrats fear what they believe to be a plan by Republicans to challenge new voters, especially students at the University of Colorado at Boulder who may seek to use student IDs as proof of identification at the polls. State GOP brass said they have no such plan.  | Denver Post           |                                     |                      |
| Police                   |                          |                     |                             |                   |                             |                       |                     |                                     |                       | Connecticut | 11-Nov-02 | congressional                     | U.S. Representative tells Republican registrars to request police supervision at the polls if they are concerned about fraud or disturbance   | The Day Online        |                                     |                      |
| Pollworkers              | Yes                      |                     |                             | Federal Observers |                             |                       |                     |                                     | Yes                   | Florida     | 23-May-02 | 2001 special election             | Federal observers found pollworkers downright "hostile" to Hispanics, even insisting that voters must speak English to vote   | St. Petersburg Times  |                                     |                      |
| Challenges               |                          | Yes                 |                             |                   |                             |                       |                     |                                     |                       | Florida     | 1-Nov-02  |                                   | Citing fears of voter intimidation and a repeat by GOP operatives to "barrage polling places," local Democrats -- including former U.S. Attorney General Janet Reno and U.S. Rep. Carrie Meek -- are suing to block Miami-Dade County from allowing a Republican political action committee to put poll watchers inside the county's precincts Tuesday. | Miami Herald          |                                     |                      |

011665

Intimidation and Suppression

5/9/2007

| Type                                | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State   | Date      | Type of Election | Alleged Instance of fraud   | Original Source      | Resolution of Incident / allegation | Source of Resolution |
|-------------------------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|---------|-----------|------------------|---|----------------------|-------------------------------------|----------------------|
| Purge                               | Yes                      | Yes                 |                             |                |                             |                       |                     |                                      |                       | Florida | 22-Jun-04 | presidential     | Harkening back to the 1960s, when Southern states used poll taxes and in-limidation to shut blacks out of elections, the Rev. Jesse Jackson on Monday accused Florida Gov. Jeb Bush of engaging in "disenfranchisement schemes" by asking counties to purge felons from voter rolls. "This is a typical South [tactic], denying the right to vote based on race and class," Jackson said. "You see classical voter disenfranchisement. These schemes to deny or suppress voters are not new schemes." | Miami Herald         |                                     |                      |
| Police                              | Yes                      |                     |                             | Federal        |                             |                       |                     |                                      | Yes                   | Florida | 19-Sep-04 | presidential     | The Justice Department is investigating accusations that Florida law enforcement officers intimidated elderly black voters during a probe of voting fraud in the Orlando mayoral election. Civil rights groups and Democrats contend that the agents presence and behavior, including allegedly displaying their guns, intimidated the minority voters they visited.  | AP                   |                                     |                      |
| Pollworkers/ID                      |                          |                     | Third-party                 |                |                             |                       |                     |                                      |                       | Florida | 1-Oct-04  | presidential     | Representatives from People for the American Way saw poll workers turn back registered voters who did not have ID, although that is not required. A spokeswoman from Election Protection says that several voters report being asked if they are citizens during early voting.  | The Progressive      |                                     |                      |
| Challenges                          |                          | Yes                 |                             |                |                             |                       |                     |                                      |                       | Florida | 16-Oct-04 | presidential     | Democratic election lawyer says Republican plans to challenge voters at the polls may intimidate voters.  | St. Petersburg Times |                                     |                      |
| Polling Place Harassment            |                          |                     |                             |                |                             |                       |                     |                                      |                       | Florida | 25-Oct-04 | presidential     | Two white men were filming voters as they entered the poll site in a presumed attempt at intimidation.  | Financial Times      |                                     |                      |
| Pollsite Intimidation (third-party) |                          | Yes                 |                             |                |                             |                       |                     |                                      | Yes                   | Florida | 26-Oct-04 | presidential     | The Republican Party distributed to the media affidavits from anonymous voters claiming to be harassed at polling sites in Miami, Pembroke Pines, Boca Raton, Plantation, St. Petersburg, Jacksonville Apopka and Tallahassee.  | Miami Herald         |                                     |                      |
| Multiple                            |                          | Yes                 |                             |                |                             |                       |                     |                                      |                       | Florida | 27-Oct-04 | presidential     | Democratic National Committee (DNC) Chairman Terry McAuliffe has accused Republicans of engaging in "systematic efforts" to disenfranchise voters, imposing unlawful identification requirements on voters, throwing eligible voters off the rolls and depriving voters of their right to cast a provisional ballot.  | Washington Times     |                                     |                      |
| Challenges                          |                          | Yes                 |                             |                |                             |                       |                     |                                      |                       | Florida | 29-Oct-04 | presidential     | Democrats have complained that GOP poll watchers will issue challenges in order to slow down the voting process and drive people away from the polls.   | Palm Beach Post      |                                     |                      |

011665

Intimidation and Suppression

5/9/2007

| Type                     | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual(s)) | Acquittal/Dismissal(s) | Convicted/guilty pleas (Individual(s)) | Follow-up recommended | State   | Date      | Type of Election | Alleged Instance of fraud  | Original Source      | Resolution of Incident / Allegation   | Source of Resolution 1       |
|--------------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-------------------------|------------------------|--|-----------------------|---------|-----------|------------------|--|----------------------|---|------------------------------|
| Challenges               | Yes                      | Yes                 |                             |                |                             |                         |                        |  |                       | Florida | 30-Oct-04 | presidential     | Democrats fear Republicans will systematically challenge black and Hispanic voters and create long lines at the polls. The suspicions were fed by reports that Republicans had a list of 1,866 voters they were planning to challenge in predominantly black areas of Jacksonville.  | Orlando Sentinel     | In the Jacksonville area, Republicans say they have a list of 2,663 newly registered voters from mostly Democratic black communities whose registration could be fraudulent. Republicans have said that poll watchers will enforce a portion of Florida law allowing poll watchers to challenge a voter at the polls. The St. Petersburg Times on Thursday quoted Gov. Jeb Bush as saying he would not have a problem with Republican poll watchers challenging the eligibility of voters | The Ledger, October 31, 2004 |
| Challenges               | Yes                      |                     | Third-party                 |                |                             |                         |                        |  | Yes                   | Florida | 30-Oct-04 | presidential     | Based on a 1982 consent decree, The Advancement Project filed a lawsuit asking a federal district court in New Jersey to ban GOP poll watcher activities in heavily minority precincts in Florida. The suit contends that in New Jersey, Louisiana, and North Carolina, the RNC sent mass mailers to thousands of voters registered predominantly in black precincts. When thousands were returned because of incorrect addresses, those names went on lists for challenges. The GOP says it has just done a mass mailer to new voters.  | Tampa Tribune        |   |                              |
| Polling Place Harassment |                          | Yes                 |                             |                |                             |                         |                        |  |                       | Florida | 30-Oct-04 | presidential     | At one polling station, Republicans claimed that Democratic poll watchers were approaching Republican voters and shouting "There's a dirty Bush supporter!" as they waited on line.  | Ottawa Citizen       |   |                              |
| Polling Place Harassment |                          | Yes                 |                             |                |                             |                         |                        |  |                       | Florida | 30-Oct-04 | presidential     | Democratic poll workers say Republican poll workers are intimidating Kerry supporters, staring at them and refusing to move away if they decline to accept a Bush-Kerry sticker.   | The Boston Globe     |   |                              |
| Polling Place Harassment |                          | Yes                 |                             |                |                             |                         |                        |  |                       | Florida | 30-Oct-04 | presidential     | A Republican Party spokesman said elderly voters standing in line at early polling places who refuse to accept Kerry stickers have been harassed with shouts of "Hey, we've got a Bush voter here!" He says Republican poll watchers and volunteers have been "pretty much continually harassed and intimidated."  | The Boston Globe     |   |                              |
| Challenges               | Yes                      | Yes                 |                             |                |                             |                         |                        |  |                       | Florida | 31-Oct-04 | presidential     | Democrats say Republicans are disproportionately putting poll watchers in predominantly minority precincts and said it could signal plans to intimidate or slow down voters. In Miami-Dade County, Democrats said 59% of predominantly black precincts have at least one Republican poll watcher, while 24% of predominantly white precincts have them. In Leon County, 64% of black precincts have at least one Republican poll watcher compared with 24% of majority white precincts. In Alachua, 71% of black precincts have a Republican poll watcher assigned, while 24% of white precincts do. | St. Petersburg Times |   |                              |

011667

Intimidation and Suppression

5/9/2007

| Type                     | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted / guilty pleas (Individuals) | Follow-up recommended | State   | Date     | Type of Election | Alleged Instance of fraud  | Original Source              | Resolution of Incident / allegation | Source of Resolution |
|--------------------------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--|-----------------------|---------|----------|------------------|--|------------------------------|-------------------------------------|----------------------|
| Polling Place Harassment | Yes                      |                     | Third-party                  |                |                             |                       |                     |  |                       | Florida | 1-Nov-04 | presidential     | Election Protection reports that Haitian Americans complained that "thugs" had walked along the waiting lines at an early polling site and demanded to see identification, while telling voters they could be deported.  | Cox News Service             |                                     |                      |
| Challenges               |                          |                     |                              |                | Police Action               |                       |                     |  |                       | Florida | 3-Nov-04 | presidential     | Four GOP poll watchers were ejected from the polls by police and another was "threatened by poll workers for telling them to assign voters provisional ballots. These are people without ids or even listed on the voter roll," according to a party statement.  | Boston Globe                 |                                     |                      |
| Challenges               |                          |                     |                              |                |                             |                       |                     |  |                       | Florida | 3-Nov-04 | presidential     | GOP challengers were monitoring the polls, armed with packets that included color mug shots of felons the party said were improperly included on the voting rolls. At the urging of the Bush campaign, some of the poll watchers were wearing buttons, hats or T-shirts that said "voting rights counselor."   | Washington Post              |                                     |                      |
| Police                   | Yes                      | Yes                 |                              |                |                             |                       |                     | Yes                                    |                       | Florida | 3-Nov-04 | presidential     | At Midway Elementary School east of Sanford, a predominantly black voter pre-cinct, Democratic officials complained a large law-enforcement presence intimidated voters. A deputy sheriff assigned to the precinct moved his patrol car, with his police dog inside, after Democrats complained to the Seminole County Sheriff's Office about it being parked at the entrance to the parking lot, where they said there were as many as four deputies at a time. | Orlando Sentinel             |                                     |                      |
| Polling Place Harassment |                          |                     |                              |                | Elections officials         |                       |                     |  |                       | Florida | 2-Mar-05 | presidential     | Shouting matches and rowdy behavior forced elections officials across the state to step in to keep the peace. Voters reported being harassed and intimidated at the polls.   | Orlando Sentinel             |                                     |                      |
| Pollworkers              |                          |                     | Voters                       |                |                             |                       |                     |  |                       | Georgia | 3-Nov-04 | presidential     | Many voters said they were denied provisional ballots or had to argue with poll workers to get them.   | Atlanta Journal Constitution |                                     |                      |

011668



Intimidation and Suppression

5/9/2007

| Type              | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissals | Convicted/guilty pleas (Individuals) | Follow-up recommended | State   | Date      | Type of Election | Alleged Instance of fraud  | Original Source | Resolution of incident / allegation | Source of Resolution |
|-------------------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|----------------------|--------------------------------------|-----------------------|---------|-----------|------------------|--|-----------------|-------------------------------------|----------------------|
| Challenges        | Yes                      |                     |                              |                | Court                       |                       |                      |                                      | Yes                   | Georgia | 28-Oct-04 | presidential     | <p>95 people who make up more than three-quarters of a rural Georgia county's registered Hispanic voters were summoned to a courthouse Thursday to defend their right to vote after a complaint alleged a county commissioner attempted to register non-U.S. citizens. The Atkinson County Board of Registrars, however, dismissed most of the complaint at the beginning of the hearing, saying the case could open the county to charges of violating the Voting Rights Act. Remaining complaints against two voters were dropped when the complainants declined to present any evidence against them. The three men who filed the complaint had said they have evidence a county commissioner attempted to help non-U.S. citizens register so they could vote for him in the July 20 Democratic primary. Lawyers from the ACLU and the Mexican American Legal Defense and Education Fund got involved because the men filed the challenges based on a list they had received from the Board of Registrars of all Hispanics registered in the south Georgia county.</p> <p>Linda Davis, chief registrar in Atkinson County, said she provided the men with a list of the 121 voters on the rolls who listed their race as Hispanic or Mexican. She said the men decided to challenge 95 of them.</p> |                 |                                     |                      |
| State Suppression | Yes                      |                     |                              | Federal        |                             |                       |                      |                                      | Yes                   | Indiana | 21-Apr-04 | mayoral          | <p>The Mexican American Legal Defense and Educational Fund filed a federal law-suit last October alleging that election officials conspired to persuade Hispanics to vote by absentee ballot and limit their access to the polls in the 2003 Democratic primary. The U.S. Attorney's Office is investigating similar allegations. The lawsuit seeks to overturn the election of Mayor Robert Pastrick, who de-feated challenger George Pabey, who is of Puerto Rican descent.</p>  | AP              |                                     |                      |

011669

Intimidation and Suppression

5/9/2007

| Type        | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted / guilty pleas (Individuals) | Follow-up recommended | State    | Date      | Type of Election     | Alleged Instance of fraud   | Original Source         | Resolution of incident / allegation | Source of Resolution |
|-------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--|-----------------------|----------|-----------|----------------------|---|-------------------------|-------------------------------------|----------------------|
| Suppression | Yes                      |                     |                             |                |                             |                       |                     |  |                       | Indiana  | 7-Oct-04  | presidential         | <p>Persistent warnings about terrorism also have drawn skepticism from some Democratic election officials and civil rights advocates who have accused the Republican White House of creating a climate of fear that, among other things, could suppress voter turnout. Heavy voter turnout historically has favored Democrats in U.S. elections.</p> <p>Some local officials in Indiana accused Secretary of State Todd Rokita, a Republican, of trying to intimidate voters after he asked election clerks to develop responses to "an immediate and present danger." Engy Abdelkader, civil rights director for the Council on American-Islamic Relations, says that Arab-Americans and other minorities could choose to stay away from the polls if they believe that federal agents will be questioning people there.</p> | USA Today               |                                     |                      |
| Challenges  |                          |                     |                             |                | Police Action               |                       |                     |  |                       | Kentucky | 29-May-02 | county clerk primary | <p>A poll worker, Jeff Farmer, was stationed at Horse Creek Elementary School as a "challenger," someone who observes the process and can ask voters to prove identities or addresses. The sheriff said Farmer was warned after interfering with voters. "I told him to sit his ass down," Jordan said.</p> <p>When Farmer went outside about 10:30 a.m. and began "pulling voters out of line," according to Jordan, a sheriff's deputy told him to leave or face arrest. Farmer had a different version of events, saying he went out to smoke and wasn't allowed back in.</p>  | Lexington Herald Leader |                                     |                      |
| Challenges  | Yes                      |                     | Third-party                 |                |                             |                       |                     |  |                       | Kentucky | 31-Oct-03 | gubernatorial        | <p>A flyer written and distributed by the Republican in charge of recruiting poll workers asserts that in three previous races the NAACP and the Philip Randolph Institute have targeted "poor, black voters" and encouraged them to "commit voter fraud." Civil rights leaders say this shows that the Republican plan to put challengers in predominantly African American poll sites is racially based. The Republican County chair had announced that Republicans would place challengers at 59 precincts that were either chosen at random or because there were too few election workers.</p>   | The Courier-Journal     |                                     |                      |

011670

Intimidation and Suppression

6/9/2007

| Type           | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State     | Date     | Type of Election | Alleged instance of fraud  | Original Source           | Resolution of Incident / allegation  | Source of Resolution                  |
|----------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|-----------|----------|------------------|--|---------------------------|--|---------------------------------------|
| Challenges     | Yes                      |                     |                             |                | Court                       |                       |                     |                                      | Yes                   | Kentucky  | 2-Nov-03 | gubernatorial    | Black voters in Louisville sued Friday over a Republican plan to put vote "challengers" in dozens of black precincts   | AP                        | A judge turned down a request Monday to block Republican poll challengers from observing Tuesday's election in predominantly black neighborhoods of the city. Jefferson County Circuit Judge Thomas Wine denied a restraining order sought by the American Civil Liberties Union of Kentucky, which claimed the poll watchers could intimidate minority voters or slow voting. The ACLU also filed suit in federal court seeking to bar the poll challengers, but there has been no hearing.   | AP, November 4, 2003                  |
| Challenges     | Yes                      |                     | Third-party                 |                |                             |                       |                     |                                      |                       | Kentucky  | 4-Nov-03 | gubernatorial    | Republicans plan to deploy "a small army" of challengers in Jefferson County. Critics say the mobilization of mostly white challengers in poorer minority districts is intended to intimidate. Black leaders held a rally decrying the Republican initiative.  | Christian Science Monitor | Precinct workers in western Louisville and Newburg reported no problems with Republican vote challengers and predicted a high voter turnout yesterday - in contrast to fears that the challengers would intimidate black voters and keep them from the polls. Even as the number of targeted precincts dropped to 18 because of staffing and training issues, the controversy drew national attention, with the Democratic National Committee and the National Association for the Advancement of Colored People sending personnel to help organize a get-out-the-vote effort. The NAACP also stationed volunteers outside polling places to ensure that voters were treated fairly. | The Courier Journal, November 5, 2003 |
| Challenges     | Yes                      |                     |                             |                |                             |                       |                     |                                      |                       | Kentucky  | 3-Aug-04 | presidential     | A group of Republicans called on the county party chair to resign because of plans to use voter challengers in the election. In 2003, the party used Republicans from across the county to watch voting in 18 predominantly Democratic districts - most of them with large numbers of black voters.  | Courier Journal           |  |                                       |
| Police         |                          |                     |                             | Police         |                             |                       |                     |                                      |                       | Louisiana | 7-Oct-03 | sheriff          | Tangipahoa Parish Sheriff Ed Layrisson said Monday he has suspended two deputies while his office investigates allegations of public intimidation against them. The deputies were at a polling place Saturday and allegedly asked several people in a group how they planned to vote in the sheriff's race, authorities said. The deputies "have adamantly denied the allegation," Layrisson said. He said the deputies were not in uniform, but were carrying their badges and weapons. | The Advocate              |  |                                       |
| Pollworkers/ID |                          |                     | third-party                 |                |                             |                       |                     |                                      |                       | Louisiana | 2-Nov-04 | presidential     | Louisiana Election Protection says it received many complaints of voters being denied the right to vote if they did not have a drivers license.  | AP                        |  |                                       |

011671

Intimidation and Suppression

5/9/2007

| Type                          | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State         | Date      | Type of Election | Alleged Instance of fraud   | Original Source | Resolution of Incident / allegation | Source of Resolution |
|-------------------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|---------------|-----------|------------------|---|-----------------|-------------------------------------|----------------------|
| Police                        |                          | Yes                 |                             |                |                             |                       |                     |                                      |                       | Maryland      | 5-Nov-02  | gubernatorial    | The Democratic National Committee filed a lawsuit seeking to prevent the Ehrlich campaign from using off-duty police officers as poll workers. The Democrats dropped the action when the campaign agreed the officers would not wear uniforms, badges or sidearms or identify themselves as police officers.  | Washington Post |                                     |                      |
| State Suppression             |                          | Yes                 |                             |                |                             |                       |                     |                                      |                       | Maryland      | 6-Nov-02  | statewide        | In Maryland, David Paulson, the director of communications for the state Democratic Party, charged that signs saying voters needed photo identification to vote had been "illegally" or "extralegally" placed by the Board of Elections in Prince George's County, just outside of Washington. Photo identification has never been required for voters there, he said.  | UPI             |                                     |                      |
| Polling Place Harassment      | Yes                      |                     |                             |                | City                        |                       |                     |                                      |                       | Massachusetts | 12-Mar-05 |                  | In 2002, there were allegations that Russian and Chinese voters were being told how to vote by translators in a Brighton precinct that is home to the Jewish Community Housing for the Elderly complex on Wallingford Road. After those allegations, the city changed the rules at the polling place located there: Now, no resident of the building is allowed to work as an elections official there.   | Boston Globe    |                                     |                      |
| State Suppression/Pollworkers | Yes                      |                     |                             | Federal        |                             |                       |                     | Yes                                  |                       | Massachusetts | 30-Jul-05 |                  | In a lawsuit filed yesterday, the Justice Department alleges that the city and its poll workers interfered with voters' rights by "improperly influencing, coercing, or ignoring the ballot choices of limited English proficient Hispanic and Asian-American voters" and of generally "abridging" their voting rights by treating Hispanic and Asian voters disrespectfully at the polls and by failing to provide adequate translation services for them. | Boston Globe    |                                     |                      |
| Pollworkers                   | Yes                      |                     |                             | Third-party    |                             |                       |                     |                                      |                       | Massachusetts | 18-Aug-05 | presidential     | A survey by the Asian American Legal Defense and Education Fund found 10 voters who had been turned away because their names were not on the rolls and who were not offered provisional ballots as required by law.   | Boston Globe    |                                     |                      |

011672

Intimidation and Suppression

5/9/2007

| Type       | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State    | Date      | Type of Election | Alleged instance of fraud  | Original Source         | Resolution of Incident / allegation | Source of Resolution |
|------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|----------|-----------|------------------|--|-------------------------|-------------------------------------|----------------------|
| Challenges | Yes                      |                     | Precinct Chair              |                | Police                      |                       |                     |                                      |                       | Michigan | 6-Nov-02  |                  | Trouble was reported at Bowen Recreation Center in Pontiac, where police were called after voters and election workers complained that a Republican Party volunteer was harassing people. Precinct chairwoman Linda Nichols said the woman, who identified herself as Teresa Sayer, came to the poll after leaving another location where voters had complained that she was questioning whether they were eligible to vote.<br>"She would be behind the shoulder of the poll worker telling them what they could and could not do," Nichols said. "She even got behind the voter when they were going into the voting booth, asking them if they had identification." State election officials say challengers are not allowed to talk directly to voters but can question the veracity of a voter with poll chairpersons. State Republican officials denied that the woman was intimidating voters at the polling place. The precinct, on Bagley near Orchard Lake, is heavily Democratic and black. | Detroit News            |                                     |                      |
| Other      | Yes                      |                     |                             |                |                             |                       |                     |                                      |                       | Michigan | 18-Sep-04 | presidential     | Democrats were outraged when Republican state representative John Pappageorge was quoted in July as warning that "if we do not suppress the Detroit vote, we're going to have a tough time in this election." Detroit is 83% black.  | San Francisco Chronicle |                                     |                      |
| Challenges | Yes                      | Yes                 |                             |                |                             |                       |                     |                                      | Yes                   | Michigan | 4-Nov-04  | presidential     | Reggie Turner, a Detroit lawyer with the Kerry campaign, complained of voter intimidation by GOP challengers at Detroit sites.<br>"The documented incidents of intimidation and harassment that we have in our files are right out of the stories regarding harassment and intimidation in the South in the 1950s and 1960s," Turner said GOP challengers harassed people in line to vote, requesting identification when they had no right to, and had lists of voters "they intended to challenge without any legal basis for such challenges."<br>The GOP's Paolino said the lists were of newly registered Detroit voters to whom the GOP had sent mailings that came back from the post office as address unknown   | Detroit Free Press      |                                     |                      |

011673

Intimidation and Suppression

5/9/2007

| Type                                | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty plea (Individual) | Follow-up recommended | State     | Date     | Type of Election | Alleged Instance of fraud  | Original Source        | Resolution of incident / allegation   | Source of Resolution                |
|-------------------------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|------------------------------------|-----------------------|-----------|----------|------------------|--|------------------------|---|-------------------------------------|
| Challenges                          | Yes                      |                     | Third-party                 |                | Federal Court               |                      |                     |                                    |                       | Michigan  | 8-Nov-05 | mayoral          | The NAACP has received more than 100 complaints including ones involving intimidation at the polls. There were many fights between challengers and poll workers.   | Detroit Free Press     | A US District judge ordered all political parties to refrain from talking to voters at the polls. The ruling came in response to a suit filed by the Detroit NAACP which said it had received complaints from 19 polling places that state and national GOP poll monitors were harassing voters. Republicans disputed the claim. The suit charged GOP workers were harassing voters in violation of a state law that prohibits challengers from talking to voters. The suit also said the watchers challenged the eligibility of Detroit voters to cast ballots, prompting some to leave without voting. The Detroit NAACP president said it was an attempt to reduce the black vote in next years state and congressional elections. | November 9, 2003 Detroit Free Press |
| Challenges                          | Yes                      |                     | third-party                 |                |                             |                      |                     | Yes                                |                       | Minnesota | 3-Nov-04 | presidential     | Republicans systematically challenged a group of voters brought in by a nonprofit group and a group from a shelter. At another site, a minority group advocate accused a Republican challenger of intimidating American Indian and black voters.   | Duluth News-Tribune    |   |                                     |
| Pollsite Intimidation (third-party) |                          |                     |                             |                | Court                       |                      |                     |                                    |                       | Minnesota | 3-Nov-04 | presidential     | Secretary of State Kiffmeyer said her office received about 140 complaints about MoveOn. Minnesota Republican Party leaders tried and failed to get a restraining order against the MoveOn organization, which they accused of stationing activists too close to polling places Tuesday. But the judge disagreed. "The evidence has consisted almost entirely of hearsay," said Hennepin County District Judge Francis Connelly after a two-hour hearing Tuesday afternoon.        | St. Paul Pioneer Press |   |                                     |
| Challenges                          | Yes                      |                     | Local Officials             |                |                             |                      |                     | Yes                                |                       | Minnesota | 3-Nov-04 | presidential     | Officials in Beltrami County and throughout the Twin Cities reported seeing poll challengers increasingly focused on polling places with particularly heavy populations of specific groups. Examples of those specific groups were college students, Indians on reservations, minorities or the homeless. In one case, the chairman of a Minnesota Indian tribe accused Republican poll challengers of intimidating legitimate voters by aggressively challenging their residency. | Star Tribune           |   |                                     |

011674

Intimidation and Suppression

5/9/2007

| Type                                   | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (individuals) | Acquittals/Dismissals | Convicted / guilty pleas (individuals) | Follow-up recommended | State     | Date      | Type of Election | Alleged Instance of fraud  | Original Source     | Resolution of Incident / allegation | Source of Resolution |
|--|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|-----------------------|--|-----------------------|-----------|-----------|------------------|--|---------------------|-------------------------------------|----------------------|
| Challenges                             | Yes                      |                     | third-party                 |                | Police Action               |                       |                       |  |                       | Minnesota | 22-Mar-05 | presidential     | A get out the vote activist and an election judge say that a Republican operative improperly challenged so many Indian voters at the reservation on Election Day that the challenger eventually was removed by tribal police. Director of Minnesota Election Protection 2004 said that most of the 46 complaints that her group forwarded to the national database had to do with "overzealous partisan challengers." The challenges were often based "on the way a person looked" or the fact that the person was not speaking English. | Star Tribune        |                                     |                      |
| Challenges                             | Yes                      |                     | third-party                 |                |                             |                       |                       |  |                       | Missouri  | 28-Oct-04 | presidential     | Civil rights groups accuse the Republican Party of hiring hundreds of poll challengers as part of an effort to suppress the black vote in St. Louis. The Republican Party strongly denies this.  | AP                  |                                     |                      |
| N/A                                    |                          |                     |                             |                |                             |                       |                       |  | Yes                   | national  | 15-Oct-04 | presidential     | The Justice Department is ill prepared to handle a large influx of complaints about voting rights violations in the Nov. 2 presidential election, according to a report released yesterday by the Government Accountability Office. The Justice Department "lacks a clear plan" to reliably document and track allegations in a manner that could allow monitors to swiftly pick up patterns of abuse and take corrective steps, according to the GAO. Congress's nonpartisan investigative arm.   | Washington Post     |                                     |                      |
| Polling Place Harassment (third-party) |                          | Yes                 |                             |                | Court                       |                       |                       |  | Yes                   | national  | 3-Nov-04  | presidential     | Republicans filed complaints with courts about poll monitors from the liberal group Moveon.org "intimidating" voters in New Hampshire, Iowa, Minnesota, Colorado and Michigan - all close states. Moveon.org's Eli Pariser said the GOP charges were intended to "create a false and distorted record to assist them in any legal challenges."   | New York Daily News |                                     |                      |

011675

Intimidation and Suppression

5/9/2007

| Type           | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty plea (Individuals) | Follow-up recommended | State    | Date      | Type of Election | Alleged Instance of fraud   | Original Source      | Resolution of Incident / Allegation | Source of Resolution |
|----------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|-------------------------------------|-----------------------|----------|-----------|------------------|---|----------------------|-------------------------------------|----------------------|
| Pollworkers/ID | Yes                      |                     |                             | third-party    |                             |                       |                     |                                     | Yes                   | national | 4-Nov-04  | presidential     | Racial slurs from election workers, missing bilingual ballots and unwarranted demands to check voter identification turned away Asian American voters across the nation, according to reports by the Asian American Legal Defense and Education Fund. "There were racist remarks in New York City -- poll workers were blaming them for holding up the lines. One of them said, 'You Oriental guys are taking too long to vote,'" she said. Although the legal fund continues to tally its exiting poll surveys and has no firm estimate for the number of incidents, Fung said repeated requests from poll workers to check identification hindered the high turnout of Asian American voters. With their patience worn thin by the inadequacy of their voting site, many simply left without voting. In polling sites across Detroit, University of Michigan student volunteers monitoring the polling sites said they not only encountered deficient polling sites, but also challengers from the Republican Party deliberately aiming to drive voters away through tactics of intimidation.                         | University Wire      |                                     |                      |
| N/A            | Yes                      | Yes                 |                             |                |                             |                       |                     |                                     |                       | national | 18-Jan-05 | presidential     | In his first high-profile address since conceding the presidential election, Senator John F. Kerry decried what he called the suppression of thousands of would-be voters last November. "Thousands of people were suppressed in their efforts to vote. Voting machines were distributed in uneven ways," he told an enthusiastic audience of 1,200. "In Democratic districts, it took people four, five, 11 hours to vote, while Republicans [went] through in 10 minutes. Same voting machines, same process, our America," Kerry said. Critics of the election process in Ohio say there were not enough voting machines in urban, Democrat-leaning precincts, leading to long lines that dissuaded many voters from casting ballots. In some cases, polls were held open after the announced closing time to allow everyone in line to vote, but some left without voting after standing in line for hours. Some blacks in particular have also charged that there were organized efforts to send voters to the wrong voting places, and troubling disparities in the way voting machines counted Democratic votes. | Boston Globe         |                                     |                      |
| Challenges     |                          |                     | third-party                 | DA             |                             |                       |                     |                                     | Yes                   | Nevada   | 23-Oct-02 | local            | A group called "Concerned Citizens for Fair Elections" filed 1,200 voter challenges, nearly 200 of which were duplicates or triplicates of the same challenge; 220 were improper; several of those who signed the challenges under penalty of perjury said they never inspected the residence they claimed was abandoned or not occupied by a registered voter. District Attorney investigates whether there was perjury  | Pahrump Valley Times |                                     |                      |

011676



Intimidation and Suppression

5/9/2007

| Type                     | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State      | Date      | Type of Election | Alleged instance of fraud  | Original Source     | Resolution of incident / allegation | Source of Resolution 1 |
|--------------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|------------|-----------|------------------|--|---------------------|-------------------------------------|------------------------|
| Challenges               |                          |                     | BOE                         |                |                             |                       |                     |                                      |                       | Nevada     | 1-Oct-04  | presidential     | The registrar says an official of the Republican Party came to his office with a small group asking how to launch a "full scale program for challenging voters."   | The Progressive     |                                     |                        |
| Challenges               |                          | Yes                 |                             |                | BOE                         |                       |                     |                                      |                       | Nevada     | 29-Oct-04 | presidential     | An effort by a former Nevada GOP operative to question 17,000 Democratic voters in Las Vegas was rejected earlier this month by election officials there   | Washington Post     |                                     |                        |
| Pollworkers/Intimidation |                          |                     |                             |                | Court                       |                       |                     |                                      |                       | New Jersey | 26-Jun-01 | municipal        | A court appointed election monitor found that in the May 8 election violations included refusing to provide provisional ballots and intimidation of voters by candidates' representatives  | New York Times      |                                     |                        |
| Suppression              | Yes                      |                     |                             |                |                             |                       |                     |                                      |                       | New Jersey | 6-Nov-01  | US Senate        | Hispanic and black residents in the city of Passaic receive postcards in the mail warning of "armed law enforcement officers" at the polls and fines or prisons for anyone violating voting laws   | The Record          |                                     |                        |
| Suppression              | Yes                      |                     |                             |                | Federal Monitor             |                       |                     |                                      |                       | New Jersey | 4-Dec-01  | sheriff          | The federal monitor found that the weekend before Election Day, Passaic city voters received a mass mailed post card reminding them that "armed law enforcement officers" would be policing the polls. The cards inferred they were official and cited the name of the monitor. He said they seemed aimed at minority voters   | The Record          |                                     |                        |
| Challenges               |                          |                     |                             |                | BOE                         |                       |                     |                                      |                       | New Jersey | 27-Oct-04 | presidential     | A resident files challenges of 56 county residents whose voter confirmation cards sent from the Board of Elections were returned undeliverable. He withdrew 47 of his challenges and the board denied the other eight. The county Republican chair said that the state Republican Party directed counties to challenge suspect voters such as those who have an address where voter confirmation cards could not be delivered.   | Newark Advocate     |                                     |                        |
| Challenges               |                          | Yes                 |                             |                | Court                       |                       |                     |                                      |                       | New Jersey | 9-Nov-05  | statewide        | The state Democratic Party won an Injunction in the Superior Court in Passaic County, with the judge issuing a statewide order barring any challenger from disputing any voter's ability to vote based on the voter's signature. The Democrats said they heard numerous complaints about GOP challengers interfering in the signature comparison process.  | Star Ledger         |                                     |                        |
| State Suppression        |                          | Yes                 |                             |                |                             |                       |                     |                                      |                       | New Mexico | 20-Oct-04 | presidential     | At a special meeting Tuesday, Sandoval County commissioners voted 3-1 against opening an additional early voting site in Rio Rancho. Commissioners cited a short time line and legal questions in voting against the poll. The commission called the meeting after Republican legislative candidates and the mayor of Rio Rancho complained that the lack of an early voting site in the city disenfranchised voters. "The combination of an incompetent county clerk and highly partisan Democrat commission has allowed disenfranchisement of the fourth largest city in New Mexico," said Whitney Cheshire, a spokeswoman for New Mexico Victory. | Albuquerque Journal |                                     |                        |

011677

Intimidation and Suppression

5/9/2007

| Type                     | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty plea (Individuals) | Follow-up recommended? | State          | Date      | Type of Election | Alleged instance of fraud   | Original Source        | Resolution of Incident / allegation | Source of Resolution |
|--------------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|-------------------------------------|------------------------|----------------|-----------|------------------|---|------------------------|-------------------------------------|----------------------|
| Suppression              | Yes                      | Yes                 |                             |                |                             |                       |                     |                                     |                        | New Mexico     | 25-Oct-04 | presidential     | In a mass mailing, the Republican National Committee is citing Hispanic voter registration campaigns as proof that "Democrats...will cheat in order to win." Hispanic advocates say this is designed to suppress Hispanic voting.   | Washington Post        |                                     |                      |
| Polling Place Harassment |                          |                     |                             | Federal        |                             |                       |                     |                                     | Yes                    | New Mexico     | 3-Nov-04  | presidential     | In New Mexico, a Republican poll watcher videotaped a man as he left a polling station after casting a provisional ballot on Saturday, said Secretary of State Rebecca Vigil-Giron, a Democrat. Vigil-Giron said Republicans argued they wanted to record the voter's face for a possible legal challenge. Federal officials were investigating, she said.  | Chicago Tribune        |                                     |                      |
| Suppression              |                          | Yes                 |                             |                |                             |                       |                     |                                     |                        | New York       | 31-Oct-05 | mayoral          | Democratic candidate sends a letter to the Department of Justice complaining of Republican election day plans to man some polls with off-duty corrections officers, calling it a bid to intimidate voters.  | New York Daily News    |                                     |                      |
| Intimidation             | Yes                      |                     | third-party                 |                |                             |                       |                     |                                     | Yes                    | North Carolina | 27-Oct-04 | presidential     | The head of the Mexican-American Legal Defense Fund says the sheriff gave a list of registered Hispanic voters to immigration authorities to check their status. The sheriff "also threatened to go door-to-door personally with his department to ensure that immigration status was checked and make sure there was no 'perception of fraud by Latinos'"  | Agence France Presse   |                                     |                      |
| Pollworkers/ID           |                          |                     |                             |                | BOE                         |                       |                     |                                     |                        | North Carolina | 29-Oct-04 | presidential     | In southeast Charlotte, Elections Director Michael Dickerson told poll workers at the Morrison Regional Library to stop asking people waiting to cast early votes to get identification cards ready. Richard Friedman, an unaffiliated voter who is volunteering with the Kerry campaign, complained after elections staff told people standing in line to get their driver's license or voter registration card ready. Most N.C. voters are not required to show ID when they vote, and no one asked for it when voters got in to cast ballots, Friedman said. | Charlotte Observer     |                                     |                      |
| Police                   |                          |                     | Elections Officials         |                |                             |                       |                     |                                     |                        | Ohio           | 6-Sep-04  | presidential     | Ohio polling sites plan to add security, which some election officials believe will intimidate voters and poll workers  | Columbus Dispatch      |                                     |                      |
| State Suppression        |                          | Yes                 |                             |                |                             |                       |                     |                                     |                        | Ohio           | 20-Oct-04 | presidential     | Democrats believe the Secretary of State's order that people who appear to vote in the wrong precinct should not be allowed a provisional ballot and the unnecessary purging of voter rolls, and the Republicans' checking of new registrants are designed to intimidate voters into staying home.  | Columbus Dispatch      |                                     |                      |
| Challenges               | Yes                      |                     |                             |                |                             |                       |                     |                                     |                        | Ohio           | 23-Oct-04 | presidential     | Republicans filed a challenger list in 191 precincts -- many of them in largely black neighborhoods around Dayton. Republicans say it is to prevent vote fraud  | Cleveland Plain Dealer |                                     |                      |

011678

Intimidation and Suppression

5/9/2007

| Type                     | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Accusatorial/Dismissal | Convicted/guilty pleas (Individual) | Follow-up recommended | State | Date      | Type of Election | Alleged Instance of Fraud  | Original Source        | Resolution of Incident / Allegation  | Source of Resolution                |
|--------------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|------------------------|-------------------------------------|-----------------------|-------|-----------|------------------|--|------------------------|--|-------------------------------------|
| Challenges               |                          |                     |                             |                | Court                       |                      |                        |                                     |                       | Ohio  | 23-Oct-04 | presidential     | Republicans formally challenged the validity of 35,000 voter registrations across the state  | Cleveland Plain Dealer | After a court fight, scheduled hearings on the challenges were canceled, but voters still received mail notifying them they were being challenged.       | January 7, 2005, Columbus Dispatch  |
| Challenges               |                          |                     |                             |                | BOE                         |                      |                        |                                     |                       | Ohio  | 24-Oct-04 | presidential     | Dozens of Republican challenges to newly registered voters in Franklin County will be tossed out because they were not properly filed, a local elections official said yesterday. An initial review of 50 challenge forms filed by GOP activists shows 40 with an incorrect ward or precinct listed for the voter, said Michael Hackett, deputy director of the Franklin County Board of Elections. He said such mistakes will nullify requests to have people removed from the list of eligible voters. Voters whose eligibility is challenged need to prove Thursday that they're registered at their correct address. If they don't show up, elections board members can decide whether to keep them on the rolls. Franklin County Republican Chairman Doug Preisse said his party's challenges of voters' eligibility is not an attempt to deny legitimately registered people the right to cast a ballot. In Franklin County, beyond the challenges with incorrect information, it appears Republicans included some legitimately registered voters, including members of the military. | Columbus Dispatch      |  |                                     |
| Challenges               | Yes                      | Yes                 |                             |                |                             |                      |                        |                                     | Yes                   | Ohio  | 29-Oct-04 | presidential     | In a lawsuit, a voter and Democrats contend Republican challenges to voters around Cleveland and Columbus are designed to keep poor and minority voters from voting.   | AP                     |  |                                     |
| Challenges               | Yes                      |                     | third-party                 |                |                             |                      |                        |                                     |                       | Ohio  | 30-Oct-04 | presidential     | Jeff Ganso of the ACLU said in Hamilton County, 250 of 251 precincts targeted by Republicans with challengers are majority African-American precincts.   | Toledo Blade           |  |                                     |
| Challenges               |                          | Yes                 |                             |                |                             |                      |                        |                                     |                       | Ohio  | 31-Oct-04 | presidential     | Democrats accuse Republicans of using challengers to suppress voter turnout. Republicans will not allow the press to attend training sessions.   | Cleveland Plain Dealer |  |                                     |
| Challenges               | Yes                      |                     |                             |                | Court                       |                      |                        |                                     |                       | Ohio  | 1-Nov-04  | presidential     | In a lawsuit in Hamilton County, civil rights activists say GOP challenges are discriminatory because they were filed disproportionately in precincts with a majority of black voters. A civil rights group seeks to block challengers in Ohio by arguing they violate a 1981 national order prohibiting the Republican National Committee from trying to intimidate black voters.   | Columbus Dispatch      | District court judges blocked the challenges because they could cause delays, confusion and intimidation. 6th Circuit overturns the lower court rulings. | Columbus Dispatch, November 2, 2004 |
| Polling Place Harassment |                          | Yes                 |                             |                |                             |                      |                        |                                     | Yes                   | Ohio  | 3-Nov-04  | presidential     | In Lucas County, Ohio, Republicans asked a judge to bar poll monitors from wearing "Voter Protection Staff" and "Voting Rights Staff" armbands from polling spots.   | New York Daily News    |  |                                     |

011679

Intimidation and Suppression

5/9/2007

| Type              | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissals | Convicted/guilty pleas (Individuals) | Follow-up recommended | State  | Date      | Type of Election | Alleged instance of fraud   | Original Source           | Resolution of incident / allegation | Source of Resolution |
|-------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|----------------------|--------------------------------------|-----------------------|--------|-----------|------------------|---|---------------------------|-------------------------------------|----------------------|
| Challenges        |                          |                     |                             | Federal        | BOE                         |                       |                      |                                      | Yes                   | Ohio   | 5-Nov-04  | presidential     | The Board of Elections threw out 976 of the challenges filed by the Republican Party without prejudice after a volunteer who brought the challenges revealed she did not have any personal information about the eligibility of the challenged voters. A member of the Board told the volunteer she could be indicted for signing a sworn challenge without personal knowledge of eligibility. The Board has indicated they plan to call the Department of Justice to conduct a criminal investigation of the challenges.   | Philadelphia Tribune      |                                     |                      |
| State Suppression | Yes                      |                     |                             |                |                             |                       |                      |                                      |                       | Ohio   | 11-Dec-04 | presidential     | Because blue-collar and lower-income workers tend to vote Democratic, the long lines in Akron and other urban areas fueled suspicion of a deliberate tactic to hold down the turnout -- especially in largely African-American precincts -- for presidential challenger John Kerry.   | Akron Beacon Journal      |                                     |                      |
| Multiple          | Yes                      |                     |                             |                |                             |                       |                      |                                      |                       | Ohio   | 23-Jun-05 | presidential     | Blacks and young voters in Ohio faced widespread voter suppression - mostly because of long lines and improper identification checks - during last year's presidential election, according to a new Democratic Party report. DNC Chairman Howard Dean said that while it's unclear whether the suppression was intentional or whether it influenced the election results, the party's five-month, \$250,000 investigation showed that 28 per-cent of Ohio voters - and twice as many black voters - reported facing challenges on Election Day. "You have a particular ethnic group that has to wait three times as long as other voters, then clearly there is something going on that is aimed at particular precincts," Dean said blacks waited an average of 52 minutes to vote while white voters waited about 18 minutes. It also found that 37 percent of Ohio voters reported being asked for identification. Ohio law requires only new voters to produce identification, and new registrants accounted for 7 percent of all voters. Blacks and voters under 30 were asked for ID's at higher rates than other voters. | The Cincinnati Enquirer   |                                     |                      |
| State Suppression | Yes                      | Yes                 |                             |                |                             |                       |                      |                                      |                       | Ohio   | 23-Jun-05 | presidential     | Long lines were caused by the scarcity of voting machines in a number of precincts, particularly in minority areas, a report by the DNC on the election in Ohio says.   | Washington Post           |                                     |                      |
| Intimidation      |                          |                     | Election Officials          |                |                             |                       |                      |                                      |                       | Oregon | 21-Oct-04 | presidential     | Officials are concerned about voter intimidation at ballot drop-off sites the evening of the Nov. 2 deadline. A Republican manual instructs GOP volunteers to take video cameras. Party officials say this is to make sure no ballots are collected after the 8 pm cutoff, but Democrats worry that it could frighten away some voters.   | Christian Science Monitor |                                     |                      |

011680

Intimidation and Suppression

5/9/2007

| Type                                  | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigator? | Other Official involvement? | Charged (Individuals) | Acquittals/Dismissals | Convicted / guilty pleas (Individuals) | Follow-up recommended? | State        | Date      | Type of Election | Alleged instance of fraud  | Original Source         | Resolution of incident / allegation | Source of Resolution |
|---------------------------------------|--------------------------|---------------------|-----------------------------|---------------|-----------------------------|-----------------------|-----------------------|--|------------------------|--------------|-----------|------------------|--|-------------------------|-------------------------------------|----------------------|
| Challenges                            |                          | Yes                 |                             |               |                             |                       |                       |  |                        | Pennsylvania | 6-Nov-02  | statewide        | Democrats in the state are concerned about Operation Swarm and Storm – the name they say was given to an effort by the George Gekas campaign to challenge voters based on old information. A pamphlet was allegedly prepared by the campaign, which instructed Republican poll workers to challenge voters who had recently moved to new districts. The laws had been changed, however, and such challenges could have been wrongly made. Voters in some districts were also challenged to produce identification, charged state Democratic Party spokeswoman Mia DeVane. Voters she said need only provide a matching signature to vote in the state.   | UPI                     |                                     |                      |
| Polling Place Harrassment/Pollworkers |                          |                     |                             | Police/local  | Court                       |                       |                       |  |                        | Pennsylvania | 5-Nov-03  | mayoral          | Complaints filed with the police, the district attorney's office, and the Committee of Seventy alleging physical violence, harassment and intimidation were the highest in modern history. The DA's office reported it had received at least 171 complaints, nearly quadruple the 41 complaints of four years ago. Most charged that voters and poll workers had been intimidated or interfered with. Inspector William Colarulo said the Police Department had received at least 110 complaints, most dealing with simple assaults, vandalism and disturbances. In the course of the day, Common Pleas Judge Benjamin Lerner signed two orders directing Republican workers at polling places in Germantown and North Philadelphia to stop demanding identification from people showing up to vote. | Philadelphia Daily News |                                     |                      |
| Challenges                            |                          |                     |                             |               |                             |                       |                       |  |                        | Pennsylvania | 26-Oct-04 | presidential     | Republican Representative John Perzel, speaker of the state house, told US News and World Report that "The Kerry campaign needs to come out with humongous numbers here in Philadelphia. Its important for me to keep that number down." At the same time, he said campaign workers are examining voting records for evidence of Democrats registering more than once or otherwise violating election rules. An aide to Perzel said challengers will have lists of questionable registrations at the polls.  | AP                      |                                     |                      |
| Pollsite Location                     | Yes                      | Yes                 |                             |               |                             |                       |                       |  |                        | Pennsylvania | 31-Oct-04 | presidential     | In Philadelphia, Republicans unsuccessfully sought last week to change locations of 63 polling places, contending that their placement in closed bars or in homes would intimidate voters. Democrats pointed out that most of those locations were in minority neighborhoods and branded the move an effort to suppress black votes.   | Philadelphia Inquirer   |                                     |                      |

011691

Intimidation and Suppression

5/9/2007

| Type              | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individual(s)) | Acquittal/Dismissal(s) | Convicted/guilty plea (Individual(s)) | Follow-up recommended | State        | Date      | Type of Election | Alleged Instance of fraud  | Original Source       | Resolution of Incident / allegation | Source of Resolution |
|-------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-------------------------|------------------------|---------------------------------------|-----------------------|--------------|-----------|------------------|--|-----------------------|-------------------------------------|----------------------|
| Challenges        |                          |                     | BOE                         |                |                             |                         |                        |                                       |                       | Pennsylvania | 2-Nov-04  | presidential     | Philadelphia's voter-registration administrator cried foul last night over a letter sent from the state GOP to judges of elections, the men and women who run the city's 1,681 polling places. He said the letter had wrongly instructed those poll workers to check and compare voters' various signatures "at will." He pointed to state law, which limits such checks to prevent long voting delays. State Republicans released additional details yesterday from their list of 10,000 letters to Philadelphia voters that they said were returned as undeliverable. They said they would use this list to challenge voters at the polls today. Counsel to the state Republican Party said there were multiple reports yesterday that elderly voters in Lancaster and York Counties in Central Pennsylvania - an area the Bush campaign has been heavily courting - got phone calls telling them they would not be allowed to vote and urging them not to show up at the polls. | Philadelphia Inquirer |                                     |                      |
| Pollworkers       |                          |                     |                             |                | Court                       |                         |                        |                                       |                       | Pennsylvania | 3-Nov-04  | presidential     | While overwhelmed poll workers pushed provisional ballots on some voters who should not have been using them, other voters who could have used provisional ballots were being turned away. In Allentown, about 10 lawyers and community activists rushed to the Salvation Army building on North Eighth Street to challenge poll workers who were stopping about eight people whose names were not in the registration list.   | Morning Call          |                                     |                      |
| State Suppression |                          |                     |                             |                |                             |                         |                        |                                       |                       | Pennsylvania | 4-Nov-04  | presidential     | There were long lines throughout the state, leading voters to wait for several hours in order to vote. Some voters waited into the night in order to vote. Some reportedly left without voting.  | Philadelphia Inquirer |                                     |                      |
| Police            |                          |                     |                             |                |                             |                         |                        |                                       |                       | Pennsylvania | 8-Dec-04  | presidential     | In Philadelphia, some voters were sent to police stations to cast provisional ballots, House Minority Whip Steny H. Hoyer (D-Md.) told a voting rights forum. "Clearly an intimidation," he said.  | Los Angeles Times     |                                     |                      |
| Pollworkers       |                          |                     | Voters                      |                | BOE                         |                         |                        |                                       |                       | Pennsylvania | 24-Apr-05 | presidential     | The Board of Elections fired three elections officials because of charges they intimidated Democratic voters. One voter said a poll worker was aggressive in challenging his eligibility. Another said a worker yelled at her and then grabbed her arm and forced her out of the polling place because she was wearing a Kerry button.   | Lancaster Sunday News |                                     |                      |

011682

Intimidation and Suppression

5/9/2007

| Type        | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty pleas (Individual) | Follow-up recommended | State          | Date      | Type of Election | Alleged Instance of fraud   | Original Source      | Resolution of incident / allegation | Source of Resolution |
|-------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------------|-----------------------|----------------|-----------|------------------|---|----------------------|-------------------------------------|----------------------|
| Challenges  | Yes                      |                     |                             |                | Court                       |                      |                     |                                     | Yes                   | South Carolina | 5-Nov-02  |                  | Voters in Beaufort County who only have rural route addresses or post office box numbers on their voter registration cards might face problems at the polls today, a federal lawsuit filed in Charleston late Monday alleges. The lawsuit said that poll workers could challenge these voters' ballots, and that if this happens, black voters would be disproportionately affected. The chair of the election commission said poll workers will ask these voters to identify exactly where they live, possibly by having them point out their homes on a map. He said the purpose of doing this is not to discourage or embarrass the voter, it's to ensure they get the correct ballot. He said if there is any confusion, voters will be given failsafe ballots that exclude district races but still allow voters to cast ballots in federal, state and countywide races. | The Post and Courier |                                     |                      |
| Police      | Yes                      | Yes                 |                             |                |                             |                      |                     |                                     |                       | South Carolina | 12-Aug-04 | county council   | Candidate says he plans to have observers at the polls and may call for sheriff's deputies to enforce voting laws when voters try for a third time to nominate a Republican County Council candidate. His opponent alleges he is trying to intimidate black voters from voting.   | Greenville News      |                                     |                      |
| Challenges  |                          |                     |                             |                |                             |                      |                     |                                     |                       | South Carolina | 2-Nov-04  | presidential     | Dozens of voters, many students, were turned away from a precinct at Benedict College after Republican poll watchers contested the legality of their vote. Challenges slowed voting at the precinct causing waits as long as four hours. The Republican Party executive director said poll watchers were challenging people who did not have proper state identification, such as a drivers license. Alternate forms of identification permit student to vote provisional ballots.  | AP                   |                                     |                      |
| Suppression | Yes                      | Yes                 |                             |                |                             |                      |                     |                                     |                       | South Dakota   | 31-Oct-02 | US Senate        | Senator Daschle says Republicans have targeted Native American communities in making allegations of vote fraud and launching initiatives in order to suppress the Native American vote  | Washington Times     |                                     |                      |

011683

| Type                     | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty plea (Individual) | Follow-up recommended? | State        | Date      | Type of Election | Alleged Instance of fraud  | Original Source                     | Resolution of Incident / allegation | Source of Resolution |
|--------------------------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|----------------------|---------------------|------------------------------------|------------------------|--------------|-----------|------------------|--|-------------------------------------|-------------------------------------|----------------------|
| Other                    | Yes                      |                     |                              | State          |                             |                      |                     |                                    |                        | South Dakota | 1-Jan-03  | senate           | Republican attorneys fanned out across the state on Election Day to gather affidavits to show vote buying. The State Attorney General (a Republican) says that of the 50 affidavits only three alleged criminal activity, and two of those proved to be false. One person is being investigated. Two of the affidavits were found to have been forged or perjurious. Each affidavit states that the person allegedly signing it claimed to have been picked up by a van driver, offered 10 to vote, taken to the polling place and home again and again offered the 10. Most of the allegations focused on the Rosebud Reservation   | Indian Country Today (Lakota Times) |                                     |                      |
| Pollworkers/ID           | Yes                      |                     |                              |                |                             |                      |                     |                                    |                        | South Dakota | 30-Jun-04 | special election | During the June 1 special election, several Native American voters were told they could not vote if they did not have ID and were not told about the affidavit option. Most of the complaints came from across the state, many from reservations and some from Rapid City, where there is a large American Indian population. A Republican poll watcher denied this was the case. He said Indian voting rights workers were intimidating poll workers.   | Indian Country Today (Lakota Times) |                                     |                      |
| Pollworkers/ID           | Yes                      |                     |                              |                |                             |                      |                     |                                    |                        | South Dakota | 26-Aug-04 | presidential     | Some American Indians were not allowed to vote in the primary because they did not have photo ID and some said they were not told they could instead sign an affidavit.  | Newsday                             |                                     |                      |
| Polling Place Harassment | Yes                      |                     |                              |                | Court                       |                      |                     |                                    |                        | South Dakota | 2-Nov-04  | senatorial       | On Election Day, a district court judge ruled Republican poll watchers in Charles Mix County had to stop following American Indian voters after they cast ballots. The GOP workers were also ordered to stop writing down those people's license plate numbers.  | AP                                  |                                     |                      |
| Challenges               |                          |                     |                              |                | State Election Director     |                      |                     |                                    |                        | Tennessee    | 5-Nov-02  |                  | A GOP memo to its poll watchers said, "There are problems" with the instructions [state election director]Thompson's office provided to local officials, and focuses on whether the would-be voters are legitimately qualified. "If the officers at the precinct are not screening voters for their qualifications to vote, including their citizenship, they should be challenged so that the election officials will carry out the law and make sure they are qualified to vote if they are first-time voters," the memo says Thompson said the U.S. Department of Justice, part of President Bush's administration, notified him of the GOP memo last week and expressed concerns about it. After conferring with the Justice Department and state Attorney General's office, Thompson sent a four-page memo to local election officials Friday that makes it clear that poll watchers are forbidden by law to question or challenge voters directly and that election officials are not to require would-be voters to provide proof of eligibility, as the GOP memo seeks. | Commercial Appeal                   |                                     |                      |

011684



| Type: | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty pleas (Individual) | Follow-up recommended | State | Date | Type of Election | Alleged instance of fraud  | Original Source | Resolution of incident / allegation | Source of Resolution: |
|-------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------------|-----------------------|-------|------|------------------|--|-----------------|-------------------------------------|-----------------------|
|       |                          |                     |                             |                |                             |                      |                     |                                     |                       |       |      |                  | The state Democratic Chair said the challenges targeted African American voters. |                 |                                     |                       |

011685

Intimidation and Suppression

5/9/2007

| Type              | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissals | Convicted/guilty pleas (Individuals) | Follow-up recommended | State | Date      | Type of Election      | Alleged Instance of fraud   | Original Source      | Resolution of Incident / allegation   | Source of Resolution                |
|-------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|----------------------|--------------------------------------|-----------------------|-------|-----------|-----------------------|---|----------------------|---|-------------------------------------|
| State Suppression | Yes                      |                     |                             |                |                             |                       |                      |                                      | Yes                   | Texas | 6-Oct-04  |                       | Students at historically black college Prairie View A & M filed several lawsuits against a Texas district attorney for making comments that he would prosecute students that falsely declared the school as their place of residency. In 1979, the US Supreme Court ruled in favor of Prairie View A & M, upholding a student's right to vote.  | Los Angeles Sentinel |   |                                     |
| Challenges        | Yes                      |                     |                             |                |                             |                       |                      |                                      |                       | Utah  | 18-Jun-04 | congressional primary | An immigration-issues group is mounting a last-minute bid to challenge hundreds of foreign-born voters in Utah's Republican primary Tuesday. The effort is the work of ProjectUSA, based in Washington, D.C. The Utah voter challenge would require those singled out in the state's 3rd Congressional District by ProjectUSA to confirm at the polls that they are U.S. citizens and registered voters. State elections director Amy Naccarato is concerned ProjectUSA might scare off some legitimate voters. | Deseret Morning News | The Washington-based immigration issues group ProjectUSA has backed down on its plan to challenge blocs of Utah voters in areas with high immigrant populations. Craig Nelsen, president of ProjectUSA, had said he intended to challenge the voters in Utah's 3rd Congressional District based on concerns that illegal immigrants would vote for Congressman Chris Cannon in Tuesday's primary. Nelsen said Friday that after analyzing voter registration rolls and U.S. Census Bureau data for Utah's 3rd Congressional District, his group "didn't find any (patterns) that would warrant a challenge." Election officials in Salt Lake and Utah counties echoed Naccarato's relief Friday afternoon that no challenge had been filed. Attorneys in both counties had been scrambling to review the legality of any such challenges. "Our biggest concern was the message it was sending to voters," said Utah County Clerk Jim Jackson. "It almost smacked of discrimination against a group. That's just not right." | Deseret Morning News, June 19, 2004 |
| Challenges        |                          |                     |                             |                | County Clerk                |                       |                      |                                      |                       | Utah  | 6-Nov-04  | congressional         | The Republican candidate challenged the legal registration of 1,495 residents of the Holladay-area neighborhoods in the days before the election. 1,494 were Democrats, and one was from the American Party. The County Clerk determined the claims were groundless and said he could be subject to a charge of voter intimidation.   | Salt Lake Tribune    |   |                                     |

011686

Intimidation and Suppression

5/9/2007

| Type              | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty (Individuals) | Follow-up recommended | State      | Date      | Type of Election | Alleged Instance of fraud   | Original Source  | Resolution of Incident / allegation | Source of Resolution? |
|-------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------|-----------------------|------------|-----------|------------------|---|------------------|-------------------------------------|-----------------------|
| State Suppression |                          | Yes                 |                             |                | Court                       |                       |                     |                                |                       | Washington | 20-Dec-04 | gubernatorial    | Procedures for validating ballot signatures vary widely from county to county in Washington state, a fact that has become significant given the razor-thin margin of the governor's race. A survey by The Seattle Times showed that counties use different procedures for evaluating signatures, the newspaper reported Sunday. More than 3,400 absentee and provisional ballots in Washington were rejected in the November election because the signatures didn't match those on file with elections officials. The state Supreme Court last week rejected an argument by the Democratic Party that counties have disenfranchised voters by handling mismatched signatures so differently.  | AP               |                                     |                       |
| State Suppression |                          |                     |                             |                |                             |                       |                     |                                |                       | Washington | 20-Dec-04 | gubernatorial    | King County election workers were told as early as May that if an absentee ballot came in without a matching signature on file they were required to make a concerted effort to verify that the vote was valid. Before a special election in May, King County election workers routinely violated state law by counting such ballots without making any attempt to verify the signatures. In this November's general election, the county's absentee-ballot staff still didn't make the effort to find matching signatures. But instead of counting the ballots automatically, they rejected them.  | Seattle Times    |                                     |                       |
| Challenges        | Yes                      |                     |                             | Press          |                             |                       |                     |                                |                       | Washington | 31-Mar-05 |                  | A Soap Lake man is challenging the voting credentials of hundreds of Washington voters, saying he thinks they're illegal immigrants who registered and cast ballots illegally. But Martin Ringhofer may have a hard time proving the challenges he has filed in Spokane and 10 other Washington counties. For one thing, there's the methodology of his research. Ringhofer said he obtained a list of people who registered to vote when they obtained or renewed a driver's license, then culled the list for names "that appear to be from outside the United States," particularly those that appeared to be Hispanic or Asian. For another, there's the fact that many of the people on his list are citizens. In fact, The Spokesman-Review contacted a dozen of the 161 people on Ringhofer's Spokane County list, and all of them are citizens. | Spokesman Review |                                     |                       |

011687

Intimidation and Suppression

5/9/2007

| Type                    | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (individuals) | Acquittal/Dismissal | Convicted/guilty pleas (individuals) | Follow-up recommended | State         | Date      | Type of Election | Alleged instance of fraud   | Original Source            | Resolution of Incident / allegation   | Source of Resolution                         |
|-------------------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|---------------|-----------|------------------|---|----------------------------|---|--|
| Challenges              |                          |                     | Voters                      |                | BOE                         |                       |                     |                                      | Yes                   | Washin-gton   | 5-Nov-05  | county           | Elections officials said hundreds of angry voters called to complain about a Republican backed effort challenging their right to vote. Several voters said the GOP County Vice-Chair was wrong that their registrations did not have their legitimate address. Those voters challenged will have to either re-submit registration forms or when challenged, vote by provisional ballot. Democrats called it a voter intimidation and suppression effort.  | Seattle Post-Intelligencer | The GOP withdrew 140 of 1500 claims, admitting they were faulty. Democrats charged that Republicans' real aim was to discourage voters from voting. Voters whose registrations were challenged will have to vote by paper and the Canvassing Board will conduct hearings on whether the votes should count. Challenged voters may make their case at the hearings, at which the burden of proof is on the Republican challengers. | Seattle Post-Intelligencer, November 8, 2005 |
| Challenges              |                          | Yes                 |                             | County         |                             |                       |                     |                                      | Yes                   | Washin-gton   | 10-Nov-05 | presiden-tial    | A county councilman asks the county prosecutor to investigate whether a Republican challenger committed perjury in filing some of the challenges without justification. The challenger was the head of the county GOP's Voter Registration Integrity Project" which challenged the registrations of 1,944 voters saying they were registered at private mailbox businesses and storage complexes. Many of the challenges turned out to be baseless. Others did not know it was illegal. Those voters had to file a challenge ballot. The validity of those ballots will be determined at a canvassing board hearing. County Democrats claim the challenges were an attempt to intimidate and disenfranchise voters. | Seattle Times              |   |  |
| Federal Agents          |                          |                     | Defendants in case          |                |                             |                       |                     |                                      |                       | West Virginia | 31-May-05 | primary          | Defendants in a vote buying case allege that federal agents intimidated voters by videotaping and photographing voters as they visited the polls  | AP                         |   |  |
| State Suppression       |                          | Yes                 |                             |                |                             |                       |                     |                                      |                       | Wisconsin     | 13-Oct-04 | presiden-tial    | Milwaukee County Executive Scott Walker, citing vote-fraud concerns, is publicly balking at a City of Milwaukee request for almost 260,000 additional ballots in anticipation of high turnout for the Nov. 2 presidential election. Mayor Tom Barrett blasted Walker's stance, and Common Council President Willie Hines Jr. immediately joined in, saying it was an attempt to suppress the central-city vote.   | Milwaukee Journal Sentinel |   |  |
| Third Party Suppression | Yes                      |                     |                             | State          |                             |                       |                     |                                      |                       | Wisconsin     | 27-Oct-04 | presiden-tial    | Federation for American Immigration Reform sent Michigan residents to Wisconsin voter registration stations set up by an immigrant rights groups to see whether an illegal immigrant was registering illegal voters. The group said it refused to register the Michigan voters and if they insisted they discarded their forms. Prosecutors will check to ensure the registrations were not mailed in.  | AP                         |   |  |

011688

| Type       | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State     | Date      | Type of Election | Alleged instance of fraud  | Original Source            | Resolution of incident / allegation  | Source of Resolution                         |
|------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|-----------|-----------|------------------|--|----------------------------|--|--|
| Challenges |                          |                     |                             |                | City Attorney/D<br>A        | BOE -<br>dismissed    |                     |                                      |                       | Wisconsin | 29-Oct-04 | presidential     | <p>Although the Board of Elections refused a request by the state Republican Party to have 5,619 names and addresses removed from Milwaukee voting lists, the party plans to challenge anyone who tries to vote from those addresses at the polls. A Journal Sentinel review shows many of the names and addresses confirmed some of the problems cited by the GOP, as well as uncovered additional missing addresses. Some cited by the GOP may be explained by clerical errors, however.</p> | Milwaukee Journal Sentinel | <p>Amid a renewed push Friday by Republicans to get some 5,600 names removed from Milwaukee voting lists, prosecutors began examining 500 new registrants that a city review indicated are from non-existent addresses. The same review by the city attorney's office, however, raised doubts about the quality of the GOP's original list, finding that hundreds of the addresses that the Republicans claim are invalid and want removed do, in fact, exist. Some others, according to City Attorney Grant Langley, can be explained by data entry errors, not attempted fraud. Late Friday, Langley outlined the review situation in a letter to Lisa Artison, head of the city Election Commission.</p> <p>The letter said the review by his staff and the district attorney's office found cases where the database used by the GOP was corrupted, dropping digits on some homes so otherwise valid addresses showed up as non-existent. In other cases, a check of the original handwritten registration cards showed digits had been transposed by clerks, something that can be corrected at the polls.</p> <p>Langley's letter says the review casts "doubt on the overall accuracy" of the GOP list and the way it was compiled. At least some of the addresses will be investigated for possible fraud, however.</p> <p>Republican and City of Milwaukee leaders reached an agreement Sunday ending a faceoff over thousands of registered voters with questionable addresses.</p> <p>2) Under an agreement reached, a list of 5,512 prospective city voters whose addresses are questionable will be distributed to polling places. Those on the list who show up to vote will be asked to fill out a change of address card or registration form, and to show proof of residency — a driver's license, utility bill or some other document showing an address — before casting their ballot. Anyone without proof of residency at an address on the list will have to take an oath, and that person's ballot will be marked as being challenged by the poll worker.</p> | Milwaukee Journal Sentinel, October 30, 2004 |

011689

| Type        | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty pleas (Individual) | Follow-up recommended | State     | Date      | Type of Election | Alleged Instance of fraud   | Original Source            | Resolution of Incident / allegation | Source of Resolution |
|-------------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------------|-----------------------|-----------|-----------|------------------|---|----------------------------|-------------------------------------|----------------------|
| Challenges  |                          | Yes                 |                             |                |                             |                      |                     |                                     |                       | Wisconsin | 31-Oct-04 | presidential     | Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual -- including thousands who might be missing an apartment number on their registration -- at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm. | Milwaukee Journal Sentinel |                                     |                      |
| Suppression |                          |                     |                             |                |                             |                      |                     |                                     | Yes                   | Wisconsin | 2-Nov-04  | presidential     | The tires of 30 vans Republicans had rented to help get out the vote were slashed.  | AP                         |                                     |                      |
|             |                          |                     |                             |                |                             |                      |                     |                                     |                       |           |           |                  |   |                            |                                     |                      |
|             |                          |                     |                             |                |                             |                      |                     |                                     |                       |           |           |                  |   |                            |                                     |                      |

011690

| Type: | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty plea (Individual) | Follow-up recommended | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of Incident / allegation | Resolution |
|-------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|------------|
|       |                          |                     |                             |                |                             |                      |                     |                                    |                       |       |      |                  |                           |                 |                                     |            |

011691

| Type: | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty plea (Individual) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation? | Source of Resolution |
|-------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|--------------------------------------|----------------------|
|-------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|--------------------------------------|----------------------|

011692



| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted / guilty pleas (Individual) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|---------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|      |                          |                     |                             |                |                             |                      |                     |                                       |                       |       |      |                  |                           |                 |                                     |                      |

011693

Intimidation and Suppression

5/9/2007

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involved? | Charged (Individuals) | Acquittals/Dismissals | Convicted / guilty pleas (Individuals) | Follow-up recommended? | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution: |
|------|--------------------------|---------------------|-----------------------------|----------------|--------------------------|-----------------------|-----------------------|--|------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|-----------------------|
|      |                          |                     |                             |                |                          |                       |                       |  |                        |       |      |                  |                           |                 |                                     |                       |

011694

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted / guilty pleas (Individuals) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|

011695

| Type: | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow up recommended? | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution |
|-------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|-------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|

011696

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty pleas (Individual) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|

011697

| Type: | Racial/Ethnic Allegation | Partisan Allegation | Other: Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud? | Original Source | Resolution of Incident / allegation | Source of Resolution |
|-------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|-------|------|------------------|----------------------------|-----------------|-------------------------------------|----------------------|
|       |                          |                     |                              |                |                             |                       |                     |                                      |                       |       |      |                  |                            |                 |                                     |                      |

011698

Intimidation and Suppression

5/9/2007

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty pleas (Individual) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|

011699

Intimidation and Suppression

5/9/2007

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty (Individual) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|-------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|

011730



Intimidation and Suppression

5/9/2007

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (individuals) | Acquittals/Dismissals | Convicted/guilty pleas (individuals) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|-----------------------|--------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|      |                          |                     |                             |                |                             |                       |                       |                                      |                       |       |      |                  |                           |                 |                                     |                      |

011701

Intimidation and Suppression

5/9/2007

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|      |                          |                     |                              |                |                             |                       |                     |                                      |                       |       |      |                  |                           |                 |                                     |                      |

011702

Intimidation and Suppression

5/9/2007

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted / guilty pleas (Individuals) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|      |                          |                     |                              |                |                             |                       |                     |  |                       |       |      |                  |                           |                 |                                     |                      |

011703

| Type: | Racial/Ethnic Allegation | Partisan Allegation | Other: Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted / guilty plea (Individual) | Follow-up recommended? | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution |
|-------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|----------------------|---------------------|--------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|-------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|----------------------|---------------------|--------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|

011704

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended? | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|      |                          |                     |                             |                |                             |                       |                     |                                      |                        |       |      |                  |                           |                 |                                     |                      |

011705

Intimidation and Suppression

5/9/2007

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other, Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|      |                          |                     |                              |                |                             |                       |                     |                                      |                       |       |      |                  |                           |                 |                                     |                      |

011706

| Type: | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissals | Convicted / guilty pleas (Individuals) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution: |
|-------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|----------------------|--|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|-----------------------|
|-------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|----------------------|--|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|-----------------------|

011707

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissals | Convicted/guilty pleas (Individuals) | Follow-up recommended? | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|----------------------|--------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|----------------------|--------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|

011708



| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involved? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty pleas (Individual) | Follow-up recommended? | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of Incident /allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|--------------------------|----------------------|---------------------|-------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|------------------------------------|----------------------|
|      |                          |                     |                             |                |                          |                      |                     |                                     |                        |       |      |                  |                           |                 |                                    |                      |

011709

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individual) | Acquittal/Dismissal | Convicted/guilty plea (Individual) | Follow-up recommended | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident / allegation | Source of Resolution.1 |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|------------------------|
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|----------------------|---------------------|------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|------------------------|

011710

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty plea (Individual) | Follow-up recommended? | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of Incident /allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|------------------------------------|------------------------|-------|------|------------------|---------------------------|-----------------|------------------------------------|----------------------|
|      |                          |                     |                             |                |                             |                       |                     |                                    |                        |       |      |                  |                           |                 |                                    |                      |

011711

Intimidation and Suppression

5/9/2007

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquittal/Dismissals | Convicted / guilty pleas (Individuals) | Follow-up records needed | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution 1 |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|----------------------|--|--------------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|------------------------|
|      |                          |                     |                             |                |                             |                       |                      |  |                          |       |      |                  |                           |                 |                                     |                        |

011712

Intimidation and Suppression

5/9/2007

50

| Type | Racial/Ethnic Allegation | Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (Individuals) | Acquittal/Dismissal | Convicted/guilty pleas (Individuals) | Follow-up recommended | State | Date | Type of Election | Alleged instance of fraud | Original Source | Resolution of incident / allegation | Source of Resolution |
|------|--------------------------|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-----------------------|-------|------|------------------|---------------------------|-----------------|-------------------------------------|----------------------|
|      |                          |                     |                             |                |                             |                       |                     |                                      |                       |       |      |                  |                           |                 |                                     |                      |

011713

| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |

011714



| Source of Resolution 2: |
|-------------------------|
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |

011716



| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |
|                        |
|                        |
|                        |

011717

| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |
|                        |
|                        |
|                        |

011718

|                        |
|------------------------|
| Source of Resolution 2 |
|                        |
|                        |

011719

|                        |
|------------------------|
| Source of Resolution 2 |
|                        |
|                        |
|                        |

011720

| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |
|                        |
|                        |

011721

| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |
|                        |

011722

|                           |
|---------------------------|
| Source of<br>Resolution 2 |
|                           |
|                           |
|                           |

011723

| Source of Resolution 2: |
|-------------------------|
|                         |
|                         |
|                         |
|                         |

011724



| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |

011725

Source of  
Resolution 2:

011726

| Source of Resolution 2: |
|-------------------------|
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |

011727

| Source of Resolution 2: |
|-------------------------|
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |

011728

| Source of Resolution 2: |
|-------------------------|
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |

011729

| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |
|                        |
|                        |

011730

| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |

011731

| Source of Resolution 2: |
|-------------------------|
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |

011732



| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |

011733

| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |
|                        |
|                        |
|                        |

011734



011735

|                        |
|------------------------|
| Source of Resolution 2 |
|                        |
|                        |
|                        |

011732

| Source of Resolution 2 |
|------------------------|
|                        |
|                        |
|                        |

011737

| Source of Resolution 2: |
|-------------------------|
|                         |
|                         |
|                         |
|                         |
|                         |
|                         |

011738

Source of  
Resolution 2

Milwaukee  
Journal  
Sentinel,  
November 1,  
2004

011739

|                         |
|-------------------------|
|                         |
| Source of Resolution 2: |
|                         |
|                         |
|                         |
|                         |

011740

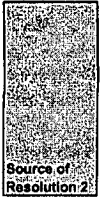




011741



011742



011743



011744



011745



011746

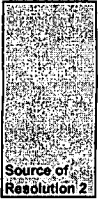


011747



011748





011749



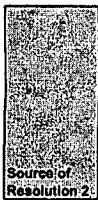
011750



011751



011752



011753



011754



011755

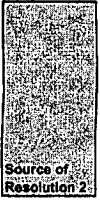


011756

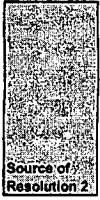




011757



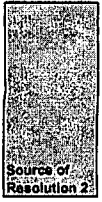
011758



011759



011760



011761





011762



011763

Voter Registration Fraud

5/9/2007

| Parisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty? (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County  | State      | Date      | Type of Election | Alleged instance of fraud  | Original Source                    | Source 1 | Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|--------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|---------------------------------|---------------------|--|--------------|------------|-----------|------------------|--|------------------------------------|----------|-------------------------------------|------------------------|------------------------|
|                    |                             | Federal        |                             |                       |                     |                                 |                     | Yes  | Arkansas     | Arkansas   | 23-Oct-02 |                  | At least six dead people tried to register to vote, including one helped by a person also listed on campaign-spending reports as having received \$100 from the state Democratic party, said Marty Ryall, Republican Party chairman. Michael Cook, executive director of the Arkansas Democratic Party, said a former staffer had hired two teenagers to register voters and that they took names directly from the phone book. He said the incident happened seven months ago and that party officials are cooperating with the U.S. Attorney's Office.                             | Washington Times                   |          |                                     |                        |                        |
|                    |                             |                |                             | 1                     |                     |                                 |                     | Yes  | California   | California | 16-May-02 |                  | A Lafayette man has been charged with voter fraud after registering his toy poodle, Bamabas, to vote, a move he says was meant to show lax registration oversight. Donald Miller, 78, has been charged with misdemeanor voter fraud. The Contra Costa County district attorney's office found out about the stunt after reports about Bamabas being called for jury duty in March.   | AP                                 |          |                                     |                        |                        |
|                    |                             |                |                             |                       |                     |                                 |                     |  | 18th CD      | California | 3-Jun-02  | congressional    | Several voters have said they were tricked into registering to vote as Republicans when they were told they were signing a petition to lower taxes or applying for a rebate from the power company or some other falsehood.  | Roll Call                          |          |                                     |                        |                        |
|                    |                             |                |                             |                       |                     | 1                               |                     |  | Stockton     | California | 13-Jul-02 | congressional    | A Stockton man hired to register Republican voters pleaded guilty to forging someone's name on a voter registration card. The conviction is the first arising from a Republican funded voter registration drive that Democrats allege involved fraud.  | Modesto Bee                        |          |                                     |                        |                        |
|                    |                             |                |                             | 8                     |                     |                                 |                     | Yes  | Lynwood      | California | 16-Oct-03 | city council     | Eight family members of a councilman are charged with registering at nonexistent addresses   | Los Angeles Times                  |          |                                     |                        |                        |
|                    |                             |                |                             |                       |                     | 1                               |                     |  | Stockton     | California | 24-Mar-   | unclear          | paid worker pleads guilty to a misdemeanor charge of forging six registration cards in 2001  | Recordnet                          |          |                                     |                        |                        |
|                    |                             | State          |                             |                       |                     |                                 |                     |  | Solano       | California | 20-Oct-04 | presidential     | Solano County elections officers, suspecting fraud, have sent about 150 voter registration forms to the California Secretary of State's Office for examination. Officials say the questionable forms are the products of intense efforts by both Democrats and Republicans to register voters for the upcoming presidential election. That zeal, further fueled by cash given to so-called "bounty hunters" who sign up voters, may lead to intentional errors on voter forms, officials said - a misspelled name, a fabricated street address, a rearranged Social Security number. | Tri-Valley Herald (Pleasanton, CA) |          |                                     |                        |                        |
|                    |                             |                |                             | 1                     |                     |                                 |                     | Yes  | Hayward City | California | 1-Nov-05  | school board     | Roger Treskunoff, 51, a former school board candidate and former Hayward City Councilman was charged with creating fictitious names and registering those names as voters with the Alameda County Registrar of Voters.   | Contra Costa Times                 |          |                                     |                        |                        |

011764



Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City / County | State      | Date                      | Type of Election | Alleged Instance of fraud  | Original Source              | Source 1 | Resolution of incident / allegation  | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|---------------|------------|---------------------------|------------------|--|------------------------------|----------|--|------------------------|------------------------|
|                     |                             |                |                             |                       |                     |                                      |                     |  | San Joaquin   | California | March 24, 2005; 6/16/2005 | state senate     | County says it is examining 1500 voter registration cards for fraud because of similar looking signatures.   | Recordnet                    |          | June 2005: Paid worker charged with five felony counts of forging voter registration cards (none resulted in fraudulent votes) He admittedly forged 35 voter registration cards in 2004 when he was being paid \$5 for each voter he registered. | Modesto Bee            |                        |
|                     |                             | BOE            |                             |                       |                     |                                      | Yes                 |  | Denver        | Colorado   | 16-Oct-04                 | presidential     | A worker at the Election Commission found a registration form with her own name on it. When another form was cross-referenced with Vital Records, it was found to be from a dead person. Denver workers have forwarded 200 suspicious registrants to the DA. The voter outreach coordinator says the computer immediately flags names of voters who have registered more than once. Several other counties have found suspect voter registration forms.  | Rocky Mountain News          |          |  |                        |                        |
|                     |                             | Yes            |                             |                       |                     |                                      |                     |  | Colorado      | Colorado   | 17-Oct-04                 | presidential     | The Secretary of State accused the Attorney General of not doing enough to prosecute potential ballot crimes. The Secretary confirmed that 6,000 felons are registered to vote. A Denver woman told a TV station she had registered to vote 25 times and signed up several friends up to 40 times to help her boyfriend, a paid staffer for a community group registering voters   | Atlanta Journal Constitution |          |  |                        |                        |
|                     |                             | State          |                             |                       |                     |                                      | Yes                 |  | Colorado      | Colorado   | 18-Oct-04                 | presidential     | With just two weeks before the Nov. 2 election, the state has been rocked by evidence that some voter-registration drives have submitted applications with forged signatures. In other cases, would-be voters have applied to vote as many as 40 times. At the same time, some registration drives have collected applications and then failed to submit them by the Oct. 4 deadline, prompting Secretary of State Donetta Davidson to announce the use of provisional ballots last week. At yesterday's meeting with county clerks and district attorneys, Mrs. Davidson announced procedures for accepting provisional ballots, which are issued to people who say they have registered but whose names fail to appear on the voter roll. Such ballots would be marked "VRD," for "Voter Registration Drive." The would-be voter would have to produce identification and tell when and where they registered. The ballot later would be checked against the state's voter data-bases. The clerks are referring cases that appear to be blatant fraud, such as forged signatures, to the county attorneys. Bill Ritter, the Denver | Washington Times             |          |  |                        |                        |
|                     |                             | Local          |                             | 5                     |                     |                                      | Yes                 |  | Denver        | Colorado   | 28-Oct-04                 | presidential     | Denver prosecutors charged two people Wednesday with falsely filling out multiple voter forms to boost their pay in a paid registration drive. Criminal cases are pending against four people for questionable registrations in the metro area, and there may be more before investigations are completed.   | Rocky Mountain News          |          |  |                        |                        |
|                     |                             | State          |                             |                       |                     |                                      | Yes                 |  | Orange        | Florida    | 31-Oct-02                 | state senate     | The State Attorney is investigating charges of illegal changes to party affiliations on voter registration cards for a primary. The scheme seems to have been targeted at Hispanics.   | Orlando Sentinel             |          |  |                        |                        |

011765

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation | Investigation? | Other Official involvement? | Charged (individuals) | Acquitted/Dismissed | Convicted/guilty pleas (individuals) | Other determination           | Follow-up possible? (Open investigations and/or pending charges) | City/County   | State   | Date      | Type of Election         | Alleged instance of fraud   | Original Source            | Source 1 | Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|-------------------------------|--|---------------|---------|-----------|--------------------------|---|----------------------------|----------|-------------------------------------|------------------------|------------------------|
|                     |                             |                |                             |                       |                     |                                      |                               | Yes  |               | Florida | 23-Oct-04 | presidential             | Officials say that more than 4,200 students from many colleges and universities in the state had their party affiliation switched without them knowing and tricked into registering Republican when they were asked to sign an assortment of petitions and forms. Some students attributed the work to a company working for the Republican Party   | AP                         |          |                                     |                        |                        |
|                     |                             | Local          |                             |                       |                     |                                      |                               | Yes  | Duval         | Florida | 29-Oct-04 | presidential             | Elections officials asked prosecutors to investigate possible voter fraud involving 25 registration forms with apparently bogus addresses.  | Telegraph Herald (IA)      |          |                                     |                        |                        |
|                     |                             |                |                             |                       |                     |                                      |                               | Yes  |               | Florida | 31-Oct-04 | presidential             | Students at Florida State and Florida A&M universities, some of whom signed petitions to legalize medical marijuana or impose stiffer penalties for child molesters, unknowingly had their party registration switched to Republican and their addresses changed. Officials say students at the University of Florida in Alachua County have made similar complaints and that about 4,000 potential voters in all have been affected. Local papers have traced some of the problems to a group hired by the Florida Republican Party, which has denounced the shenanigans. Switching voters' party affiliations does not affect their ability to vote, but changing addresses does, because when voters shows up at their proper polling places, they will not be registered there.   | Washington Post            |          |                                     |                        |                        |
|                     |                             |                |                             |                       |                     |                                      | Charges dismissed as baseless |  |               | Florida | 15-Dec-05 | constitutional amendment | Fourteen months after a campaign to increase Florida's minimum wage drew allegations of voter fraud, a federal judge in South Florida has ruled at least some of those accusations against grass roots political group ACORN were so baseless they amount to defamation. Stuart alleged that ACORN improperly handled registration forms when it conducted voter registration drives, including not submitting Republican registrations to election officials. The judge upheld ACORN's counterclaim that Stuart's lack of evidence made his allegations libel and slander. An investigation by the Florida Department of Law Enforcement also found no evidence of criminal activity at ACORN, department officials confirmed Wednesday.   | St. Petersburg Times       |          |                                     |                        |                        |
|                     |                             | Federal        |                             |                       |                     |                                      |                               | Yes  | Fulton County | Georgia | 4-Nov-05  | presidential             | The U.S. attorney for Georgia's Northern District is investigating the circumstances surrounding more than 2,400 "entirely fraudulent" voter registration applications submitted to Fulton County prior to the November 2004 elections, county elections officials say. Most of those suspect applications were submitted to the Georgia Secretary of State in September 2004 by the Georgia Coalition for the Peoples' Agenda, according to Atlanta attorney Harry W. MacDougald, a member of the Fulton County Board of Registration and Elections. Details of the federal investigation surfaced as part of litigation that challenges as unconstitutional Georgia's new voter photo identification law. Common Cause v. Billups, No. 4:05CV201 (N.D. Ga.). MacDougald made the investigation public in an affidavit submitted on behalf of defendants in the case | Fulton County Daily Report |          |                                     |                        |                        |

011766

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Other determination                               | Follow-up possible? (Open investigations and/or pending charges) | City            | State     | Date      | Type of Election | Alleged instance of fraud  | Original Source         | Source 1                              | Resolution of incident / allegation  | Source of Resolution 1                       | Source of Resolution 2 |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---|--|-----------------|-----------|-----------|------------------|--|-------------------------|---------------------------------------|--|--|------------------------|
|                     |                              | BOE            |                             |                       |                     |                                      |   | Yes  | Chicago         | Illinois  | 12-Mar-04 | primary          | Chicago election officials say as many as 2,000 fraudulent voter registrations have turned up in advance of Tuesday's primary election. Two suspects are under investigation, the Chicago Tribune said, both of whom gathered registrations on behalf of the Puerto Rico Federal Affairs Administration.   | UPI                     |                                       |  |  |                        |
| Yes                 |                              |                |                             |                       |                     |                                      | Press investigation finds fraud allegations false |  | East St. Louis  | Illinois  | 30-Oct-04 | supreme court    | Illinois Republicans on Friday urged officials to look into "potential instances of massive voter fraud" in East St. Louis, showing pictures of an East St. Louis Democratic precinct committeemen's home that dozens of people registered to vote have listed as their address. But it turns out that that address and another called into question aren't single-family homes but are boarding houses or apartments that may house dozens of people. | St. Louis Post Dispatch |                                       |  |  |                        |
|                     |                              |                |                             | 1                     |                     |                                      |   | Yes  | Anderson        | Indiana   | 11-Mar-   | unclear          | Voter registered under the address of his rental property in another town faces perjury charges  | WishTV                  |                                       |  |  |                        |
|                     |                              |                |                             | 5                     |                     |                                      |   | Yes  | St. Martinville | Louisiana | 17-Jul-03 | city council     | 5 people are arraigned on charges of including false information on their voter registration cards   | Daily Advertiser        |                                       |  |  |                        |
|                     |                              |                |                             | 1                     |                     |                                      |   | Yes  | St. Martinville | Louisiana | 17-Dec-03 | city council     | City Councilwoman indicted for submitting false information to register to vote during her re-election campaign and persuaded three people not in the district to fill out registration forms; the voters were charged as well.  | 2 The Advocate          |                                       |  |  |                        |
|                     |                              |                |                             |                       |                     |                                      |   |  |                 | Maryland  | 17-Jun-01 |                  | An 82-year-old woman signed her dog's name on a voter registration card to test the system. No charges were filed.   | Washington Post         |                                       |  |  |                        |
|                     |                              | Local          |                             | 1                     |                     |                                      |   | Yes  | Lansing         | Michigan  | 28-Oct-04 | presidential     | Ingham County sheriff's detectives have turned over to prosecutors the findings of their investigation into hundreds of phony voter registration forms from a state advocacy group. It appeared that some PIRGIM workers went through a Lansing phone book and forged people's signatures on forms   | Lansing State Journal   | Detroit Free Press September 23, 2004 | An eight-month investigation of alleged voter registration fraud has resulted in misdemeanor charges against a Lansing man. Edward Pressley IV, who worked on a voter registration drive sponsored by the environmental group PIRGIM, is accused of submitting a phony registration form to the Ingham County clerk.   | Detroit Free Press August 1, 2005            |                        |
|                     |                              |                |                             | 17                    | 14                  | 64                                   |   | Yes  | Coates          | Minnesota | 31-Oct-02 | all              | 94 voter registration forms had false addresses matching a strip club  | Washington Times        |                                       | The strip club's owner is facing facing felony criminal charges alleging conspiracy to procure unlawful voting and conspiracy to commit forgery. Of the original 94 defendants who filled out registration forms, 64 people accepted offers to plead guilty to misdemeanors, instead of facing trials on felony forgery charges. Another 17 criminal cases, including the charges against Jacobson, are pending, while 14 cases were dismissed | Pioneer Press, St. Paul, Minn. June 10, 2005 |                        |

011767

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation? | Investigation? | Official Involvement? | Charged? (Individuals) | Acquitted/Dismissal? | Convicted/pleas (Individuals) | Other determination? | Follow-up possible? (Open investigations and/or pending charges) | City        | State     | Date      | Type of Election                                  | Alleged instance of fraud   | Original Source              | Source 1 | Resolution of incident / allegation  | Source of Resolution 1                  | Source of Resolution 2              |
|---------------------|------------------------------|----------------|-----------------------|------------------------|----------------------|-------------------------------|----------------------|--|-------------|-----------|-----------|---|---|------------------------------|----------|--|---|-------------------------------------|
|                     |                              |                |                       | 1                      |                      |                               |                      | Yes  | Minneapolis | Minnesota | 17-Oct-04 | presidential                                      | A former ACORN official arrested for running a stop sign had 300 voter registration forms, some of them months old, in his trunk. State law requires they be submitted to the secretary of state within 10 days.  | Atlanta Journal Constitution |          |  |   |                                     |
|                     |                              | Local          |                       | 9                      |                      |                               |                      | Yes  | St. Louis   | Missouri  | 7-Mar-01  | city  | St. Louis Prosecutor Jennifer Joyce convened a grand jury that is investigating 3,800 suspect voter registration cards, including several for dead aldermen. The cards were turned in Feb. 7, the deadline to register voters. Joyce said there have been no indictments.   | St. Louis Post-Dispatch      |          | Nine people are slated to be indicted today on charges of collecting or de-destroying 3,800 bogus voter registration cards that were submitted to the St. Louis Election Board on Feb. 7, 2001, the last day for registering to vote in the hotly contested mayoral primary in March. Nine people have been indicted for trying to register fraudulent voters and destroy the evidence. State registration forms now are numbered and a record is kept of which cards have gone to which groups for voter registration drives. The fake registrations are linked to four temporary workers who had been employed by ACORN. | 11/7/2003, St. Louis Post Dispatch      | 11/11/2003, St. Louis Post Dispatch |
|                     |                              | Federal        |                       | 3                      |                      |                               |                      | Yes  | St. Louis   | Missouri  | 17-Apr-01 | presidential general election and mayoral primary | FBI subpoenas election board records on all people who registered to vote, cast ballots, was turned away at the polls, or whose voter registration was rejected from October 1 [2000] through March 6 [2001]; Senator Bond calls for further investigations because his office learned from state election officials that 24,000 registered voters in the city and 33,000 voters in the county were registered to vote somewhere else | St. Louis Post-Dispatch      |          | Three workers are charged with turning in fraudulent voter registration applications a few weeks before the mayoral primary  | St. Louis Post-Dispatch (March 5, 2002) |                                     |
|                     |                              |                |                       |                        |                      | 6                             |                      |  | St. Louis   | Missouri  | 17-Dec-04 | mayoral   | Six plead guilty to dozens of crimes involving falsifying voter registration forms ("6 plead guilty in vote fraud case")  | St. Louis Post Dispatch      |          | Prosecutor says all the cards were caught and no one voted illegally   | St. Louis Post-Dispatch                 |                                     |
| Yes                 |                              | Federal        |                       |                        |                      |                               |                      | Yes  |             | Nevada    | 17-Oct-04 | presidential                                      | Democrats said Voters Outreach of America, a Republican funded registration group run by Sprouls & Associates, destroyed Democratic voter registration forms. A former employee of the group told a Nevada TV station that registrations collected from Democrats had been destroyed instead of filed with the elections office. The head of the company denied the accusations   | Atlanta Journal Constitution |          |  |   |                                     |

011768

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County  | State          | Date      | Type of Election | Alleged Instance of fraud   | Original Source   | Source 1             | Resolution of Incident / allegation | Source of Resolution | Source of Resolution |
|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------|---------------------|--|--------------|----------------|-----------|------------------|---|---|----------------------|-------------------------------------|----------------------|----------------------|
|                     |                             |                |                             |                       |                     |                                |                     | Yes  | Clark County | Nevada         | 31-Oct-04 | presidential     | Voting Registrar Lomax said he found that canvassers returned stacks of 1,000 completed registration forms that often contained 30 to 50 applications filled out in the same handwriting. Lomax had no total figure for such fraudulent registrations. He also found that canvassers registered the same individuals several times over the span of a week. Some legitimately registered voters called to ask why they were getting registration forms--with their party affiliation changed, Lomax said. Apparently some canvassers went through the phone book and reregistered people without their consent, listing their parties incorrectly, Lomax said. Though registration drive organizers told Lomax's office that canvassers were paid by the hour, many canvassers told his staff and even provided pay stubs that showed they were paid \$2 for every completed registration form they collected in malls, stores and neighborhoods, Lomax said.<br><br>"They were on both sides. It wasn't just Democrats, it wasn't just Republicans," Lomax said. "The money was clearly the root of all evil here. They were paying people to register the voters. And the people doing this were way down the economic scale, and they wanted their money and they were just filling in forms." | Chicago Tribune   |                      |                                     |                      |                      |
|                     |                             | Federal        |                             |                       |                     |                                | Yes                 |  | New Mexico   |                | 10-Sep-04 |                  | US Attorney forms a task force after finding two teenagers registered to vote   | Albuquerque Journal   |                      |                                     |                      |                      |
| Yes                 |                             |                |                             |                       |                     |                                | Yes                 | Bernalillo County  | New Mexico   |                | 15-Sep-04 | presidential     | Three Republican candidates want to examine all voter registration forms sub-mitted by a woman who, while working for a group that signs up new voters, registered a 13-year-old New Mexico boy.  | AP  |                      |                                     |                      |                      |
|                     |                             | BOE            |                             |                       |                     |                                | BOE finding         | Yes  |              | New York       |           | 19-Sep-02        | gubernatorial   | Dead voters were among the thousands of flawed voter registrations submitted by campaign workers of Governor Pataki during an enrollment drive, New York City officials determined  | Poughkeepsie Journal |                                     |                      |                      |
|                     |                             | Local          |                             |                       |                     |                                | Yes                 | Bronx  | New York     |                | 23-Jun-03 | gubernatorial    | Bronx DA and a grand jury investigate whether Rikers Island supervisors filled out registration cards in the names of inmates (such inmates are eligible to vote)   | Newsday   |                      |                                     |                      |                      |
|                     |                             |                |                             |                       |                     |                                |                     |  | Queens       | New York       |           | 15-Sep-04        | state assembly  | About 100 people in the Flushing area gave commercial addresses on voter registration forms, raising suspicion at polling sites yesterday that may cast a shadow over the assembly race.  | Newsday              |                                     |                      |                      |
|                     |                             |                |                             |                       |                     |                                |                     |  | Greenboro    | North Carolina |           | 6-Dec-01         |   | Imtiaz Ahmed Siddiqui pleaded guilty Thursday to voter fraud in a brief federal court hearing that included no mention of the allegation that he may be acquainted with terrorists. Siddiqui, 31, answering questions in halting English, admitted he signed a voter registration form that identified him as a U.S. citizen when he got a driver's license in Durham in August. He is a citizen of Pakistan. | AP                   |                                     |                      |                      |

011769

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty (Individuals) | Other determination                                    | Follow-up possible? (Open investigations and/or pending charges) | City/County        | State          | Date      | Type of Election | Alleged instance of fraud  | Original Source     | Resolution of incident / allegation  | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|-------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------|--|--|--------------------|----------------|-----------|------------------|--|---------------------|--|------------------------|------------------------|
|                     |                         | Slate          |                             |                       |                     |                                |  | Yes  | Charlotte          | North Carolina | 24-Oct-04 | presidential     | Officials are investigating ACORN because an ACORN organizer found that one of its workers had faked about 70 registrations. The worker was fired and the information turned over to the state board. A similar problem with a consumer interest group in Wake County has also been turned over to state officials   | Charlotte Observer  |  |                        |                        |
|                     |                         |                |                             |                       |                     |                                | BOE and DMV find small # of questionable registrations |  |                    | North Carolina | 24-Oct-04 |                  | The Charlotte Observer found more than 60,000 people who appear to be registered in both Carolinas. Alamance County Sheriff says illegal immigrants are registering to vote using false documents at drivers license offices. North Carolina is investigating two groups that may have falsely registered new voters. Some are worried that noncitizens could vote because in North Carolina one can get a drivers license without a social security number. The Elections division and the DMV ran two checks of people who received drivers licenses without proof of citizenship and found only a handful who had registered to vote. | AP                  |  |                        |                        |
|                     |                         |                |                             |                       |                     |                                |  | Yes  | Mecklenburg County | North Carolina | 28-Sep-05 |                  | Mecklenburg County commissioner Bill James and Libertarian Lewis Guignard formally challenged the registration of more than 400 homeless voters Tuesday, saying they had improperly registered using commercial addresses. James and Guignard said the 464 voters challenged in their complaint incorrectly used the addresses of the Urban Ministries at 945 N. College St., the Charlotte Rescue Mission at 907 W. First St. or the Salvation Army at 534 Spratt St. to register, even though those are commercial addresses where the voters could not permanently live.  | Charlotte Observer  |  |                        |                        |
|                     |                         |                |                             |                       |                     |                                |  | Yes  | Cincinnati         | Ohio           | 20-Aug-03 | city council     | More than 70 people have claimed a Walnut Hills tailoring shop as their home address while registering to vote, leading the Hamilton County Board of Elections to subpoena the tailor, who is a candidate for Cincinnati City Council.   | Cincinnati Enquirer |  |                        |                        |
|                     |                         |                |                             | 1                     |                     |                                |  | Yes  | Franklin           | Ohio           | 8-Sep-04  | presidential     | A part-time worker for ACORN was indicted for falsely filling out and signing a voter registration card  | Columbus Dispatch   |  |                        |                        |
|                     | BOE/Slate               |                |                             | 1                     |                     |                                |  | Yes  |                    | Ohio           | 15-Oct-04 | presidential     | In Hamilton County, the Board of Elections has subpoenaed 19 registered voters who elections officials don't believe exist. The Summit County Board of Elections in Akron has asked Ohio Attorney General Jim Petro to investigate 803 allegedly fraudulent voter-registration cards, many of which appeared to be in the same handwriting. In Lake County, east of Cleveland, several voter-registration cards seem to have forged signatures, elections officials say.   | Cincinnati Enquirer | An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious. | 11/8/2005              | Akron Beacon Journal   |

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation? | Other Official involvement? | Charged (individuals) | Acquitted/Dismissal | Convicted/guilty pleas (individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State  | Date      | Type of Election | Alleged instance of fraud  | Original Source              | Source 1 | Resolution of incident / allegation  | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|------------------------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|-------------|--------|-----------|------------------|--|------------------------------|----------|--|------------------------|------------------------|
|                     |                              |                             |                       | 1                   |                                      |                     | Yes  | Ohio        |        | 20-Oct-04 | presidential     | State GOP Chair says that the party tried to contact 231,834 new registrants in the five largest counties and had 5.7% returned as undeliverable.  | Columbus Dispatch            |          | An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious. | 8-Nov-05               | Akron Beacon Journal   |
|                     |                              |                             |                       | 1                   |                                      |                     | Yes  | Defiance    | Ohio   | 31-Oct-04 | presidential     | The sheriff arrested a man for submitting 130 phony registration forms with such names as Mary Poppins and Dick Tracy. Authorities say he confessed to being paid in crack cocaine by an NAACP volunteer.  | Dallas Morning News          |          |  | 11/8/2005              | Akron Beacon Journal   |
|                     |                              | Unknown                     |                       |                     |                                      |                     | Yes  | Parma       | Ohio   | 9-Jan-05  | presidential     | Three police officers are being investigated on accusations that they listed police headquarters as their home addresses when registering for the Nov. 2 election, officials said.   | AP                           |          |  |                        |                        |
|                     |                              | State                       |                       |                     |                                      |                     | Yes  | Oregon      | Oregon | 17-Oct-04 | presidential     | The Secretary of State announced an investigation into allegations that a paid canvasser with Sproul & Associates had been told to register only Republicans. The head of the organization denied the accusations.   | Atlanta Journal Constitution |          |  |                        |                        |
|                     |                              |                             |                       |                     |                                      |                     |  | Oregon      | Oregon | 30-Oct-04 | presidential     | In interviews, students at Mt. Hood and Chemeketa community colleges, Western Oregon University and the University of Oregon all told similar stories: They were approached on campus and asked to sign a petition, often urging lower auto-mobile insurance rates for students, and then asked to sign or initial a second document, which turned out to be a voter registration card.<br><br>Many of the students were urged to mark Republican as their party affiliation; others were told to leave the party affiliation section blank but to put their initials next to Republican on that part of the form. Many of the students already were registered voters. Some students didn't realize they were registering to vote, or that their party affiliation was about to change. Nathan Sproul, whose company conducted the registration drive, did not respond to calls seeking comment. His firm has been accused of using similar tactics involving bogus petitions at colleges in Pennsylvania, according to the Pittsburgh Post-Gazette.<br><br>In an earlier interview with The Oregonian, Sproul confirmed that his canvassers are paid a "bounty" of extra money for registering Republicans but said he did not think that was a problem. | Newhouse News Service        |          |  |                        |                        |

011770

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (individuals) | Acquitted/Dismissal | Convicted/pleas (individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County     | State        | Date      | Type of Election  | Alleged instance of fraud  | Original Source           | Source 1 | Resolution of Incident / allegation   | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|-------------------------------|---------------------|--|-----------------|--------------|-----------|-------------------|--|---------------------------|----------|---|------------------------|------------------------|
| Yes                 |                             |                |                             |                       |                     |                               |                     |  | Pennsylvania    |              | 25-Oct-04 | presidential      | Republicans mailed letters to 130,000 people who had registered to vote in the last 6 months. 10,000 came back as undeliverable. The legal counsel to the state party said Republicans had looked at a sample of the letters and found 15 of 100 of the registrants were dead. The director of a nonpartisan organization says in a transient city many people may have moved over a six month period, and many letters might not have reached people living in shelters or substandard housing. | Philadelphia Inquirer     |          |   |                        |                        |
|                     |                             | County         |                             |                       |                     |                               | Yes                 |  | Pennsylvania    |              | 28-Oct-04 | presidential      | County investigators have launched an investigation into a scam in which University of Pittsburgh and Community College of Allegheny County students believed they were signing petitions to legalize marijuana for medical use, only to find themselves registered as Republicans.  | Pittsburgh Tribune Review |          |   |                        |                        |
|                     |                             |                |                             | 4                     |                     |                               | Yes                 |  | East Providence | Rhode Island | 20-Aug-05 | town primary      | Four people charged with using business addresses to register to vote  | Pawtucket Times           |          |   |                        |                        |
|                     |                             | Unknown        |                             | 7                     |                     |                               | Yes                 |  | East Providence | Rhode Island | 2-Dec-05  | municipal         | Nine people are accused of registering at business addresses. Charges against two are dropped because they did not sign the registration cards. Three other defendants have been invited to apply to the adult diversion program. Arraignments were postponed for four others. October 30, 2004: As many as 287 people were originally suspected.  | Providence Journal        |          |   |                        |                        |
|                     |                             |                |                             | 1                     |                     |                               | Yes                 |  | Rapid City      | South Dakota | 19-Oct-02 | unclear           | forged registration applications by a worker being paid by the application   | Argus Leader              |          | one indictment on five counts of forgery  | Argus Leader           |                        |
|                     |                             | Unknown        |                             |                       |                     |                               | Yes                 |  |                 | South Dakota | 21-Oct-02 | statewide         | Several counties, almost all of them adjoining an American Indian reservation, submit questionable registration forms to law enforcement   | Argus Leader              |          | Red Earth Villeda, a contractor for the Democratic Party, is investigated. SEE SOUTH DAKOTA SUMMARY | Argus Leader           |                        |
|                     |                             |                |                             |                       |                     | 1                             |                     |  | Rapid City      | South Dakota | 12-Jul-03 | unclear           | Individual reaches plea agreement for falsifying registration cards  | Midwest News              |          |   |                        |                        |
|                     |                             |                |                             |                       |                     | 1                             |                     |  |                 | South Dakota | 28-Jul-04 |                   | A Phoenix man accused of forging voter registration forms in Codrington County has been sentenced to prison. Howard L. Brewer, 44, pleaded guilty last month to three counts of forgery. He was charged after the county auditor's office received an envelope in April that contained 20 voter registrations. Eight to 10 of the forms were suspicious.   | AP                        |          |   |                        |                        |
|                     |                             | County         |                             |                       |                     |                               | Yes                 |  | Harris          | Texas        | 5-Feb-05  | state legislature | County Tax Assessor-Collector alleges 157 registered had false addresses. County officials are investigating   | Houston Chronicle         |          |   |                        |                        |
|                     |                             |                |                             |                       |                     | 1                             |                     |  | Prince William  | Virginia     | 5-May-05  | state legislature | Candidate charged with lying on a registration card and voting in a district where he did not reside.  | Washington Times          |          |   |                        |                        |

011771



Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City / County | State     | Date      | Type of Election | Alleged Instance of fraud   | Original Source            | Source 1 | Resolution of Incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|-------------------------------|---------------------|--|---------------|-----------|-----------|------------------|---|----------------------------|----------|-------------------------------------|------------------------|------------------------|
| Yes                 |                             |                |                             |                       |                     |                               |                     |  | Milwaukee     | Wisconsin | 31-Oct-04 | presidential     | Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual -- including thousands who might be missing an apartment number on their registration -- at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm. | Milwaukee Journal Sentinel |          |                                     |                        |                        |
|                     |                             | Unknown        |                             |                       |                     |                               | Yes                 |  | Madison       | Wisconsin | 10-May-05 | presidential     | The vast majority of voters alleged to have been phantoms because their verification forms were returned as undeliverable really exist and their cards were returned because of innocent mistakes in filling out voter registration forms. Of 1,194 verification cards returned, 16 are still be examined   | Wisconsin State Journal    |          |                                     |                        |                        |
|                     |                             |                |                             | 2                     |                     |                               | Yes                 |  | Milwaukee     | Wisconsin | 11-May-05 | presidential     | Arrest warrants issued and felony charges filed against two workers for Project Vote who admitted to filling out multiple registration cards using fictitious information to earn money   | Milwaukee Journal Sentinel |          |                                     |                        |                        |
|                     |                             |                |                             | 2                     |                     |                               |                     |  | Milwaukee     | Wisconsin | 6-Dec-05  | presidential     | County DA charges two people affiliated with ACORN for filing false voter registrations   | AP                         |          |                                     |                        |                        |

011772

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal (Individuals) | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open Investigation and/or pending charges) | City/County | State | Date | Type of Election | Alleged instance of fraud | Original Source | Source 1 | Resolution of incident /allegation | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|-----------------------------------|--------------------------------------|---------------------|---|-------------|-------|------|------------------|---------------------------|-----------------|----------|------------------------------------|------------------------|------------------------|
|                     |                              |                |                             |                       |                                   |                                      |                     |   |             |       |      |                  |                           |                 |          |                                    |                        |                        |

011773

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City / County | State | Date | Type of Election | Alleged Instance of fraud | Original Source | Source of Resolution | Resolution of incident / allegation | Source of Resolution |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------|---------------------|--|---------------|-------|------|------------------|---------------------------|-----------------|----------------------|-------------------------------------|----------------------|
|                     |                              |                |                             |                       |                     |                                |                     |  |               |       |      |                  |                           |                 |                      |                                     |                      |

011774

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State | Date | Type of Election | Alleged instance of fraud | Original Source | Source 1 | Resolution of incident / allegation | Source of Resolution: 1 | Source of Resolution: 2 |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|-------------|-------|------|------------------|---------------------------|-----------------|----------|-------------------------------------|-------------------------|-------------------------|
|                     |                              |                |                             |                       |                     |                                      |                     |  |             |       |      |                  |                           |                 |          |                                     |                         |                         |

011775

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Wrongful Removal from Registration Lists

| City / County | State      | Date      | Type of Election | Alleged instance of fraud   | Original Source      | Source1 | Source 2 | Source 3 |
|---------------|------------|-----------|------------------|---|----------------------|---------|----------|----------|
| Pulaski       | Arkansas   | 16-Apr-04 |                  | The US Department of Justice says county officials have violated election law and proposed a consent decree with the county regarding ballot gathering and counting. The Department investigated registration practices that may have disenfranchised numerous voters, including sending voters to multiple poll sites and voters wrongly missing from the registration list. Under the agreement, the county will fix the problems in the database and DOJ lawyers will monitor polling places and the clerk's office  | AP                   |         |          |          |
|               | Colorado   | 31-Oct-04 | presidential     | Democrats are complaining about an attempt to remove up to 6,000 convicted felons from the electoral roll, at the behest of the state's Republican secretary of state, Donetta Davidson, despite a US federal law that prohibits eliminating a voter's rights within 90 days of an election to give time for the voter to protest.  | The Observer         |         |          |          |
|               | Florida    | 29-Sep-04 | presidential     | Secretary of State Hood tried to revive the discredited 2000 statewide purge list of suspected felons and ex-felons for 2004. That list disproportionately removed black voters from the rolls. The state tried to keep the list secret until forced to release it by court order. When it was released, it was found to contain a disproportionate number of black voters, including 2,000 who had had their rights restored and included several people who could show they had not criminal record at all. In addition, the list of 48,000 contained only 61 Hispanic names, way out of line with the strength of both the general Hispanic population and prison population. Hood was forced to drop the list | The Independent (UK) |         |          |          |
| Newark        | New Jersey | 2-Nov-04  | presidential     | More than 200 voters sought court orders because they were turned away from a polling place, mostly because their names were not on voter lists. In 95% of the cases the judges ruled they could cast ballots.  | AP                   |         |          |          |
| Albany        | New York   | 2-Nov-04  | presidential     | Students at SUNY Albany found their names no longer on the voter registration rolls, even though they had voted at the same location in the past  | AP                   |         |          |          |

011776

011777

011778

011779





**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Wrongful Removal from Registration Lists**

| Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |

011781

011782



011783

011784

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

| City/County  | State      | Date                       | Type of Election | Alleged Instance of fraud  | Original Source                    | Source 1 | Source 2 | Source 3 |
|--------------|------------|----------------------------|------------------|--|------------------------------------|----------|----------|----------|
|              | Arkansas   | 23-Oct-02                  |                  | At least six dead people tried to register to vote, including one helped by a person also listed on campaign-spending reports as having received \$100 from the state Democratic party, said Marty Ryall, Republican Party chairman. Michael Cook, executive director of the Arkansas Democratic Party, said a former staffer had hired two teenagers to register voters and that they took names directly from the phone book. He said the incident happened seven months ago and that party officials are cooperating with the U.S. Attorney's Office.                             | Washington Times                   |          |          |          |
| 0            | California | 16-May-02                  |                  | A Lafayette man has been charged with voter fraud after registering his toy poodle, Barnabas, to vote, a move he says was meant to show lax registration oversight. Donald Miller, 78, has been charged with misdemeanor voter fraud. The Contra Costa County district attorney's office found out about the stunt after reports about Barnabas being called for jury duty in March.   | AP                                 |          |          |          |
| 18th CD      | California | 3-Jun-02                   | congressional    | Several voters have said they were tricked into registering to vote as Republicans when they were told they were signing a petition to lower taxes or applying for a rebate from the power company or some other falsehood.  | Roll Call                          |          |          |          |
| Stockton     | California | 13-Jul-02                  | congressional    | A Stockton man hired to register Republican voters pleaded guilty to forging someone's name on a voter registration card. The conviction is the first arising from a Republican funded voter registration drive that Democrats allege involved fraud.  | Modesto Bee                        |          |          |          |
| Lynwood      | California | 16-Oct-03                  | city council     | Eight family members of a councilman are charged with registering at nonexistent addresses   | Los Angeles Times                  |          |          |          |
| Stockton     | California | 24-Mar-04                  | unclear          | paid worker pleads guilty to a misdemeanor charge of forging six registration cards in 2001  | Recordnet                          |          |          |          |
| Solano       | California | 20-Oct-04                  | presidential     | Solano County elections officers, suspecting fraud, have sent about 150 voter registration forms to the California Secretary of State's Office for examination. Officials say the questionable forms are the products of intense efforts by both Democrats and Republicans to register voters for the upcoming presidential election. That zeal, further fueled by cash given to so-called "bounty hunters" who sign up voters, may lead to intentional errors on voter forms, officials said - a misspelled name, a fabricated street address, a rearranged Social Security number. | Tri-Valley Herald (Pleasanton, CA) |          |          |          |
| Hayward City | California | 1-Nov-05                   | school board     | Roger Treskunoff, 51, a former school board candidate and former Hayward City Councilman was charged with creating fictitious names and registering those names as voters with the Alameda County Registrar of Voters.   | Contra Costa Times                 |          |          |          |
| San Joaquin  | California | March 24, 200; 4/6/16/2005 | state senate     | County says it is examining 1500 voter registration cards for fraud because of similar looking signatures.   | Recordnet                          |          |          |          |

011785

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|        |          |           |              |  |                              |  |  |  |
|--------|----------|-----------|--------------|--|------------------------------|--|--|--|
| Denver | Colorado | 16-Oct-04 | presidential | A worker at the Election Commission found a registration form with her own name on it. When another form was cross-referenced with Vital Records, it was found to be from a dead person. Denver workers have forwarded 200 suspicious registrants to the DA. The voter outreach coordinator says the computer immediately flags names of voters who have registered more than once. Several other counties have found suspect voter registration forms.  | Rocky Mountain News          |  |  |  |
|        | Colorado | 17-Oct-04 | presidential | The Secretary of State accused the Attorney General of not doing enough to prosecute potential ballot crimes. The Secretary confirmed that 6,000 felons are registered to vote. A Denver woman told a TV station she had registered to vote 25 times and signed up several friends up to 40 times to help her boyfriend, a paid staffer for a community group registering voters   | Atlanta Journal Constitution |  |  |  |
|        | Colorado | 18-Oct-04 | presidential | With just two weeks before the Nov. 2 election, the state has been rocked by evidence that some voter-registration drives have submitted applications with forged signatures. In other cases, would-be voters have applied to vote as many as 40 times.<br>At the same time, some registration drives have collected applications and then failed to submit them by the Oct. 4 deadline, prompting Secretary of State Donetta Davidson to announce the use of provisional ballots last week.<br>At yesterday's meeting with county clerks and district attorneys, Mrs. David-son announced procedures for accepting provisional ballots, which are issued to people who say they have registered but whose names fail to appear on the voter roll. Such ballots would be marked "VRD," for "Voter Registration Drive." The would-be voter would have to produce identification and tell when and where they registered. The ballot later would be checked against the state's voter data-bases. The clerks are referring cases that appear to be blatant fraud, such as forged signatures, to the county attorneys. Bill Ritter, the Denver district at-t<br>But he said he saw no pattern of a conspiracy to co | Washington Times             |  |  |  |
| Denver | Colorado | 28-Oct-04 | presidential | Denver prosecutors charged two people Wednesday with falsely filling out mul-tiple voter forms to boost their pay in a paid registration drive. Criminal cases are pending against four people for questionable registrations in the metro area, and there may be more before investigations are completed.  | Rocky Mountain News          |  |  |  |
| Orange | Florida  | 31-Oct-02 | state senate | The State Attorney is investigating charges of illegal changes to party affiliations on voter registration cards for a primary. The scheme seems to have been targetted at Hispanics.  | Orlando Sentinel             |  |  |  |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|       |         |           |                          |   |                       |  |  |  |
|-------|---------|-----------|--------------------------|---|-----------------------|--|--|--|
|       | Florida | 23-Oct-04 | presidential             | Officials say that more than 4,200 students from many colleges and universities in the state had their party affiliation switched without them knowing and tricked into registering Republican when they were asked to sign an assortment of petitions and forms. Some students attributed the work to a company working for the Republican Party   | AP                    |  |  |  |
| Duval | Florida | 29-Oct-04 | presidential             | Elections officials asked prosecutors to investigate possible voter fraud involving 25 registration forms with apparently bogus addresses.  | Telegraph Herald (IA) |  |  |  |
|       | Florida | 31-Oct-04 | presidential             | Students at Florida State and Florida A&M universities, some of whom signed petitions to legalize medical marijuana or impose stiffer penalties for child molesters, unknowingly had their party registration switched to Republican and their addresses changed. Officials say students at the University of Florida in Alachua County have made similar complaints and that about 4,000 potential voters in all have been affected. Local papers have traced some of the problems to a group hired by the Florida Republican Party, which has denounced the shenanigans. Switching voters' party affiliations does not affect their ability to vote, but changing addresses does, because when voters shows up at their proper polling places, they will not be registered there. | Washington Post       |  |  |  |
|       | Florida | 15-Dec-05 | constitutional amendment | Fourteen months after a campaign to increase Florida's minimum wage drew allegations of voter fraud, a federal judge in South Florida has ruled at least some of those accusations against grass roots political group ACORN were so baseless they amount to defamation. Stuart alleged that ACORN improperly handled registration forms when it conducted voter registration drives, including not submitting Republican registrations to election officials. The judge upheld ACORN's counterclaim that Stuart's lack of evidence made his allegations libel and slander. An investigation by the Florida Department of Law Enforcement also found no evidence of criminal activity at ACORN, department officials confirmed Wednesday.   | St. Petersburg Times  |  |  |  |

011786

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                 |           |           |               |   |                            |  |  |  |
|-----------------|-----------|-----------|---------------|---|----------------------------|--|--|--|
| Fulton County   | Georgia   | 4-Nov-05  | presidential  | The U.S. attorney for Georgia's Northern District is investigating the circumstances surrounding more than 2,400 "entirely fraudulent" voter registration applications submitted to Fulton County prior to the November 2004 elections, county elections officials say. Most of those suspect applications were submitted to the Georgia Secretary of State in September 2004 by the Georgia Coalition for the Peoples' Agenda, according to Atlanta attorney Harry W. MacDougald, a member of the Fulton County Board of Registration and Elections. Details of the federal investigation surfaced as part of litigation that challenges as unconstitutional Georgia's new voter photo identification law. Common Cause v. Billups. No. 4:05CV201 (N.D. Ga.). MacDougald made the investigation public in an affidavit submitted on behalf of defendants in the case | Fulton County Daily Report |  |  |  |
| Chicago         | Illinois  | 12-Mar-04 | primary       | Chicago election officials say as many as 2,000 fraudulent voter registrations have turned up in advance of Tuesday's primary election. Two suspects are under investigation, the Chicago Tribune said, both of whom gathered registrations on behalf of the Puerto Rico Federal Affairs Administration.  | UPI                        |  |  |  |
| East St. Louis  | Illinois  | 30-Oct-04 | supreme court | Illinois Republicans on Friday urged officials to look into "potential instances of massive voter fraud" in East St. Louis, showing pictures of an East St. Louis Democratic precinct committeemen's home that dozens of people registered to vote have listed as their address. But it turns out that that address and another called into question aren't single-family homes but are boarding houses or apartments that may house dozens of people.  | St. Louis Post Dispatch    |  |  |  |
| Anderson        | Indiana   | 11-Mar-04 | unclear       | Voter registered under the address of his rental property in another town faces perjury charges   | WishTV                     |  |  |  |
| St. Martinville | Louisiana | 17-Jul-03 | city council  | 5 people are arraigned on charges of including false information on their voter registration cards  | Daily Advertiser           |  |  |  |
| St. Martinville | Louisiana | 17-Dec-03 | city council  | City Councilwoman indicted for submitting false information to register to vote during her re-election campaign and persuaded three people not in the district to fill out registration forms; the voters were charged as well  | 2 The Advocate             |  |  |  |
|                 | Maryland  | 17-Jun-01 |               | An 82-year-old woman signed her dog's name on a voter registration card to test the system. No charges were filed.  | Washington Post            |  |  |  |
| Lansing         | Michigan  | 28-Oct-04 | presidential  | Ingham County sheriff's detectives have turned over to prosecutors the findings of their investigation into hundreds of phony voter registration forms from a state advocacy group. It appeared that some PIRGIM workers went through a Lansing phone book and forged people's signatures on forms  | Lansing State Journal      |  |  |  |
| Coates          | Minnesota | 31-Oct-02 | all           | 94 voter registration forms had false addresses matching a strip club   | Washington Times           |  |  |  |

01777

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|             |           |           |  |   |                              |  |  |  |
|-------------|-----------|-----------|--|---|------------------------------|--|--|--|
| Minneapolis | Minnesota | 17-Oct-04 | presidential   | A former ACORN official arrested for running a stop sign had 300 voter registration forms, some of them months old, in his trunk. State law requires they be submitted to the secretary of state within 10 days.  | Atlanta Journal Constitution |  |  |  |
| St. Louis   | Missouri  | 7-Mar-01  | city   | St. Louis Prosecutor Jennifer Joyce convened a grand jury that is investigating 3,800 suspect voter registration cards, including several for dead aldermen. The cards were turned in Feb. 7, the deadline to register voters. Joyce said there have been no indictments.   | St. Louis Post-Dispatch      |  |  |  |
| St. Louis   | Missouri  | 17-Apr-01 | presidential<br>general election<br>and mayoral<br>primary | FBI subpoenas election board records on all people who registered to vote, cast ballots, was turned away at the polls, or whose voter registration was rejected from October 1 [2000] through March 6 [2001]; Senator Bond calls for further investigations because his office learned from state election officials that 24,000 registered voters in the city and 33,000 voters in the county were registered to vote somewhere else | St. Louis Post-Dispatch      |  |  |  |
| St. Louis   | Missouri  | 17-Dec-04 | mayoral  | Six plead guilty to dozens of crimes involving falsifying voter registration forms  | St. Louis Post Dispatch      |  |  |  |
|             | Nevada    | 17-Oct-04 | presidential   | Democrats said Voters Outreach of America, a Republican funded registration group run by Sprouls & Associates, destroyed Democratic voter registration forms. A former employee of the group told a Nevada TV station that registrations collected from Democrats had been destroyed instead of filed with the elections office. The head of the company denied the accusations   | Atlanta Journal Constitution |  |  |  |

011788

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                   |                |           |                |   |                      |  |  |  |
|-------------------|----------------|-----------|----------------|---|----------------------|--|--|--|
|                   |                |           |                | <p>Voting Registrar Lomax said he found that canvassers returned stacks of 1,000 completed registration forms that often contained 30 to 50 applications filled out in the same handwriting. Lomax had no total figure for such fraudulent registrations.</p> <p>He also found that canvassers registered the same individuals several times over the span of a week.</p> <p>Some legitimately registered voters called to ask why they were getting registration forms—with their party affiliation changed, Lomax said. Apparently some canvassers went through the phone book and reregistered people without their consent, listing their parties incorrectly, Lomax said. Though registration drive organizers told Lomax's office that canvassers were paid by the hour, many canvassers told his staff and even provided pay stubs that showed they were paid \$2 for every completed registration form they collected in malls, stores and neighborhoods, Lomax said. "They were on both sides. It wasn't just Democrats, it wasn't just Republicans," Lomax said. "The money was clearly the root of all evil here. They were paying people to register the vote."</p> |                      |  |  |  |
| Clark County      | Nevada         | 31-Oct-04 | presidential   |   | Chicago Tribune      |  |  |  |
|                   | New Mexico     | 10-Sep-04 |                | US Attorney forms a task force after finding two teenagers registered to vote   | Albuquerque Journal  |  |  |  |
| Bernalillo County | New Mexico     | 15-Sep-04 | presidential   | Three Republican candidates want to examine all voter registration forms sub-mitted by a woman who, while working for a group that signs up new voters, reg-istered a 13-year-old New Mexico boy.   | AP                   |  |  |  |
|                   | New York       | 19-Sep-02 | gubernatorial  | Dead voters were among the thousands of flawed voter registrations submitted by campaign workers of Governor Pataki during an enrollment drive, New York City officials determined  | Poughkeepsie Journal |  |  |  |
| Bronx             | New York       | 23-Jun-03 | gubernatorial  | Bronx DA and a grand jury investigate whether Rikers Island supervisors filled out registration cards in the names of inmates (such inmates are eligible to vote)   | Newsday              |  |  |  |
| Queens            | New York       | 15-Sep-04 | state assembly | About 100 people in the Flushing area gave commercial addresses on voter registration forms, raising suspicion at polling sites yesterday that may cast a shadow over the assembly race.  | Newsday              |  |  |  |
| Greensboro        | North Carolina | 6-Dec-01  |                | Imtiaz Ahmed Siddiqui pleaded guilty Thursday to voter fraud in a brief fed-eral court hearing that included no mention of the allegation that he may be ac-quainted with terrorists. Siddiqui, 31, answering questions in halting English, admitted he signed a voter registration form that identified him as a U.S. citizen when he got a driver's license in Durham in August. He is a citizen of Pakistan.   | AP                   |  |  |  |

011739

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                    |                |           |              |  |                     |  |  |  |
|--------------------|----------------|-----------|--------------|--|---------------------|--|--|--|
| Charlotte          | North Carolina | 24-Oct-04 | presidential | Officials are investigating ACORN because an ACORN organizer found that one of its workers had faked about 70 registrations. The worker was fired and the information turned over to the state board. A similar problem with a consumer interest group in Wake County has also been turned over to state officials   | Charlotte Observer  |  |  |  |
|                    | North Carolina | 24-Oct-04 |              | The Charlotte Observer found more than 60,000 people who appear to be registered in both Carolinas. Alamance County Sheriff says illegal immigrants are registering to vote using false documents at drivers license offices. North Carolina is investigating two groups that may have falsely registered new voters. Some are worried that noncitizens could vote because in North Carolina one can get a drivers license without a social security number. The Elections division and the DMV ran two checks of people who received drivers licenses without proof of citizenship and found only a handful who had resgitered to vote. | AP                  |  |  |  |
| Mecklenburg County | North Carolina | 28-Sep-05 |              | Mecklenburg County commissioner Bill James and Libertarian Lewis Guignard formally challenged the registration of more than 400 homeless voters Tuesday, saying they had improperly registered using commercial addresses. James and Guignard said the 464 voters challenged in their complaint incorrectly used the addresses of the Urban Ministries at 945 N. College St., the Charlotte Rescue Mission at 907 W. First St. or the Salvation Army at 534 Spratt St. to register, even though those are commercial addresses where the voters could not permanently live.  | Charlotte Observer  |  |  |  |
| Cincinnati         | Ohio           | 20-Aug-03 | city council | More than 70 people have claimed a Walnut Hills tailoring shop as their home address while registering to vote, leading the Hamilton County Board of Elections to subpoena the tailor, who is a candidate for Cincinnati City Council.   | Cincinnati Enquirer |  |  |  |
| Franklin           | Ohio           | 8-Sep-04  | presidential | A part-time worker for ACORN was indicted for falsely filling out and signing a voter registration card  | Columbus Dispatch   |  |  |  |
|                    | Ohio           | 15-Oct-04 | presidential | In Hamilton County, the Board of Elections has subpoenaed 19 registered voters who elections officials don't believe exist. The Summit County Board of Elections in Akron has asked Ohio Attorney General Jim Petro to investigate 803 allegedly fraudulent voter-registration cards, many of which appeared to be in the same handwriting. In Lake County, east of Cleveland, several voter-registration cards seem to have forged signatures, elections officials say.   | Cincinnati Enquirer |  |  |  |

011790

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|          |        |           |              |   |                              |  |  |  |
|----------|--------|-----------|--------------|---|------------------------------|--|--|--|
|          | Ohio   | 20-Oct-04 | presidential | State GOP Chair says that the party tried to contact 231,834 new registrants in the five largest counties and had 5.7% returned as undeliverable.   | Columbus Dispatch            |  |  |  |
| Defiance | Ohio   | 31-Oct-04 | presidential | The sheriff arrested a man for submitting 130 phony registration forms with such names as Mary Poppins and Dick Tracy. Authorities say he confessed to being paid in crack cocaine by an NAACP volunteer.   | Dallas Morning News          |  |  |  |
| Parma    | Ohio   | 9-Jan-05  | presidential | Three police officers are being investigated on accusations that they listed police headquarters as their home addresses when registering for the Nov. 2 election, officials said.  | AP                           |  |  |  |
|          | Oregon | 17-Oct-04 | presidential | The Secretary of State announced an investigation into allegations that a paid canvasser with Sproul & Associates had been told to register only Republicans. The head of the organization denied the accusations.  | Atlanta Journal Constitution |  |  |  |
|          | Oregon | 30-Oct-04 | presidential | Chemeketa community colleges, Western Oregon University and the University of Oregon all told similar stories: They were approached on campus and asked to sign a petition, often urging lower auto-mobile insurance rates for students, and then asked to sign or initial a second document, which turned out to be a voter registration card. Many of the students were urged to mark Republican as their party affiliation; others were told to leave the party affiliation section blank but to put their initials next to Republican on that part of the form. Many of the students already were registered voters. Some students didn't realize they were registering to vote, or that their party affiliation was about to change. Nathan Sproul, whose company conducted the registration drive, did not respond to calls seeking comment. His firm has been accused of using similar tactics involving bogus petitions at colleges in Pennsylvania, according to the Pittsburgh Post-Gazette. In an earlier interview with The Oregonian, Sproul confirmed that his canvassers are paid a "bounty" | Newhouse News Service        |  |  |  |

011791

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

011792

|                 |              |           |                   |  |                           |  |  |  |
|-----------------|--------------|-----------|-------------------|--|---------------------------|--|--|--|
|                 | Pennsylvania | 25-Oct-04 | presidential      | Republicans mailed letters to 130,000 people who had registered to vote in the last 6 months. 10,000 came back as undeliverable. The legal counsel to the state party said Republicans had looked at a sample of the letters and found 15 of 100 of the registrants were dead. The director of a nonpartisan organization says in a transient city many people may have moved over a six month period, and many letters might not have reached people living in shelters or substandard housing. | Philadelphia Inquirer     |  |  |  |
| Allegheny       | Pennsylvania | 28-Oct-04 | presidential      | County investigators have launched an investigation into a scam in which University of Pittsburgh and Community College of Allegheny County students believed they were signing petitions to legalize marijuana for medical use, only to find themselves registered as Republicans.  | Pittsburgh Tribune Review |  |  |  |
| East Providence | Rhode Island | 20-Aug-05 | town primary      | Four people charged with using business addresses to register to vote  | Pawtucket Times           |  |  |  |
| East Providence | Rhode Island | 2-Dec-05  | municipal         | Nine people are accused of registering at business addresses. Charges against two are dropped because they did not sign the registration cards. Three other defendants have been invited to apply to the adult diversion program. Arraignments were postponed for four others. October 30, 2004: As many as 287 people were originally suspected.  | Providence Journal        |  |  |  |
| Rapid City      | South Dakota | 19-Oct-02 | unclear           | forged registration applications by a worker being paid by the application   | Argus Leader              |  |  |  |
|                 | South Dakota | 21-Oct-02 | statewide         | Several counties, almost all of them adjoining an American Indian reservation, submit questionable registration forms to law enforcement   | Argus Leader              |  |  |  |
| Rapid City      | South Dakota | 12-Jul-03 | unclear           | individual reaches plea agreement for falsifying registration cards  | Midwest News              |  |  |  |
| Codington       | South Dakota | 28-Jul-04 |                   | A Phoenix man accused of forging voter registration forms in Codington County has been sentenced to prison. Howard L. Brewer, 44, pleaded guilty last month to three counts of forgery. He was charged after the county auditor's office received an envelope in April that contained 20 voter registrations. Eight to 10 of the forms were suspicious.  | AP                        |  |  |  |
| Harris          | Texas        | 5-Feb-05  | state legislature | County Tax Assessor-Collector alleges 157 registered had false addresses. County officials are investigating   | Houston Chronicle         |  |  |  |
| Prince William  | Virginia     | 5-May-05  | state legislature | Candidate charged with lying on a registration card and voting in a district where he did not reside.  | Washington Times          |  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

011793

|           |           |           |              |  |                            |  |  |  |
|-----------|-----------|-----------|--------------|--|----------------------------|--|--|--|
| Milwaukee | Wisconsin | 31-Oct-04 | presidential | Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual -- including thousands who might be missing an apartment number on their registration - at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm. | Milwaukee Journal Sentinel |  |  |  |
| Madison   | Wisconsin | 10-May-05 | presidential | The vast majority of voters alleged to have been phantoms because their verification forms were returned as undeliverable really exist and their cards were returned because of innocent mistakes in filling out voter registration forms. Of 1,194 verification cards returned, 16 are still be examined  | Wisconsin State Journal    |  |  |  |
| Milwaukee | Wisconsin | 11-May-05 | presidential | Arrest warrants issued and felony charges filed against two workers for Project Vote who admitted to filling out multiple registration cards using fictitious information to earn money  | Milwaukee Journal Sentinel |  |  |  |
| Milwaukee | Wisconsin | 6-Dec-05  | presidential | County DA charges two people affiliated with ACORN for filing false voter registrations  | AP                         |  |  |  |









EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

011797

| Resolution of Incident / allegation  | Source of Resolution 1 | Source of Resolution 2 |
|--|------------------------|------------------------|
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
| June 2005: Paid worker charged with five felony counts of forging voter registration cards (none resulted in fraudulent votes) | Modesto Bee            |                        |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud**

|   |  |  |
|---|--|--|
|   |  |  |
| <p>Nine people are slated to be indicted today on charges of collecting or de-stroying 3,800 bogus voter registration cards that were submitted to the St. Louis Election Board on Feb. 7, 2001, the last day for registering to vote in the hotly contested mayoral primary in March</p> <p>Nine people have been indicted for trying to register fraudulent voters and destroy the evidence. State registration forms now are numbered and a record is kept of which cards have gone to which groups for voter registration drives. The fake registrations are linked to four temporary workers who had been employed by ACORN.</p> | <p>11/7/2003, St. Louis Post Dispatch</p>      | <p>11/11/2003, St. Louis Post Dispatch</p> |
| <p>Three workers are charged with turning in fraudulent voter registration applications a few weeks before the mayoral primary</p>  | <p>St. Louis Post-Dispatch (March 5, 2002)</p> |  |
| <p>Prosecutor says all the cards were caught and no one voted illegally</p>   | <p>St. Louis Post-Dispatch</p>                 |  |
|   |  |  |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

011802

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

|  |           |                      |
|--|-----------|----------------------|
|  |           |                      |
|  |           |                      |
|  |           |                      |
|  |           |                      |
|  |           |                      |
|  |           |                      |
| An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious. | 11/8/2005 | Akron Beacon Journal |

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud**

21  
 011804

|   |                  |                             |
|---|------------------|-----------------------------|
| <p>An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.</p> | <p>8-Nov-05</p>  | <p>Akron Beacon Journal</p> |
| <p>An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.</p> | <p>11/8/2005</p> | <p>Akron Beacon Journal</p> |
|   |                  |                             |
|   |                  |                             |
|   |                  |                             |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|   |              |  |
|---|--------------|--|
|   |              |  |
|   |              |  |
|   |              |  |
|   |              |  |
| one indictment on five counts of forgery  | Argus Leader |  |
| Red Earth Villeda, a contractor for the Democratic Party, is investigated. SEE SOUTH DAKOTA SUMMARY | Argus Leader |  |
|   |              |  |
|   |              |  |
|   |              |  |
|   |              |  |

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud**

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |









Voter Registration Fraud

5/9/2007

011810

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissed | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City / County | State      | Date      | Type of Election | Alleged instance of fraud  | Original Source                    | Source 1 | Resolution of Incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|---------------|------------|-----------|------------------|--|------------------------------------|----------|-------------------------------------|------------------------|------------------------|
|                     |                              | Federal        |                             |                       |                     |                                      |                     | Yes  | Arkansas      |            | 23-Oct-02 |                  | At least six dead people tried to register to vote, including one helped by a person also listed on campaign-spending reports as having received \$100 from the state Democratic party, said Marty Ryall, Republican Party chairman. Michael Cook, executive director of the Arkansas Democratic Party, said a former staffer had hired two teenagers to register voters and that they took names directly from the phone book. He said the incident happened seven months ago and that party officials are cooperating with the U.S. Attorney's Office.                             | Washington Times                   |          |                                     |                        |                        |
|                     |                              |                |                             | 1                     |                     |                                      |                     | Yes  | California    |            | 16-May-02 |                  | A Lafayette man has been charged with voter fraud after registering his toy poodle, Barnabas, to vote, a move he says was meant to show lax registration oversight. Donald Miller, 78, has been charged with misdemeanor voter fraud. The Contra Costa County district attorney's office found out about the stunt after reports about Barnabas being called for jury duty in March.   | AP                                 |          |                                     |                        |                        |
|                     |                              |                |                             |                       |                     |                                      |                     |  | 18th CD       | California | 3-Jun-02  | congressional    | Several voters have said they were tricked into registering to vote as Republicans when they were told they were signing a petition to lower taxes or applying for a rebate from the power company or some other falsehood.  | Roll Call                          |          |                                     |                        |                        |
|                     |                              |                |                             |                       |                     | 1                                    |                     |  | Stockton      | California | 13-Jul-02 | congressional    | A Stockton man hired to register Republican voters pleaded guilty to forging someone's name on a voter registration card. The conviction is the first arising from a Republican funded voter registration drive that Democrats allege involved fraud.  | Modesto Bee                        |          |                                     |                        |                        |
|                     |                              |                |                             | 8                     |                     |                                      |                     | Yes  | Lynwood       | California | 16-Oct-03 | city council     | Eight family members of a councilman are charged with registering at nonexistent addresses   | Los Angeles Times                  |          |                                     |                        |                        |
|                     |                              |                |                             |                       |                     | 1                                    |                     |  | Stockton      | California | 24-Mar-   | unclear          | paid worker pleads guilty to a misdemeanor charge of forging six registration cards in 2001  | Recordnet                          |          |                                     |                        |                        |
|                     |                              | State          |                             |                       |                     |                                      |                     |  | Solano        | California | 20-Oct-04 | presidential     | Solano County elections officers, suspecting fraud, have sent about 150 voter registration forms to the California Secretary of State's Office for examination. Officials say the questionable forms are the products of intense efforts by both Democrats and Republicans to register voters for the upcoming presidential election. That zeal, further fueled by cash given to so-called "bounty hunters" who sign up voters, may lead to intentional errors on voter forms, officials said - a misspelled name, a fabricated street address, a rearranged Social Security number. | Tri-Valley Herald (Pleasanton, CA) |          |                                     |                        |                        |
|                     |                              |                |                             | 1                     |                     |                                      |                     | Yes  | Hayward City  | California | 1-Nov-05  | school board     | Roger Treskunoff, 51, a former school board candidate and former Hayward City Councilman was charged with creating fictitious names and registering those names as voters with the Alameda County Registrar of Voters.   | Contra Costa Times                 |          |                                     |                        |                        |

Voter Registration Fraud

5/9/2007

011811

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State      | Date                      | Type of Election | Alleged Instance of fraud  | Original Source              | Source 1 | Resolution of incident / allegation  | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|-------------|------------|---------------------------|------------------|--|------------------------------|----------|--|------------------------|------------------------|
|                     |                              |                |                             |                       |                     | 1                                    |                     |  | San Joaquin | California | March 24, 2005; 6/16/2005 | state senate     | County says it is examining 1500 voter registration cards for fraud because of similar looking signatures.   | Recordnet                    |          | June 2005: Paid worker charged with five felony counts of forging voter registration cards (none resulted in fraudulent votes) He admittedly forged 35 voter registration cards in 2004 when he was being paid \$5 for each voter he registered. | Modesto Bee            |                        |
|                     |                              | BOE            |                             |                       |                     |                                      | Yes                 |  | Denver      | Colorado   | 16-Oct-04                 | presidential     | A worker at the Election Commission found a registration form with her own name on it. When another form was cross-referenced with Vital Records, it was found to be from a dead person. Denver workers have forwarded 200 suspicious registrants to the DA. The voter outreach coordinator says the computer immediately flags names of voters who have registered more than once. Several other counties have found suspect voter registration forms.  | Rocky Mountain News          |          |  |                        |                        |
|                     |                              | Yes            |                             |                       |                     |                                      |                     |  |             | Colorado   | 17-Oct-04                 | presidential     | The Secretary of State accused the Attorney General of not doing enough to prosecute potential ballot crimes. The Secretary confirmed that 6,000 felons are registered to vote. A Denver woman told a TV station she had registered to vote 25 times and signed up several friends up to 40 times to help her boyfriend, a paid staffer for a community group registering voters   | Atlanta Journal Constitution |          |  |                        |                        |
|                     |                              | State          |                             |                       |                     |                                      | Yes                 |  |             | Colorado   | 18-Oct-04                 | presidential     | With just two weeks before the Nov. 2 election, the state has been rocked by evidence that some voter-registration drives have submitted applications with forged signatures. In other cases, would-be voters have applied to vote as many as 40 times. At the same time, some registration drives have collected applications and then failed to submit them by the Oct. 4 deadline, prompting Secretary of State Donetta Davidson to announce the use of provisional ballots last week. At yesterday's meeting with county clerks and district attorneys, Mrs. Davidson announced procedures for accepting provisional ballots, which are issued to people who say they have registered but whose names fail to appear on the voter roll. Such ballots would be marked "VRD," for "Voter Registration Drive." The would-be voter would have to produce identification and tell when and where they registered. The ballot later would be checked against the state's voter data-bases. The clerks are referring cases that appear to be blatant fraud, such as forged signatures, to the county attorneys. Bill Ritter, the Denver | Washington Times             |          |  |                        |                        |
|                     |                              | Local          |                             | 6                     |                     |                                      | Yes                 |  | Denver      | Colorado   | 28-Oct-04                 | presidential     | Denver prosecutors charged two people Wednesday with falsely filling out multiple voter forms to boost their pay in a paid registration drive. Criminal cases are pending against four people for questionable registrations in the metro area, and there may be more before investigations are completed.   | Rocky Mountain News          |          |  |                        |                        |
|                     |                              | State          |                             |                       |                     |                                      | Yes                 |  | Orange      | Florida    | 31-Oct-02                 | state senate     | The State Attorney is investigating charges of illegal changes to party affiliations on voter registration cards for a primary. The scheme seems to have been targeted at Hispanics.   | Orlando Sentinel             |          |  |                        |                        |

Voter Registration Fraud

5/9/2007

011812

| Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Accounted/Dismissal | Convicted/guilty (Individuals) | Other Determinations          | Follow-up possible? (Open investigations and/or pending charges) | City/County   | State   | Date      | Type of Election         | Alleged Instance of fraud   | Original Source            | Source 1 | Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------|-------------------------------|--|---------------|---------|-----------|--------------------------|---|----------------------------|----------|-------------------------------------|------------------------|------------------------|
|                     |                             |                |                             |                       |                     |                                |                               | Yes  |               | Florida | 23-Oct-04 | presidential             | Officials say that more than 4,200 students from many colleges and universities in the state had their party affiliation switched without them knowing and tricked into registering Republican when they were asked to sign an assortment of petitions and forms. Some students attributed the work to a company working for the Republican Party   | AP                         |          |                                     |                        |                        |
|                     |                             | Local          |                             |                       |                     |                                |                               | Yes  | Duval         | Florida | 29-Oct-04 | presidential             | Elections officials asked prosecutors to investigate possible voter fraud involving 25 registration forms with apparently bogus addresses.  | Telegraph Herald (IA)      |          |                                     |                        |                        |
|                     |                             |                |                             |                       |                     |                                |                               | Yes  |               | Florida | 31-Oct-04 | presidential             | Students at Florida State and Florida A&M universities, some of whom signed petitions to legalize medical marijuana or impose stiffer penalties for child molesters, unknowingly had their party registration switched to Republican and their addresses changed. Officials say students at the University of Florida in Alachua County have made similar complaints and that about 4,000 potential voters in all have been affected. Local papers have traced some of the problems to a group hired by the Florida Republican Party, which has denounced the shenanigans. Switching voters' party affiliations does not affect their ability to vote, but changing addresses does, because when voters shows up at their proper polling places, they will not be registered there.   | Washington Post            |          |                                     |                        |                        |
|                     |                             |                |                             |                       |                     |                                | Charges dismissed as baseless |  |               | Florida | 15-Dec-05 | constitutional amendment | Fourteen months after a campaign to increase Florida's minimum wage drew allegations of voter fraud, a federal judge in South Florida has ruled at least some of those accusations against grass roots political group ACORN were so baseless they amount to defamation. Stuart alleged that ACORN improperly handled registration forms when it conducted voter registration drives, including not submitting Republican registrations to election officials. The judge upheld ACORN's counterclaim that Stuart's lack of evidence made his allegations libel and slander. An investigation by the Florida Department of Law Enforcement also found no evidence of criminal activity at ACORN, department officials confirmed Wednesday.   | St. Petersburg Times       |          |                                     |                        |                        |
|                     | Federal                     |                |                             |                       |                     |                                |                               | Yes  | Fulton County | Georgia | 4-Nov-05  | presidential             | The U.S. attorney for Georgia's Northern District is investigating the circumstances surrounding more than 2,400 "entirely fraudulent" voter registration applications submitted to Fulton County prior to the November 2004 elections, county elections officials say. Most of those suspect applications were submitted to the Georgia Secretary of State in September 2004 by the Georgia Coalition for the Peoples' Agenda, according to Atlanta attorney Harry W. MacDougald, a member of the Fulton County Board of Registration and Elections. Details of the federal investigation surfaced as part of litigation that challenges as unconstitutional Georgia's new voter photo identification law. Common Cause v. Billups. No. 4:05CV201 (N.D. Ga.). MacDougald made the investigation public in an affidavit submitted on behalf of defendants in the case | Fulton County Daily Report |          |                                     |                        |                        |

Voter Registration Fraud

5/9/2007

011813

| Partisan Allegation | Other Source Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Other determination                               | Follow-up possible? (Open investigations and/or pending charges) | City/County      | State     | Date      | Type of Election | Alleged instance of fraud  | Original Source         | Source 1                              | Resolution of incident / allegation  | Source of Resolution 1                       | Source of Resolution 2 |
|---------------------|-------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---|--|------------------|-----------|-----------|------------------|--|-------------------------|---------------------------------------|--|--|------------------------|
|                     |                         | BOE            |                             |                       |                     |                                      |   | Yes  | Chicago          | Illinois  | 12-Mar-04 | primary          | Chicago election officials say as many as 2,000 fraudulent voter registrations have turned up in advance of Tuesday's primary election. Two suspects are under investigation, the Chicago Tribune said, both of whom gathered registrations on behalf of the Puerto Rico Federal Affairs Administration.   | UPI                     |                                       |  |  |                        |
| Yes                 |                         |                |                             |                       |                     |                                      | Press investigation finds fraud allegations false |  | East St. Louis   | Illinois  | 30-Oct-04 | supreme court    | Illinois Republicans on Friday urged officials to look into "potential instances of massive voter fraud" in East St. Louis, showing pictures of an East St. Louis Democratic precinct committeemen's home that dozens of people registered to vote have listed as their address. But it turns out that that address and another called into question aren't single-family homes but are boarding houses or apartments that may house dozens of people. | St. Louis Post Dispatch |                                       |  |  |                        |
|                     |                         |                |                             | 1                     |                     |                                      |   | Yes  | Ander son        | Indiana   | 11-Mar-   | unclea r         | Voter registered under the address of his rental property in another town faces perjury charges  | WishTV                  |                                       |  |  |                        |
|                     |                         |                |                             | 5                     |                     |                                      |   | Yes  | St. Martin ville | Louisiana | 17-Jul-03 | city council     | 5 people are arraigned on charges of including false information on their voter registration cards   | Daily Advertiser        |                                       |  |  |                        |
|                     |                         |                |                             | 1                     |                     |                                      |   | Yes  | St. Martin ville | Louisiana | 17-Dec-03 | city council     | City Councilwoman indicted for submitting false information to register to vote during her re-election campaign and persuaded three people not in the district to fill out registration forms; the voters were charged as well.  | 2 The Advocate          |                                       |  |  |                        |
|                     |                         |                |                             |                       |                     |                                      |   |  |                  | Maryland  | 17-Jun-01 |                  | An 82-year-old woman signed her dog's name on a voter registration card to test the system. No charges were filed.   | Washington Post         |                                       |  |  |                        |
|                     | Local                   |                |                             | 1                     |                     |                                      |   | Yes  | Lansing          | Michigan  | 28-Oct-04 | presidential     | Ingham County sheriff's detectives have turned over to prosecutors the findings of their investigation into hundreds of phony voter registration forms from a state advocacy group. It appeared that some PIRGIM workers went through a Lansing phone book and forged people's signatures on forms   | Lansing State Journal   | Detroit Free Press September 23, 2004 | An eight-month investigation of alleged voter registration fraud has resulted in misdemeanor charges against a Lansing man. Edward Pressley IV, who worked on a voter registration drive sponsored by the environmental group PIRGIM, is accused of submitting a phony registration form to the Ingham County clerk.   | Detroit Free Press August 1, 2005            |                        |
|                     |                         |                |                             | 17                    | 14                  | 64                                   |   | Yes  | Coates           | Minnesota | 31-Oct-02 | all              | 94 voter registration forms had false addresses matching a strip club  | Washington Times        |                                       | The strip club's owner is facing facing felony criminal charges alleging conspiracy to procure unlawful voting and conspiracy to commit forgery. Of the original 94 defendants who filled out registration forms, 64 people accepted offers to plead guilty to misdemeanors, instead of facing trials on felony forgery charges. Another 17 criminal cases, including the charges against Jacobson, are pending, while 14 cases were dismissed | Pioneer Press, St. Paul, Minn. June 10, 2005 |                        |

Voter Registration Fraud

5/9/2007

011814

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty (Individuals) | Other determination | Follow-up possible? (Open investigation and/or pending charges) | City / County | State     | Date      | Type of Election                                  | Alleged instance of fraud   | Original Source              | Source 1 | Resolution of incident / allegation  | Source of Resolution: 1                 | Source of Resolution: 2             |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------|---------------------|---|---------------|-----------|-----------|---|---|------------------------------|----------|--|---|-------------------------------------|
|                     |                              |                |                             | 1                     |                     |                                |                     | Yes   | Minneapolis   | Minnesota | 17-Oct-04 | presidential                                      | A former ACORN official arrested for running a stop sign had 300 voter registration forms, some of them months old, in his trunk. State law requires they be submitted to the secretary of state within 10 days.  | Atlanta Journal Constitution |          |  |   |                                     |
|                     |                              | Local          |                             | 9                     |                     |                                |                     | Yes   | St. Louis     | Missouri  | 7-Mar-01  | city  | St. Louis Prosecutor Jennifer Joyce convened a grand jury that is investigating 3,800 suspect voter registration cards, including several for dead aldermen. The cards were turned in Feb. 7, the deadline to register voters. Joyce said there have been no indictments.   | St. Louis Post-Dispatch      |          | Nine people are slated to be indicted today on charges of collecting or de-stroying 3,800 bogus voter registration cards that were submitted to the St. Louis Election Board on Feb. 7, 2001, the last day for registering to vote in the hotly contested mayoral primary in March. Nine people have been indicted for trying to register fraudulent voters and destroy the evidence. State registration forms now are numbered and a record is kept of which cards have gone to which groups for voter registration drives. The fake registrations are linked to four temporary workers who had been employed by ACORN. | 11/7/2003, St. Louis Post Dispatch      | 11/11/2003, St. Louis Post Dispatch |
|                     |                              | Federal        |                             | 3                     |                     |                                |                     | Yes   | St. Louis     | Missouri  | 17-Apr-01 | presidential general election and mayoral primary | FBI subpoenas election board records on all people who registered to vote, cast ballots, was turned away at the polls, or whose voter registration was rejected from October 1 [2000] through March 6 [2001]; Senator Bond calls for further investigations because his office learned from state election officials that 24,000 registered voters in the city and 33,000 voters in the county were registered to vote somewhere else | St. Louis Post-Dispatch      |          | Three workers are charged with turning in fraudulent voter registration applications a few weeks before the mayoral primary  | St. Louis Post-Dispatch (March 5, 2002) |                                     |
|                     |                              |                |                             |                       |                     | 6                              |                     |   | St. Louis     | Missouri  | 17-Dec-04 | mayoral   | Six plead guilty to dozens of crimes involving falsifying voter registration forms ("6 plead guilty in vote fraud case")  | St. Louis Post Dispatch      |          | Prosecutor says all the cards were caught and no one voted illegally   | St. Louis Post-Dispatch                 |                                     |
| Yes                 |                              | Federal        |                             |                       |                     |                                |                     | Yes   | Nevada        |           | 17-Oct-04 | presidential                                      | Democrats said Voters Outreach of America, a Republican funded registration group run by Sprouls & Associates, destroyed Democratic voter registration forms. A former employee of the group told a Nevada TV station that registrations collected from Democrats had been destroyed instead of filed with the elections office. The head of the company denied the accusations   | Atlanta Journal Constitution |          |  |   |                                     |

Voter Registration Fraud

5/9/2007

011815

| Partisan Allegation | Other Source Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismisled | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County       | State          | Date      | Type of Election | Alleged instance of fraud  | Original Source      | Source of Resolution |
|---------------------|-------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|-------------------|----------------|-----------|------------------|--|----------------------|----------------------|
|                     |                         |                |                             |                       |                     |                                      |                     | Yes  | Clark County      | Nevada         | 31-Oct-04 | presidential     | Voting Registrar Lomax said he found that canvassers returned stacks of 1,000 completed registration forms that often contained 30 to 50 applications filled out in the same handwriting. Lomax had no total figure for such fraudulent registrations. He also found that canvassers registered the same individuals several times over the span of a week. Some legitimately registered voters called to ask why they were getting registration forms--with their party affiliation changed, Lomax said. Apparently some canvassers went through the phone book and reregistered people without their consent, listing their parties incorrectly, Lomax said. Though registration drive organizers told Lomax's office that canvassers were paid by the hour, many canvassers told his staff and even provided pay stubs that showed they were paid \$2 for every completed registration form they collected in malls, stores and neighborhoods, Lomax said.<br><br>"They were on both sides. It wasn't just Democrats, it wasn't just Republicans," Lomax said. "The money was clearly the root of all evil here. They were paying people to register the voters. And the people doing this were way down the economic scale, and they wanted their money and they were just filling in forms. | Chicago Tribune      |                      |
|                     |                         | Federal        |                             |                       |                     |                                      |                     | Yes  |                   | New Mexico     | 10-Sep-04 |                  | US Attorney forms a task force after finding two teenagers registered to vote  | Albuquerque Journal  |                      |
| Yes                 |                         |                |                             |                       |                     |                                      |                     | Yes  | Bernalillo County | New Mexico     | 15-Sep-04 | presidential     | Three Republican candidates want to examine all voter registration forms submitted by a woman who, while working for a group that signs up new voters, registered a 13-year-old New Mexico boy.  | AP                   |                      |
|                     |                         |                | BOE                         |                       |                     |                                      | BOE finding         | Yes  |                   | New York       | 19-Sep-02 | gubernatorial    | Dead voters were among the thousands of flawed voter registrations submitted by campaign workers of Governor Palaki during an enrollment drive, New York City officials determined   | Poughkeepsie Journal |                      |
|                     |                         | Local          |                             |                       |                     |                                      |                     | Yes  | Bronx             | New York       | 23-Jun-03 | gubernatorial    | Bronx DA and a grand jury investigate whether Rikers Island supervisors filled out registration cards in the names of inmates (such inmates are eligible to vote)  | Newsday              |                      |
|                     |                         |                |                             |                       |                     |                                      |                     |  | Queens            | New York       | 15-Sep-04 | state assembly   | About 100 people in the Flushing area gave commercial addresses on voter registration forms, raising suspicion at polling sites yesterday that may cast a shadow over the assembly race.   | Newsday              |                      |
|                     |                         |                |                             |                       |                     |                                      |                     |  | Greenboro         | North Carolina | 6-Dec-01  |                  | Imtiaz Ahmed Siddiqui pleaded guilty Thursday to voter fraud in a brief federal court hearing that included no mention of the allegation that he may be acquainted with terrorists. Siddiqui, 31, answering questions in halting English, admitted he signed a voter registration form that identified him as a U.S. citizen when he got a driver's license in Durham in August. He is a citizen of Pakistan.  | AP                   |                      |

Voter Registration Fraud

5/9/2007

7

011816

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/pleas (Individuals) | Other determination                                    | Follow-up Possible? (Open investigations and/or pending charges) | City/County        | State          | Date      | Type of Election | Alleged Instance of fraud  | Original Source     | Resolution of Incident / allegation  | Source of Resolution: 1 | Source of Resolution: 2 |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|-------------------------------|--|--|--------------------|----------------|-----------|------------------|--|---------------------|--|-------------------------|-------------------------|
|                     |                              | State          |                             |                       |                     |                               |  | Yes  | Charlotte          | North Carolina | 24-Oct-04 | presidential     | Officials are investigating ACORN because an ACORN organizer found that one of its workers had faked about 70 registrations. The worker was fired and the information turned over to the state board. A similar problem with a consumer interest group in Wake County has also been turned over to state officials   | Charlotte Observer  |  |                         |                         |
|                     |                              |                |                             |                       |                     |                               | BOE and DMV find small # of questionable registrations |  |                    | North Carolina | 24-Oct-04 |                  | The Charlotte Observer found more than 60,000 people who appear to be registered in both Carolinas. Alamance County Sheriff says illegal immigrants are registering to vote using false documents at drivers license offices. North Carolina is investigating two groups that may have falsely registered new voters. Some are worried that noncitizens could vote because in North Carolina one can get a drivers license without a social security number. The Elections division and the DMV ran two checks of people who received drivers licenses without proof of citizenship and found only a handful who had registered to vote. | AP                  |  |                         |                         |
|                     |                              |                |                             |                       |                     |                               |  | Yes  | Mecklenburg County | North Carolina | 28-Sep-05 |                  | Mecklenburg County commissioner Bill James and Libertarian Lewis Guignard formally challenged the registration of more than 400 homeless voters Tuesday, saying they had improperly registered using commercial addresses. James and Guignard said the 464 voters challenged in their complaint incorrectly used the addresses of the Urban Ministries at 945 N. College St., the Charlotte Rescue Mission at 907 W. First St. or the Salvation Army at 534 Spratt St. to register, even though those are commercial addresses where the voters could not permanently live.  | Charlotte Observer  |  |                         |                         |
|                     |                              |                |                             |                       |                     |                               |  | Yes  | Cincinnati         | Ohio           | 20-Aug-03 | city council     | More than 70 people have claimed a Walnut Hills tailoring shop as their home address while registering to vote, leading the Hamilton County Board of Elections to subpoena the tailor, who is a candidate for Cincinnati City Council.   | Cincinnati Enquirer |  |                         |                         |
|                     |                              |                |                             | 1                     |                     |                               |  | Yes  | Franklin           | Ohio           | 8-Sep-04  | presidential     | A part-time worker for ACORN was indicted for falsely filling out and signing a voter registration card  | Columbus Dispatch   |  |                         |                         |
|                     | BOE/State                    |                |                             | 1                     |                     |                               |  | Yes  |                    | Ohio           | 15-Oct-04 | presidential     | In Hamilton County, the Board of Elections has subpoenaed 19 registered voters who elections officials don't believe exist. The Summit County Board of Elections in Akron has asked Ohio Attorney General Jim Petro to investigate 803 allegedly fraudulent voter-registration cards, many of which appeared to be in the same handwriting. In Lake County, east of Cleveland, several voter-registration cards seem to have forged signatures, elections officials say.   | Cincinnati Enquirer | An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious. | 11/8/2005               | Akron Beacon Journal    |

Voter Registration Fraud

5/9/2007

011817

| Partisan Allegation | Other Source for Allegation | Investigation?      | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State  | Date      | Type of Election | Alleged instance of fraud  | Original Source              | Source of Resolution | Resolution of incident / allegation  | Source of Resolution |                      |
|---------------------|-----------------------------|---------------------|-----------------------------|-----------------------|---------------------|--------------------------------|---------------------|--|-------------|--------|-----------|------------------|--|------------------------------|----------------------|--|----------------------|----------------------|
|                     |                             | Joint State/federal |                             | 1                     |                     |                                |                     | Yes  |             | Ohio   | 20-Oct-04 | presidential     | State GOP Chair says that the party tried to contact 231,834 new registrants in the five largest counties and had 5.7% returned as undeliverable.  | Columbus Dispatch            |                      | An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious. | 8-Nov-05             | Akron Beacon Journal |
|                     |                             |                     |                             | 1                     |                     |                                |                     | Yes  | Defiance    | Ohio   | 31-Oct-04 | presidential     | The sheriff arrested a man for submitting 130 phony registration forms with such names as Mary Poppins and Dick Tracy. Authorities say he confessed to being paid in crack cocaine by an NAACP volunteer.  | Dallas Morning News          |                      |  | 11/8/2005            | Akron Beacon Journal |
|                     |                             | Unknown             |                             |                       |                     |                                |                     | Yes  | Parma       | Ohio   | 9-Jan-05  | presidential     | Three police officers are being investigated on accusations that they listed police headquarters as their home addresses when registering for the Nov. 2 election, officials said.   | AP                           |                      |  |                      |                      |
|                     |                             | State               |                             |                       |                     |                                |                     | Yes  |             | Oregon | 17-Oct-04 | presidential     | The Secretary of State announced an investigation into allegations that a paid canvasser with Sproul & Associates had been told to register only Republicans. The head of the organization denied the accusations.   | Atlanta Journal Constitution |                      |  |                      |                      |
|                     |                             |                     |                             |                       |                     |                                |                     |  |             | Oregon | 30-Oct-04 | presidential     | In interviews, students at Mt. Hood and Chemeketa community colleges, Western Oregon University and the University of Oregon all told similar stories: They were approached on campus and asked to sign a petition, often urging lower auto-mobile insurance rates for students, and then asked to sign or initial a second document, which turned out to be a voter registration card.<br>Many of the students were urged to mark Republican as their party affiliation; others were told to leave the party affiliation section blank but to put their initials next to Republican on that part of the form. Many of the students already were registered voters. Some students didn't realize they were registering to vote, or that their party affiliation was about to change. Nathan Sproul, whose company conducted the registration drive, did not respond to calls seeking comment. His firm has been accused of using similar tactics involving bogus petitions at colleges in Pennsylvania, according to the Pittsburgh Post-Gazette.<br>In an earlier interview with The Oregonian, Sproul confirmed that his canvassers are paid a "bounty" of extra money for registering Republicans but said he did not think that was a problem. | Newhouse News Service        |                      |  |                      |                      |



Voter Registration Fraud

5/9/2007

011818

| Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County     | State        | Date      | Type of Election  | Alleged instance of fraud  | Original Source           | Source 1 | Resolution of incident / allegation   | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------|---------------------|--|-----------------|--------------|-----------|-------------------|--|---------------------------|----------|---|------------------------|------------------------|
| Yes                 |                             |                |                             |                       |                     |                                |                     |  |                 | Pennsylvania | 25-Oct-04 | presidential      | Republicans mailed letters to 130,000 people who had registered to vote in the last 6 months. 10,000 came back as undeliverable. The legal counsel to the state party said Republicans had looked at a sample of the letters and found 15 of 100 of the registrants were dead. The director of a nonpartisan organization says in a transient city many people may have moved over a six month period, and many letters might not have reached people living in shelters or substandard housing. | Philadelphia Inquirer     |          |   |                        |                        |
|                     |                             | County         |                             |                       |                     |                                | Yes                 |  | Allegheny       | Pennsylvania | 28-Oct-04 | presidential      | County investigators have launched an investigation into a scam in which University of Pittsburgh and Community College of Allegheny County students believed they were signing petitions to legalize marijuana for medical use, only to find themselves registered as Republicans.  | Pittsburgh Tribune Review |          |   |                        |                        |
|                     |                             |                |                             | 4                     |                     |                                | Yes                 |  | East Providence | Rhode Island | 20-Aug-05 | town primary      | Four people charged with using business addresses to register to vote  | Pawtucket Times           |          |   |                        |                        |
|                     |                             | Unknown        |                             | 7                     |                     |                                | Yes                 |  | East Providence | Rhode Island | 2-Dec-05  | municipal         | Nine people are accused of registering at business addresses. Charges against two are dropped because they did not sign the registration cards. Three other defendants have been invited to apply to the adult diversion program. Arraignments were postponed for four others. October 30, 2004: As many as 287 people were originally suspected.  | Providence Journal        |          |   |                        |                        |
|                     |                             |                |                             | 1                     |                     |                                | Yes                 |  | Rapid City      | South Dakota | 19-Oct-02 | unclear           | forged registration applications by a worker being paid by the application   | Argus Leader              |          | one indictment on five counts of forgery  | Argus Leader           |                        |
|                     |                             | Unknown        |                             |                       |                     |                                | Yes                 |  | South Dakota    | South Dakota | 21-Oct-02 | statewide         | Several counties, almost all of them adjoining an American Indian reservation, submit questionable registration forms to law enforcement   | Argus Leader              |          | Red Earth Villeda, a contractor for the Democratic Party, is investigated. SEE SOUTH DAKOTA SUMMARY | Argus Leader           |                        |
|                     |                             |                |                             |                       |                     | 1                              |                     |  | Rapid City      | South Dakota | 12-Jul-03 | unclear           | Individual reaches plea agreement for falsifying registration cards  | Midwest News              |          |   |                        |                        |
|                     |                             |                |                             |                       |                     | 1                              |                     |  | Codington       | South Dakota | 28-Jul-04 |                   | A Phoenix man accused of forging voter registration forms in Codington County has been sentenced to prison. Howard L. Brewer, 44, pleaded guilty last month to three counts of forgery. He was charged after the county auditor's office received an envelope in April that contained 20 voter registrations. Eight to 10 of the forms were suspicious.  | AP                        |          |   |                        |                        |
|                     |                             | County         |                             |                       |                     |                                | Yes                 |  | Harris          | Texas        | 5-Feb-05  | state legislature | County Tax Assessor-Collector alleges 157 registered had false addresses. County officials are investigating   | Houston Chronicle         |          |   |                        |                        |
|                     |                             |                |                             | 1                     |                     |                                |                     |  | Prince William  | Virginia     | 5-May-05  | state legislature | Candidate charged with lying on a registration card and voting in a district where he did not reside.  | Washington Times          |          |   |                        |                        |

Voter Registration Fraud

5/9/2007

011819

| Partisan Allegation | Other Source for Allegation | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State     | Date      | Type of Election | Alleged instance of fraud   | Original Source            | Source 1 | Resolution of Incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|-----------------------------|----------------|-----------------------------|-----------------------|---------------------|-------------------------------|---------------------|--|-------------|-----------|-----------|------------------|---|----------------------------|----------|-------------------------------------|------------------------|------------------------|
| Yes                 |                             |                |                             |                       |                     |                               |                     |  | Milwaukee   | Wisconsin | 31-Oct-04 | presidential     | Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual -- including thousands who might be missing an apartment number on their registration -- at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm. | Milwaukee Journal Sentinel |          |                                     |                        |                        |
|                     |                             | Unknown        |                             |                       |                     |                               | Yes                 |  | Madison     | Wisconsin | 10-May-05 | presidential     | The vast majority of voters alleged to have been phantoms because their verification forms were returned as undeliverable really exist and their cards were returned because of innocent mistakes in filling out voter registration forms. Of 1,194 verification cards returned, 16 are still be examined   | Wisconsin State Journal    |          |                                     |                        |                        |
|                     |                             |                |                             | 2                     |                     |                               | Yes                 |  | Milwaukee   | Wisconsin | 11-May-05 | presidential     | Arrest warrants issued and felony charges filed against two workers for Project Vote who admitted to filling out multiple registration cards using fictitious information to earn money   | Milwaukee Journal Sentinel |          |                                     |                        |                        |
|                     |                             |                |                             | 2                     |                     |                               |                     |  | Milwaukee   | Wisconsin | 6-Dec-05  | presidential     | County DA charges two people affiliated with ACORN for filing false voter registrations   | AP                         |          |                                     |                        |                        |



Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City / County | State | Date | Type of Election | Alleged instance of fraud | Original Source | Source 1 | Resolution of Incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|---------------------|--------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|---------------|-------|------|------------------|---------------------------|-----------------|----------|-------------------------------------|------------------------|------------------------|
|                     |                          |                |                             |                       |                     |                                      |                     |  |               |       |      |                  |                           |                 |          |                                     |                        |                        |

011821

Voter Registration Fraud

5/9/2007

| Partisan Allegation | Other Source for Allegation? | Investigation? | Other Official Involvement? | Charged (Individuals) | Acquitted/Dismissal | Convicted/guilty pleas (Individuals) | Other determination | Follow-up possible? (Open investigations and/or pending charges) | City/County | State | Date | Type of Election | Alleged instance of fraud | Original Source | Source1 | Resolution of incident / allegation | Source of Resolution | Source of Resolution 2 |
|---------------------|------------------------------|----------------|-----------------------------|-----------------------|---------------------|--------------------------------------|---------------------|--|-------------|-------|------|------------------|---------------------------|-----------------|---------|-------------------------------------|----------------------|------------------------|
|                     |                              |                |                             |                       |                     |                                      |                     |  |             |       |      |                  |                           |                 |         |                                     |                      |                        |

011822

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Wrongful Removal from Registration Lists

011823

| City / County | State      | Date      | Type of Election | Alleged Instance of fraud   | Original Source      | Source1 | Source 2 | Source 3 |
|---------------|------------|-----------|------------------|---|----------------------|---------|----------|----------|
| Pulaski       | Arkansas   | 16-Apr-04 |                  | The US Department of Justice says county officials have violated election law and proposed a consent decree with the county regarding ballot gathering and counting. The Department investigated registration practices that may have disenfranchised numerous voters, including sending voters to multiple poll sites and voters wrongly missing from the registration list. Under the agreement, the county will fix the problems in the database and DOJ lawyers will monitor polling places and the clerk's office  | AP                   |         |          |          |
|               | Colorado   | 31-Oct-04 | presidential     | Democrats are complaining about an attempt to remove up to 8,000 convicted felons from the electoral roll, at the behest of the state's Republican secretary of state, Donetta Davidson, despite a US federal law that prohibits eliminating a voter's rights within 90 days of an election to give time for the voter to protest.  | The Observer         |         |          |          |
|               | Florida    | 29-Sep-04 | presidential     | Secretary of State Hood tried to revive the discredited 2000 statewide purge list of suspected felons and ex-felons for 2004. That list disproportionately removed black voters from the rolls. The state tried to keep the list secret until forced to release it by court order. When it was released, it was found to contain a disproportionate number of black voters, including 2,000 who had had their rights restored and included several people who could show they had not criminal record at all. In addition, the list of 48,000 contained only 81 Hispanic names, way out of line with the strength of both the general Hispanic population and prison population. Hood was forced to drop the list | The Independent (UK) |         |          |          |
| Newark        | New Jersey | 2-Nov-04  | presidential     | More than 200 voters sought court orders because they were turned away from a polling place, mostly because their names were not on voter lists. In 95% of the cases the judges ruled they could cast ballots.  | AP                   |         |          |          |
| Albany        | New York   | 2-Nov-04  | presidential     | Students at SUNY Albany found their names no longer on the voter registration rolls, even though they had voted at the same location in the past  | AP                   |         |          |          |











**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Wrongful Removal from Registration Lists**

6  
011828

| Resolution of incident / allegation | Source of Resolution 1 | Source of Resolution 2 |
|-------------------------------------|------------------------|------------------------|
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |
|                                     |                        |                        |









EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

1  
 01833

| City/County  | State      | Date                       | Type of Election | Alleged Instance of fraud  | Original Source                    | Source 1 | Source 2 | Source 3 |
|--------------|------------|----------------------------|------------------|--|------------------------------------|----------|----------|----------|
|              | Arkansas   | 23-Oct-02                  |                  | At least six dead people tried to register to vote, including one helped by a person also listed on campaign-spending reports as having received \$100 from the state Democratic party, said Marty Ryall, Republican Party chairman. Michael Cook, executive director of the Arkansas Democratic Party, said a former staffer had hired two teenagers to register voters and that they took names directly from the phone book. He said the incident happened seven months ago and that party officials are cooperating with the U.S. Attorney's Office.                             | Washington Times                   |          |          |          |
| 0            | California | 16-May-02                  |                  | A Lafayette man has been charged with voter fraud after registering his toy poodle, Barnabas, to vote, a move he says was meant to show lax registration oversight. Donald Miller, 78, has been charged with misdemeanor voter fraud. The Contra Costa County district attorney's office found out about the stunt after reports about Barnabas being called for jury duty in March.   | AP                                 |          |          |          |
| 18th CD      | California | 3-Jun-02                   | congressional    | Several voters have said they were tricked into registering to vote as Republicans when they were told they were signing a petition to lower taxes or applying for a rebate from the power company or some other falsehood.  | Roll Call                          |          |          |          |
| Stockton     | California | 13-Jul-02                  | congressional    | A Stockton man hired to register Republican voters pleaded guilty to forging someone's name on a voter registration card. The conviction is the first arising from a Republican funded voter registration drive that Democrats allege involved fraud.  | Modesto Bee                        |          |          |          |
| Lynwood      | California | 16-Oct-03                  | city council     | Eight family members of a councilman are charged with registering at nonexistent addresses   | Los Angeles Times                  |          |          |          |
| Stockton     | California | 24-Mar-04                  | unclear          | paid worker pleads guilty to a misdemeanor charge of forging six registration cards in 2001  | Recordnet                          |          |          |          |
| Solano       | California | 20-Oct-04                  | presidential     | Solano County elections officers, suspecting fraud, have sent about 150 voter registration forms to the California Secretary of State's Office for examination. Officials say the questionable forms are the products of intense efforts by both Democrats and Republicans to register voters for the upcoming presidential election. That zeal, further fueled by cash given to so-called "bounty hunters" who sign up voters, may lead to intentional errors on voter forms, officials said - a misspelled name, a fabricated street address, a rearranged Social Security number. | Tri-Valley Herald (Pleasanton, CA) |          |          |          |
| Hayward City | California | 1-Nov-05                   | school board     | Roger Treskunoff, 51, a former school board candidate and former Hayward City Councilman was charged with creating fictitious names and registering those names as voters with the Alameda County Registrar of Voters.   | Contra Costa Times                 |          |          |          |
| San Joaquin  | California | March 24, 200; 4/6/16/2005 | state senate     | County says it is examining 1500 voter registration cards for fraud because of similar looking signatures.   | Recordnet                          |          |          |          |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

2  
 011824

|        |          |           |              |   |                              |  |  |  |
|--------|----------|-----------|--------------|---|------------------------------|--|--|--|
| Denver | Colorado | 16-Oct-04 | presidential | A worker at the Election Commission found a registration form with her own name on it. When another form was cross-referenced with Vital Records, it was found to be from a dead person. Denver workers have forwarded 200 suspicious registrants to the DA. The voter outreach coordinator says the computer immediately flags names of voters who have registered more than once. Several other counties have found suspect voter registration forms.   | Rocky Mountain News          |  |  |  |
|        | Colorado | 17-Oct-04 | presidential | The Secretary of State accused the Attorney General of not doing enough to prosecute potential ballot crimes. The Secretary confirmed that 6,000 felons are registered to vote. A Denver woman told a TV station she had registered to vote 25 times and signed up several friends up to 40 times to help her boyfriend, a paid staffer for a community group registering voters  | Atlanta Journal Constitution |  |  |  |
|        | Colorado | 18-Oct-04 | presidential | With just two weeks before the Nov. 2 election, the state has been rocked by evidence that some voter-registration drives have submitted applications with forged signatures. In other cases, would-be voters have applied to vote as many as 40 times.<br>At the same time, some registration drives have collected applications and then failed to submit them by the Oct. 4 deadline, prompting Secretary of State Donetta Davidson to announce the use of provisional ballots last week.<br>At yesterday's meeting with county clerks and district attorneys, Mrs. Davidson announced procedures for accepting provisional ballots, which are issued to people who say they have registered but whose names fail to appear on the voter roll. Such ballots would be marked "VRD," for "Voter Registration Drive." The would-be voter would have to produce identification and tell when and where they registered. The ballot later would be checked against the state's voter data-bases. The clerks are referring cases that appear to be blatant fraud, such as forged signatures, to the county attorneys. Bill Ritter, the Denver district attorney, said he saw no pattern of a conspiracy to cheat.<br>But he said he saw no pattern of a conspiracy to cheat. | Washington Times             |  |  |  |
| Denver | Colorado | 28-Oct-04 | presidential | Denver prosecutors charged two people Wednesday with falsely filling out multiple voter forms to boost their pay in a paid registration drive. Criminal cases are pending against four people for questionable registrations in the metro area, and there may be more before investigations are completed.  | Rocky Mountain News          |  |  |  |
| Orange | Florida  | 31-Oct-02 | state senate | The State Attorney is investigating charges of illegal changes to party affiliations on voter registration cards for a primary. The scheme seems to have been targetted at Hispanics.   | Orlando Sentinel             |  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|       |         |           |                          |   |                       |  |  |  |
|-------|---------|-----------|--------------------------|---|-----------------------|--|--|--|
|       | Florida | 23-Oct-04 | presidential             | Officials say that more than 4,200 students from many colleges and universities in the state had their party affiliation switched without them knowing and tricked into registering Republican when they were asked to sign an assortment of petitions and forms. Some students attributed the work to a company working for the Republican Party   | AP                    |  |  |  |
| Duval | Florida | 29-Oct-04 | presidential             | Elections officials asked prosecutors to investigate possible voter fraud involving 25 registration forms with apparently bogus addresses.  | Telegraph Herald (IA) |  |  |  |
|       | Florida | 31-Oct-04 | presidential             | Students at Florida State and Florida A&M universities, some of whom signed petitions to legalize medical marijuana or impose stiffer penalties for child molesters, unknowingly had their party registration switched to Republican and their addresses changed. Officials say students at the University of Florida in Alachua County have made similar complaints and that about 4,000 potential voters in all have been affected. Local papers have traced some of the problems to a group hired by the Florida Republican Party, which has denounced the shenanigans. Switching voters' party affiliations does not affect their ability to vote, but changing addresses does, because when voters shows up at their proper polling places, they will not be registered there. | Washington Post       |  |  |  |
|       | Florida | 15-Dec-05 | constitutional amendment | Fourteen months after a campaign to increase Florida's minimum wage drew allegations of voter fraud, a federal judge in South Florida has ruled at least some of those accusations against grass roots political group ACORN were so baseless they amount to defamation. Stuart alleged that ACORN improperly handled registration forms when it conducted voter registration drives, including not submitting Republican registrations to election officials. The judge upheld ACORN's counterclaim that Stuart's lack of evidence made his allegations libel and slander. An investigation by the Florida Department of Law Enforcement also found no evidence of criminal activity at ACORN, department officials confirmed Wednesday.   | St. Petersburg Times  |  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

4  
 011836

|                 |           |           |               |   |                            |  |  |  |
|-----------------|-----------|-----------|---------------|---|----------------------------|--|--|--|
| Fulton County   | Georgia   | 4-Nov-05  | presidential  | The U.S. attorney for Georgia's Northern District is investigating the circumstances surrounding more than 2,400 "entirely fraudulent" voter registration applications submitted to Fulton County prior to the November 2004 elections, county elections officials say. Most of those suspect applications were submitted to the Georgia Secretary of State in September 2004 by the Georgia Coalition for the Peoples' Agenda, according to Atlanta attorney Harry W. MacDougald, a member of the Fulton County Board of Registration and Elections. Details of the federal investigation surfaced as part of litigation that challenges as unconstitutional Georgia's new voter photo identification law. Common Cause v. Billups. No. 4:05CV201 (N.D. Ga.). MacDougald made the investigation public in an affidavit submitted on behalf of defendants in the case | Fulton County Daily Report |  |  |  |
| Chicago         | Illinois  | 12-Mar-04 | primary       | Chicago election officials say as many as 2,000 fraudulent voter registrations have turned up in advance of Tuesday's primary election. Two suspects are under investigation, the Chicago Tribune said, both of whom gathered registrations on behalf of the Puerto Rico Federal Affairs Administration.  | UPI                        |  |  |  |
| East St. Louis  | Illinois  | 30-Oct-04 | supreme court | Illinois Republicans on Friday urged officials to look into "potential instances of massive voter fraud" in East St. Louis, showing pictures of an East St. Louis Democratic precinct committeemen's home that dozens of people registered to vote have listed as their address. But it turns out that that address and another called into question aren't single-family homes but are boarding houses or apartments that may house dozens of people.  | St. Louis Post Dispatch    |  |  |  |
| Anderson        | Indiana   | 11-Mar-04 | unclear       | Voter registered under the address of his rental property in another town faces perjury charges   | WishTV                     |  |  |  |
| St. Martinville | Louisiana | 17-Jul-03 | city council  | 5 people are arraigned on charges of including false information on their voter registration cards  | Daily Advertiser           |  |  |  |
| St. Martinville | Louisiana | 17-Dec-03 | city council  | City Councilwoman indicted for submitting false information to register to vote during her reelection campaign and persuaded three people not in the district to fill out registration forms; the voters were charged as well   | 2 The Advocate             |  |  |  |
|                 | Maryland  | 17-Jun-01 |               | An 82-year-old woman signed her dog's name on a voter registration card to test the system. No charges were filed.  | Washington Post            |  |  |  |
| Lansing         | Michigan  | 28-Oct-04 | presidential  | Ingham County sheriff's detectives have turned over to prosecutors the findings of their investigation into hundreds of phony voter registration forms from a state advocacy group. It appeared that some PIRGIM workers went through a Lansing phone book and forged people's signatures on forms  | Lansing State Journal      |  |  |  |
| Coates          | Minnesota | 31-Oct-02 | all           | 94 voter registration forms had false addresses matching a strip club   | Washington Times           |  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

011837

|             |           |           |  |   |                              |  |  |  |
|-------------|-----------|-----------|--|---|------------------------------|--|--|--|
| Minneapolis | Minnesota | 17-Oct-04 | presidential   | A former ACORN official arrested for running a stop sign had 300 voter registration forms, some of them months old, in his trunk. State law requires they be submitted to the secretary of state within 10 days.  | Atlanta Journal Constitution |  |  |  |
| St. Louis   | Missouri  | 7-Mar-01  | city   | St. Louis Prosecutor Jennifer Joyce convened a grand jury that is investigating 3,800 suspect voter registration cards, including several for dead aldermen. The cards were turned in Feb. 7, the deadline to register voters. Joyce said there have been no indictments.   | St. Louis Post-Dispatch      |  |  |  |
| St. Louis   | Missouri  | 17-Apr-01 | presidential<br>general election<br>and mayoral<br>primary | FBI subpoenas election board records on all people who registered to vote, cast ballots, was turned away at the polls, or whose voter registration was rejected from October 1 [2000] through March 6 [2001]; Senator Bond calls for further investigations because his office learned from state election officials that 24,000 registered voters in the city and 33,000 voters in the county were registered to vote somewhere else | St. Louis Post-Dispatch      |  |  |  |
| St. Louis   | Missouri  | 17-Dec-04 | mayoral  | Six plead guilty to dozens of crimes involving falsifying voter registration forms  | St. Louis Post Dispatch      |  |  |  |
|             | Nevada    | 17-Oct-04 | presidential   | Democrats said Voters Outreach of America, a Republican funded registration group run by Sprouls & Associates, destroyed Democratic voter registration forms. A former employee of the group told a Nevada TV station that registrations collected from Democrats had been destroyed instead of filed with the elections office. The head of the company denied the accusations   | Atlanta Journal Constitution |  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

6  
 011838

|                   |                |           |                |   |                      |  |  |  |
|-------------------|----------------|-----------|----------------|---|----------------------|--|--|--|
| Clark County      | Nevada         | 31-Oct-04 | presidential   | <p>Voting Registrar Lomax said he found that canvassers returned stacks of 1,000 completed registration forms that often contained 30 to 50 applications filled out in the same handwriting. Lomax had no total figure for such fraudulent registrations.</p> <p>He also found that canvassers registered the same individuals several times over the span of a week.</p> <p>Some legitimately registered voters called to ask why they were getting registration forms--with their party affiliation changed, Lomax said. Apparently some canvassers went through the phone book and reregistered people without their consent, listing their parties incorrectly, Lomax said. Though registration drive organizers told Lomax's office that canvassers were paid by the hour, many canvassers told his staff and even provided pay stubs that showed they were paid \$2 for every completed registration form they collected in malls, stores and neighborhoods, Lomax said. "They were on both sides. It wasn't just Democrats, it wasn't just Republicans," Lomax said. "The money was clearly the root of all evil here. They were paying people to register the voter."</p> | Chicago Tribune      |  |  |  |
|                   | New Mexico     | 10-Sep-04 |                | US Attorney forms a task force after finding two teenagers registered to vote   | Albuquerque Journal  |  |  |  |
| Bernalillo County | New Mexico     | 15-Sep-04 | presidential   | Three Republican candidates want to examine all voter registration forms sub-mitted by a woman who, while working for a group that signs up new voters, reg-istered a 13-year-old New Mexico boy.   | AP                   |  |  |  |
|                   | New York       | 19-Sep-02 | gubernatorial  | Dead voters were among the thousands of flawed voter registrations submitted by campaign workers of Governor Pataki during an enrollment drive, New York City officials determined  | Poughkeepsie Journal |  |  |  |
| Bronx             | New York       | 23-Jun-03 | gubernatorial  | Bronx DA and a grand jury investigate whether Rikers Island supervisors filled out registration cards in the names of inmates (such inmates are eligible to vote)   | Newsday              |  |  |  |
| Queens            | New York       | 15-Sep-04 | state assembly | About 100 people in the Flushing area gave commercial addresses on voter registration forms, raising suspicion at polling sites yesterday that may cast a shadow over the assembly race.  | Newsday              |  |  |  |
| Greensboro        | North Carolina | 6-Dec-01  |                | Imtiaz Ahmed Siddiqui pleaded guilty Thursday to voter fraud in a brief fed-eral court hearing that included no mention of the allegation that he may be ac-quainted with terrorists. Siddiqui, 31, answering questions in halting English, admitted he signed a voter registration form that identified him as a U.S. citizen when he got a driver's license in Durham in August. He is a citizen of Pakistan.   | AP                   |  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                    |                |           |              |   |                     |  |  |  |
|--------------------|----------------|-----------|--------------|---|---------------------|--|--|--|
| Charlotte          | North Carolina | 24-Oct-04 | presidential | Officials are investigating ACORN because an ACORN organizer found that one of its workers had faked about 70 registrations. The worker was fired and the information turned over to the state board. A similar problem with a consumer interest group in Wake County has also been turned over to state officials  | Charlotte Observer  |  |  |  |
|                    | North Carolina | 24-Oct-04 |              | The Charlotte Observer found more than 60,000 people who appear to be registered in both Carolinas. Alamance County Sheriff says illegal immigrants are registering to vote using false documents at drivers license offices. North Carolina is investigating two groups that may have falsely registered new voters. Some are worried that noncitizens could vote because in North Carolina one can get a drivers license without a social security number. The Elections division and the DMV ran two checks of people who received drivers licenses without proof of citizenship and found only a handful who had resgistered to vote. | AP                  |  |  |  |
| Mecklenburg County | North Carolina | 28-Sep-05 |              | Mecklenburg County commissioner Bill James and Libertarian Lewis Guignard formally challenged the registration of more than 400 homeless voters Tuesday, saying they had improperly registered using commercial addresses. James and Guignard said the 464 voters challenged in their complaint incorrectly used the addresses of the Urban Ministries at 945 N. College St., the Charlotte Rescue Mission at 907 W. First St. or the Salvation Army at 534 Spratt St. to register, even though those are commercial addresses where the voters could not permanently live.   | Charlotte Observer  |  |  |  |
| Cincinnati         | Ohio           | 20-Aug-03 | city council | More than 70 people have claimed a Walnut Hills tailoring shop as their home address while registering to vote, leading the Hamilton County Board of Elections to subpoena the tailor, who is a candidate for Cincinnati City Council.  | Cincinnati Enquirer |  |  |  |
| Franklin           | Ohio           | 8-Sep-04  | presidential | A part-time worker for ACORN was indicted for falsely filling out and signing a voter registration card   | Columbus Dispatch   |  |  |  |
|                    | Ohio           | 15-Oct-04 | presidential | In Hamilton County, the Board of Elections has subpoenaed 19 registered voters who elections officials don't believe exist. The Summit County Board of Elections in Akron has asked Ohio Attorney General Jim Petro to investigate 803 allegedly fraudulent voter-registration cards, many of which appeared to be in the same handwriting. In Lake County, east of Cleveland, several voter-registration cards seem to have forged signatures, elections officials say.  | Cincinnati Enquirer |  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

011840

|          |        |           |              |   |                              |  |  |  |
|----------|--------|-----------|--------------|---|------------------------------|--|--|--|
|          | Ohio   | 20-Oct-04 | presidential | State GOP Chair says that the party tried to contact 231,834 new registrants in the five largest counties and had 5.7% returned as undeliverable.   | Columbus Dispatch            |  |  |  |
| Defiance | Ohio   | 31-Oct-04 | presidential | The sheriff arrested a man for submitting 130 phony registration forms with such names as Mary Poppins and Dick Tracy. Authorities say he confessed to being paid in crack cocaine by an NAACP volunteer.   | Dallas Morning News          |  |  |  |
| Parma    | Ohio   | 9-Jan-05  | presidential | Three police officers are being investigated on accusations that they listed police headquarters as their home addresses when registering for the Nov. 2 election, officials said.  | AP                           |  |  |  |
|          | Oregon | 17-Oct-04 | presidential | The Secretary of State announced an investigation into allegations that a paid canvasser with Sproul & Associates had been told to register only Republicans. The head of the organization denied the accusations.  | Atlanta Journal Constitution |  |  |  |
|          | Oregon | 30-Oct-04 | presidential | Chemeketa community colleges, Western Oregon University and the University of Oregon all told similar stories: They were approached on campus and asked to sign a petition, often urging lower auto-mobile insurance rates for students, and then asked to sign or initial a second document, which turned out to be a voter registration card. Many of the students were urged to mark Republican as their party affiliation; others were told to leave the party affiliation section blank but to put their initials next to Republican on that part of the form. Many of the students already were registered voters. Some students didn't realize they were registering to vote, or that their party affiliation was about to change. Nathan Sproul, whose company conducted the registration drive, did not respond to calls seeking comment. His firm has been accused of using similar tactics involving bogus petitions at colleges in Pennsylvania, according to the Pittsburgh Post-Gazette. In an earlier interview with The Oregonian, Sproul confirmed that his canvassers are paid a "bounty" | Newhouse News Service        |  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|                 |              |           |                   |  |                           |  |  |  |  |
|-----------------|--------------|-----------|-------------------|--|---------------------------|--|--|--|--|
|                 | Pennsylvania | 25-Oct-04 | presidential      | Republicans mailed letters to 130,000 people who had registered to vote in the last 6 months. 10,000 came back as undeliverable. The legal counsel to the state party said Republicans had looked at a sample of the letters and found 15 of 100 of the registrants were dead. The director of a nonpartisan organization says in a transient city many people may have moved over a six month period, and many letters might not have reached people living in shelters or substandard housing. | Philadelphia Inquirer     |  |  |  |  |
| Allegheny       | Pennsylvania | 28-Oct-04 | presidential      | County investigators have launched an investigation into a scam in which University of Pittsburgh and Community College of Allegheny County students believed they were signing petitions to legalize marijuana for medical use, only to find themselves registered as Republicans.  | Pittsburgh Tribune Review |  |  |  |  |
| East Providence | Rhode Island | 20-Aug-05 | town primary      | Four people charged with using business addresses to register to vote  | Pawtucket Times           |  |  |  |  |
| East Providence | Rhode Island | 2-Dec-05  | municipal         | Nine people are accused of registering at business addresses. Charges against two are dropped because they did not sign the registration cards. Three other defendants have been invited to apply to the adult diversion program. Arraignments were postponed for four others. October 30, 2004: As many as 287 people were originally suspected.  | Providence Journal        |  |  |  |  |
| Rapid City      | South Dakota | 19-Oct-02 | unclear           | forged registration applications by a worker being paid by the application   | Argus Leader              |  |  |  |  |
|                 | South Dakota | 21-Oct-02 | statewide         | Several counties, almost all of them adjoining an American Indian reservation, submit questionable registration forms to law enforcement   | Argus Leader              |  |  |  |  |
| Rapid City      | South Dakota | 12-Jul-03 | unclear           | Individual reaches plea agreement for falsifying registration cards  | Midwest News              |  |  |  |  |
| Codington       | South Dakota | 28-Jul-04 |                   | A Phoenix man accused of forging voter registration forms in Codington County has been sentenced to prison. Howard L. Brewer, 44, pleaded guilty last month to three counts of forgery. He was charged after the county auditor's office received an envelope in April that contained 20 voter registrations. Eight to 10 of the forms were suspicious.  | AP                        |  |  |  |  |
| Harris          | Texas        | 5-Feb-05  | state legislature | County Tax Assessor-Collector alleges 157 registered had false addresses. County officials are investigating   | Houston Chronicle         |  |  |  |  |
| Prince William  | Virginia     | 5-May-05  | state legislature | Candidate charged with lying on a registration card and voting in a district where he did not reside.  | Washington Times          |  |  |  |  |



EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud

|           |           |           |              |  |                            |  |  |  |
|-----------|-----------|-----------|--------------|--|----------------------------|--|--|--|
| Milwaukee | Wisconsin | 31-Oct-04 | presidential | Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual -- including thousands who might be missing an apartment number on their registration - at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm. | Milwaukee Journal Sentinel |  |  |  |
| Madison   | Wisconsin | 10-May-05 | presidential | The vast majority of voters alleged to have been phantoms because their verification forms were returned as undeliverable really exist and their cards were returned because of innocent mistakes in filling out voter registration forms. Of 1,194 verification cards returned, 16 are still be examined  | Wisconsin State Journal    |  |  |  |
| Milwaukee | Wisconsin | 11-May-05 | presidential | Arrest warrants issued and felony charges filed against two workers for Project Vote who admitted to filling out multiple registration cards using fictitious information to earn money  | Milwaukee Journal Sentinel |  |  |  |
| Milwaukee | Wisconsin | 6-Dec-05  | presidential | County DA charges two people affiliated with ACORN for filing false voter registrations  | AP                         |  |  |  |







**EAC Voting Fraud-Voter Intimidation Preliminary Research  
 Nexis Articles - Voter Registration Fraud**

011846

| Resolution of Incident / allegation  | Source of Resolution 1 | Source of Resolution 2 |
|--|------------------------|------------------------|
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
|  |                        |                        |
| June 2005: Paid worker charged with five felony counts of forging voter registration cards (none resulted in fraudulent votes) | Modesto Bee            |                        |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

011849

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

011849

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |



**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud**

18  
011850

|   |  |  |
|---|--|--|
|   |  |  |
| <p>Nine people are slated to be indicted today on charges of collecting or de-destroying 3,800 bogus voter registration cards that were submitted to the St. Louis Election Board on Feb. 7, 2001, the last day for registering to vote in the hotly contested mayoral primary in March. Nine people have been indicted for trying to register fraudulent voters and destroy the evidence. State registration forms now are numbered and a record is kept of which cards have gone to which groups for voter registration drives. The fake registrations are linked to four temporary workers who had been employed by ACORN.</p> | <p>11/7/2003, St. Louis Post Dispatch</p>      | <p>11/11/2003, St. Louis Post Dispatch</p> |
| <p>Three workers are charged with turning in fraudulent voter registration applications a few weeks before the mayoral primary.</p>   | <p>St. Louis Post-Dispatch (March 5, 2002)</p> |  |
| <p>Prosecutor says all the cards were caught and no one voted illegally.</p>  | <p>St. Louis Post-Dispatch</p>                 |  |
|   |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

011851

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

011852

|  |           |                      |
|--|-----------|----------------------|
|  |           |                      |
|  |           |                      |
|  |           |                      |
|  |           |                      |
|  |           |                      |
|  |           |                      |
| An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious. | 11/8/2005 | Akron Beacon Journal |

**EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud**

011853

|   |                  |                             |
|---|------------------|-----------------------------|
| <p>An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.</p> | <p>8-Nov-05</p>  | <p>Akron Beacon Journal</p> |
| <p>An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.</p> | <p>11/8/2005</p> | <p>Akron Beacon Journal</p> |
|   |                  |                             |
|   |                  |                             |
|   |                  |                             |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

011854

|   |              |  |
|---|--------------|--|
|   |              |  |
|   |              |  |
|   |              |  |
|   |              |  |
| one indictment on five counts of forgery  | Argus Leader |  |
| Red Eart h Viliteda, a contractor for the Democratic Party, is investigated. SEE SOUTH DAKOTA SUMMARY | Argus Leader |  |
|   |              |  |
|   |              |  |
|   |              |  |
|   |              |  |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Voter Registration Fraud

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

23  
011855









EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011859

Wade Henderson, Executive Director, Leadership Conference for Civil Rights

Data Collection

Mr. Henderson had **several recommendations as to how to better gather additional information and data on election fraud and intimidation in recent years. He suggested interviewing the following individuals who have been actively involved in Election Protection and other similar efforts:**

- Jon Greenbaum, Lawyers Committee for Civil Rights
- Tanya Clay, People for the American Way
- Melanie, Campbell, National Coalition for Black Political Participation
- Larry Gonzalez, National Association of Latino Election Officers
- Jacqueline Johnson, National Congress of American Indians
- Chellie Pingree, Common Cause
- Jim Dickson, disability rights advocate
- Mary Berry, former Chair of the US Commission on Civil Rights, currently at the University of Pennsylvania
- Judith Browne and Eddie Hailes, Advancement Project (former counsel to the US Commission on Civil Rights)
- Robert Rubin, Lawyers Committee for Civil Rights – San Francisco Office
- Former Senator Tom Daschle (currently a fellow at The Center for American Progress)

He also recommended we **review the following documents and reports:**

- The 2004 litigation brought by the Advancement Project and SEIU under the 1981 New Jersey Consent Decree
- Forthcoming LCCR state-by-state report on violations of the Voting Rights Act
- Forthcoming Lawyers Committee report on violations of the Voting Rights Act (February 21)

Types of Fraud and Intimidation Occurring

Mr. Henderson said he believed that the kinds of **voter intimidation and suppression tactics employed over the last five years are ones that have evolved over many years. They are sometimes racially based, sometimes based on partisan motives. He believes the following types of activity have actually occurred, and are not just a matter of anecdote and innuendo, and rise to the level of either voter intimidation or vote suppression:**

- **Flyers with intentional misinformation, such as ones claiming that if you do not have identification, you cannot vote, and providing false dates for the election**
- **Observers with cameras, which people associate with potential political retribution or even violence**
- **Intimidating police presence at the polls**
- **Especially in jurisdictions that authorize challenges, the use of challenge lists and challengers goes beyond partisanship to racial suppression and intimidation**
- **Unequal deployment of voting equipment, such as occurred in Ohio. Also, he has seen situations in which historically Black colleges will have one voting machine while other schools will have more.**

Mr. Henderson **believes that these matters are not pursued formally because often they involve activities that current law does not reach.** For example, there is no law prohibiting a Secretary of State from being the head of a political campaign, and then deploying voting machines in an uneven manner. There is no way to pursue that. Also, **once the election is over, civil litigation becomes moot.** Finally, sometimes upon reflection **after the campaign, some of the activities are not as sinister as believed at the time.**

Mr. Henderson believes **government does not engage in a sustained investigation of these matters or pursue any kind of resolution to**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

01860

**them.** LCCR has filed a FOIA request with both the Civil Rights Division and the Criminal Division of the Department of Justice to examine this issue.

Election Protection activities will be intensified for the 2006 elections, although the focus may shift somewhat given the implementation of new HAVA requirements.

Recommendations for Reform

There was tremendous concern after the 2004 election about conflicts of interest – the “Blackwell problem” – whereby a campaign chair is also in charge of the voting system. We need to get away from that.

He also **supports Senator Barak Obama’s bill regarding deceptive practices**, and is opposed to the voter identification laws passing many state legislatures.

- States should adopt **election-day registration**, in order to boost turnout as well as to allow eligible voters to immediately rectify erroneous or improperly purged registration records
- **Expansion of early voting & no-excuse absentee voting**, to boost turnout and reduce the strain on election-day resources.
- **Provisional ballot reforms:**
  - Should be **counted statewide** – if cast in the wrong polling place, votes should still be counted in races for which the voter was eligible to vote (governor, etc.)
  - Provisional ballots should also **function as voter registration applications**, to increase the likelihood that voters will be properly registered in future elections
- Voter ID requirements: **states should allow voters to use signature attestation to establish their identity**
- The **Department of Justice should increase enforcement of Americans with Disabilities Act and the accessibility requirements of the Help America Vote Act**
- **Statewide registration databases should be linked to social service agency databases**
- **Prohibit chief state election officials from simultaneously participating in partisan electoral campaigns** within their states
- Create and enforce **strong penalties for deceptive or misleading voting practices**

Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

Brennan Center findings on fraud

The Brennan Center's primary work on fraud is their report for the Carter Baker Commission with commissioner Spencer Overton, written in response to the Commission's ID recommendations. Brennan reviewed all existing reports and election contests related to voter fraud. They believe the contests serve as an especially good record of whether or not fraud exists, as the parties involved in contested elections have a large incentive to root out fraudulent voters. Yet despite this, the incidence of voter impersonation fraud discovered is extremely low—something on the order 1/10000<sup>th</sup> of a percentage of voters. See also the brief Brennan filed on 11<sup>th</sup> circuit in Georgia photo ID case which cites sources in Carter Baker report and argues the incidence of voter fraud too low to justify countermeasures.

Among types of fraud, they **found impersonation, or polling place fraud, is probably the least frequent type, although other types, such as absentee ballot fraud are also very infrequent. Weiser believes this is because impersonation fraud is more likely to be caught and is therefore not worth the risk. Unlike in an absentee situation, actual poll workers are present to disrupt impersonation fraud, for instance, by catching the same individual voting twice. She believes perhaps one half to one quarter of the time the person will be caught.** Also, there is a chance the pollworker will have personal knowledge of the person. Georgia Secretary of State Cathy Cox has mentioned that there are many opportunities for discovery of in person fraud as well. For example, **if one votes in the name of another voter, and that**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011861

**voter shows up at the polls, the fraud will be discovered.**

Weiser believes court proceedings in election contests are especially useful. Some are very extensive, with hundreds of voters brought up by each side and litigated. In both pre-election challenges and post-election contests, **parties have devoted extraordinary resources into 'smoking out' fraudulent voters.** Justin Leavitt at Brennan scoured such proceedings for the Carter Baker report, which includes these citations. Contact him for answers to particular questions.

Countermeasures/statewide databases

Brennan has also considered what **states are doing to combat impersonation fraud besides photo ID laws**, although again, it seems to be the rarest kind of fraud, beyond statistically insignificant. In the **brief Brennan filed in the Georgia case, the Center detailed what states are already doing to effectively address fraud.** In another **on the web site includes measures that can be taken that no states have adopted yet.** Weiser adds that an effort to look at strategies states have to prevent fraud, state variations, effectiveness, ease of enforcement would be very useful.

Weiser believes the **best defense against fraud will be better voter lists**—she argues the fraud debate is actually premature because states have yet to fully implement the HAVA database requirement. This should eliminate a great deal of 'deadwood' on voter rolls and undermine the common argument that fraud is made possible by this deadwood. This was the experience for Michigan, which was able to remove 600,000 names initially, and later removed almost 1 million names from their rolls. It is fairly easy to cull deadwood from lists due to consolidation at the state level—most deadwood is due to individuals moving within the state and poor communication between jurisdictions. (Also discuss with Chris Thomas, who masterminded the Michigan database for more information and a historical perspective.)

Regarding the question of whether the effect of this maintenance on fraud in Michigan can be quantified, Weiser would caution against drawing direct lines between list problems and fraud. **Brennan has found various groups abusing the existence of list deadwood to make claims about fraudulent voting.** This is analyzed in greater detail in the Brennan Center's critique of a purge list produced by the NJ Republican party, and was illustrated by the purge list produced by the state of Florida. **When compiling such lists and doing comparisons, sound statistical methods must be utilized, and often are not.**

**The NJ GOP created a list and asked NJ election officials to purge names of ineligible voters on it. Their list assumed that people appearing on the list twice had voted twice. Brennan found their assumptions shoddy and based on incorrect statistical practices, such as treating individuals with the same name and birthdays as duplicates, although this is highly unlikely according to proper statistical methods. Simply running algorithms on voter lists creates a number of false positives, does not provide an accurate basis for purging, and should not be taken as an indicator of fraud.**

Regarding the Florida purge list, **faulty assumptions caused the list to systematically exclude Hispanics while overestimating African Americans. Matching protocols required that race fields match exactly, despite inconsistent fields across databases.**

The kinds of list comparisons that are frequently done to allege fraud are unreliable. Moreover, **even if someone is on a voter list twice, that does not mean that voter has voted twice. That, in fact, is almost never the case.**

Ultimately, **even matching protocols without faulty assumptions will have a 4 percent to 35 percent error rate —that's simply the nature of database work. Private industry has been working on improving this for years. Now that HAVA has introduced a matching requirement, even greater skepticism is called for in judging the accuracy of list maintenance.**

Intimidation and Suppression

Brennan does not have a specific focus here, although they do come across it and have provided assistance on bills to prevent suppression and intimidation. They happen to have an **extensive paper file of intimidating fliers and related stories from before the 2004 election.** (They can supply copies after this week).

Challengers

**Brennan has analyzed cases where challenger laws have been beneficial and where they have been abused. See the decision and record**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011862

from the 1982 NJ vs. RNC case for some of the history of these laws. Brennan is currently working on developing a model challenger law. Weiser believes challenge laws with no requirement that the challenger have any specific basis for the challenge or showing of ineligibility are an invitation to blanket harassing challenges and have a range of pitfalls. State laws are vague and broad and often involve arcane processes such as where voters are required to meet a challenge within 5 days. There are incentives for political abuse, potential for delaying votes and disrupting the polls, and they are not necessarily directed toward the best result. Furthermore, when a voter receives a mailer alleging vote fraud with no basis, even the mere fact of a challenge can be chilling. A voter does not want to have to go through a quasi-court proceeding in order to vote.

Brennan recommends challenge processes that get results before election, minimize the burden for voters, and are restricted at polling place to challenges by poll workers and election officials, not voters. They believe limitless challenges can lead to pandemonium—that once the floodgates are open they won't stop.

Recommendations

- **Intimidation**— Weiser believes Sen. Barak Obama's bill is a good one for combating voter harassment and deceptive practices. Many jurisdictions do not currently have laws prohibiting voter harassment and deceptive practices.
- **Fraud**— Current state and federal codes seem sufficient for prosecuting fraud. Weiser doesn't consider them under-enforced, and sees no need for additional laws.
- **Voter lists**— New legislation or regulations are needed to provide clear guidance and standards for generating voter lists and purging voters, otherwise states could wrongfully disenfranchise eligible voters.
- **Challengers**—Challenge laws need to be reformed, especially ones that allow for pre-election mass challenges with no real basis. There is no one size fits all model for challenger legislation, but some bad models involving hurdles for voters lead to abuse and should be reformed. There should be room for poll workers to challenge fraudulent voters, but not for abuse.

Also useful would be recommendations for prosecutors investigating fraudulent activity, How should they approach these cases? How should they approach cases of large scale fraud/intimidation? While there is sufficient legislative cover to get at any election fraud activity, questions remain about what proper approaches and enforcement strategies should be.

William Groth, attorney for the plaintiffs in the Indiana voter identification litigation

Fraud in Indiana

Indiana has never charged or prosecuted anyone for polling place fraud. Nor has any empirical evidence of voter impersonation fraud or dead voter fraud been presented. In addition, there is no record of any credible complaint about voter impersonation fraud in Indiana. State legislators signed an affidavit that said there had never been impostor voting in Indiana. At the same time, the Indiana Supreme Court has not necessarily required evidence of voter fraud before approving legislative attempts to address fraud.

The state attorney general has conceded that there is no concrete fraud in Indiana, but has instead referred to instances of fraud in other states. Groth filed a detailed motion to strike evidence such as John Fund's book relating to other states, arguing that none of that evidence was presented to the legislature and that it should have been in the form of sworn affidavits, so that it would have some indicia of verifiability.

Photo ID law

By imposing restrictive ID measures, Groth contends you will discourage 1,000 times more legitimate voters than illegitimate voters you might protect against. He feels the implementation of a REAL ID requirement is an inadequate justification for the law, as it will not affect the upcoming 2006 election where thousands of registered voters will be left without proper ID. In addition, he questions whether REAL ID will be

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011863

implemented as planned in 2008 considering the backlash against the law so far. **He also feels ID laws are unconstitutional because of inconsistent application.**

Statewide database as remedy

Groth believes **many problems will be addressed by the statewide database required under HAVA.** To the extent that the rolls in Indiana are bloated, it is because state officials have not complied with NVRA list maintenance requirements. Thus, it is somewhat disingenuous for them to use bloated voter rolls as a reason for imposing additional measures such as the photo ID law. Furthermore, the state has ceded to the counties the obligation to do maintenance programs, which results in a hit or miss process (see discussion in reply brief, p 26 through p. 28).

Absentee fraud

**To the extent that there has been an incidence of fraud, these have all been confined to absentee balloting.** Most notably the East Chicago mayoral election case where courts found absentee voting fraud had occurred. See: Pabey vs. Pastrick 816 NE 2<sup>nd</sup> 1138 Decision by the Indiana Supreme Court in 2004.

Intimidation and vote suppression

**Groth is only aware of anecdotal evidence supporting intimidation and suppression activities.** While he considers the sources of this evidence credible, it is still decidedly anecdotal. Instances he is aware of include **police cars parked in front of African American polling places.** However, **most incidents of suppression which are discussed occurred well in the past.** Trevor Davidson claims a fairly large scale intimidation program in Louisville.

Challengers

There was **widespread information that the state Republican Party had planned a large scale challenger operation in Democratic precincts for 2004, but abandoned the plan at the last minute.**

Last year the **legislature made a crucial change to election laws which will allow partisan challengers to be physically inside the polling area next to members of the precinct board.** Previously, **challengers at the polling place have been restricted to the 'chute,'** which provides a buffer zone between voting and people engaging in political activity. That change will make **it much easier to challenge voters.** As there is no recorded legislative history in Indiana, it is difficult to determine the justification behind this change. As both chambers and the governorship are under single-party control, the challenger statute was passed under the radar screen.

Photo ID and Challengers

Observers are especially concerned **about how this change will work in conjunction with the photo ID provision.** Under the law, there are at least two reasons why a member of the precinct board or a challenger can raise object to an ID: whether a presented ID conforms to ID standards, and whether the photo on an ID is actually a picture of the voter presenting it. The law does not require bipartisan agreement that a challenge is valid. **All it takes is one challenge to raise a challenge to that voter, and that will lead to the voter voting by provisional ballot.**

**Provisional ballot voting means that voter must make a second trip to the election board (located at the county seat) within 13 days to produce the conforming ID or to swear out an affidavit that they are who they claim to be.** This may pose a considerable burden to voters. For example, Indianapolis and Marion County are coterminous—anyone challenged under the law will be required to make second trip to seat of government in downtown Indianapolis. If the voter in question did not have a driver's license in the first place, they will likely need to arrange transportation. Furthermore, in most cases the election result will already be known.

The law is **vague about acceptable cause for challenging a voter's ID.** Some requirements for valid photo ID include being issued by state or fed gov't, w/ expiration date, and the names must conform exactly. The **League of Women Voters is concerned about voters with hyphenated names, as the Indiana DMV fails to put hyphens on driver's licenses potentially leading to a basis for challenge.** Misspelling of names would also be a problem. The other primary mode of challenge is saying the photo doesn't look like the voter, which could be happen in a range of instances. Essentially, the law gives unbridled discretion to challengers to decide what conforms and what does not.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Furthermore, there is **no way to determine whether a challenge is in good or bad faith**, and **there is little penalty for making a bad faith challenge**. The fact that there are no checks on the challenges at the precinct level, or even a requirement of concurrence from an opposing party challenger leads to the concern that challenge process will be abused. The voter on the other hand, will need to get majority approval of county election board members to defeat the challenge.

Groth suggests the political situation in Indianapolis also presents a temptation to abuse this process, as electoral margins are growing increasingly close due to shifting political calculus.

Other cases

Groth's other election law work has included a redistricting dispute, a dispute over ballot format, NVRA issues, and a case related to improper list purging, but nothing else related to fraud or intimidation. The purging case involved the election board attempting to refine its voter list by sending registration postcards to everyone on the list. When postcards didn't come back they wanted to purge those voters. Groth blames this error more on incompetence, than malevolence, however, as the county board is bipartisan. (The Indiana Election Commission and the Indiana election division are both bipartisan, but the 92 county election boards which will be administering photo id are controlled by one political party or the other—they are always an odd number, with the partisan majority determined by who controls the clerk of circuit court office.)

Recommendations

- **Supports nonpartisan administration of elections.**
- Indiana specific recommendations including a longer voting day, time off for workers to vote, and an extended registration period.
- He views the central problem of the Indiana photo ID law is that the list of acceptable forms of ID is too narrow and provides no fallback to voters without ID. At the least, he believes the state **needs to expand the list so that most people will have at least one**. If not, **they should be allowed to swear an affidavit regarding their identity, under penalty of perjury/felony prosecution. This would provide sufficient deterrence for anyone considering impersonation fraud. He believes absentee ballot fraud should be addressed by requiring those voters to produce ID as well, as under HAVA.**
- His personal preference would be **signature comparison**. Indiana has never encountered an instance of someone trying to forge a name in the poll book, and while this leaves open the prospect of dead voters, that danger will be substantially diminished by the statewide database. But if we are going to have some form of ID, he believes we should apply it to everyone and avoid disenfranchisement, provided they swear an affidavit.

Lori Minnite, Barnard College, Columbia University

Securing the Vote

In Securing the Vote, Ms. Minnite found very little evidence of voter fraud because the historical conditions giving rise to fraud have weakened over the past twenty years. She stated that for fraud to take root a conspiracy was needed with a strong local political party and a complicit voter administration system. Since parties have weakened and there has been much improvement in the administration of elections and voting technology, the conditions no longer exist for large scale incidents of polling place fraud.

Ms. Minnite concentrates on fraud committed by voters not fraud committed by voting officials. She has looked at this issue on the national level and also concentrated on analyzing certain specific states. Ms. Minnite stressed that it is important to keep clear who the perpetrators of the fraud are and where the fraud occurs because that effects what the remedy should be. Often, voters are punished for fraud committed by voting officials.

Other Fraud Issues

Ms. Minnite found no evidence that NVRA was leading to more voter fraud. She supports non-partisan election administration. Ms.

011864

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Minnite has found evidence that there is absentee ballot fraud. She can't establish that there is a certain amount of absentee ballot fraud or that it is the major kind of voter fraud.

Recommendations

- **Assure there are accurate voter records and centralize voter databases**
- **Reduce partisanship in electoral administration.**

Neil Bradley, ACLU Voting Rights Project

Voter Impersonation Cases (issue the Georgia ID litigation revolves around)

Mr. Bradley asserted that Georgia **Secretary of State Cox** stated in the case at issue: that she clearly would know if there had been any instances of voter impersonation at the polls; that she works very closely with the county and local officials and she **would have heard about voter impersonation** from them if she did not learn about it directly; and that she said that she had not heard of "any incident"---which includes acts that did not rise to the level of an official investigation or charges.

Mr. Bradley said that it is also **possible to establish if someone has impersonated another voter at the polls. Officials must check off the type of voter identification the voter used. Voters without ID may vote by affidavit ballot. One could conduct a survey of those voters to see if they in fact voted or not.**

The type of **voter fraud that involves impersonating someone else is very unlikely to occur.** If someone wants to steal an election, it is **much more effective to do so using absentee ballots.** In order to change an election outcome, one must steal many votes. Therefore, one would have to have lots of people involved in the enterprise, meaning there would be many people who know you committed a felony. It's simply not an efficient way to steal an election.

Mr. Bradley is not aware of any instance of voter impersonation anywhere in the country except in local races. **He does not believe it occurs in statewide elections.**

Voter fraud and intimidation in Georgia

Georgia's **process for preventing ineligible ex-felons from casting ballots has been improved** since the Secretary of State now has the power to create the felon purge list. When this was the responsibility of the counties, there were many difficulties in purging felons because local officials did not want to have to call someone and ask if he or she was a criminal.

The **State Board of Elections has a docket of irregularity complaints. The most common involve an ineligible person mailing in absentee ballots on behalf of another voter.**

In general, Mr. Bradley **does not think voter fraud and intimidation is a huge problem in Georgia** and that people have confidence in the vote. The biggest problems are the new ID law; misinformation put out by elections officials; and **advertisements that remind people that vote fraud is a felony, which are really meant to be intimidating. Most fraud that does occur involves an insider, and that's where you find the most prosecutions. Any large scale fraud involves someone who knows the system or is in the courthouse.**

Prosecution of Fraud and Intimidation

Mr. Bradley stated that **fraud and intimidation are hard to prosecute.** However, Mr. Bradley made contradictory statements. When asked whether the decision to prosecute on the county level was politically motivated, he first said "no." Later, Mr. Bradley reversed himself stating the opposite.

Mr. Bradley also stated that **with respect to US Attorneys, the message to them from the top is that this is not a priority. The Georgia ACLU has turned over information about violations of the Voting Rights Act that were felonies, and the US Attorney has done nothing with the information. The Department of Justice has never been very aggressive in pursuing cases of vote suppression, intimidation**

011865



EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

and fraud. But, the Georgia ACLU has not contacted Craig Donsanto in DC with information of voter fraud. Mr. Bradley believes that **voter fraud and intimidation is difficult to prove. It is very hard to collect the necessary factual evidence to make a case, and doing so is very labor-intensive.**

Recommendations

In Georgia, the Secretary of State puts a lot of work into training local officials and poll workers, and much of her budget is put into that work. **Increased and improved training of poll workers**, including training on how to respectfully treat voters, is the most important reform that could be made. Mr. Bradley also suggested that **increased election monitoring** would be helpful.

Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

Ms. Perales did not seem to have a sense of the overall electoral issues in her working region (the southwest) effecting Hispanic voters and did not seem to want to offer her individual experiences and work activities as necessarily a perfect reflection of the challenges Hispanic voters face.

Largest Election Problems Since 2000

- **Santa Anna County, New Mexico-2004-intimidated voters by video taping them.**
- **San Antonio-One African American voter subjected to a racial slur.**
- **San Antonio-Relocated polling places at the last minute without Section 5 pre-clearance.**
- **San Antonio-Closed polls while voters were still in line.**
- **San Antonio-2003-only left open early voting polls in predominantly white districts.**
- **San Antonio-2005-racially contested mayoral run-off election switched from touch screen voting to paper ballots.**

Voter Fraud and Intimidation

In Texas, the counties are refusing to open their records with respect to Section 203 compliance (bilingual voting assistance), and those that did respond to MALDEF's request submitted incomplete information. Ms. Perales believes this in itself is a form of voter intimidation.

Ms. Perales said it is hard to say if the obstacles minorities confront in voting are a result of intentional acts or not because the county commission is totally incompetent. There have continuously been problems with too few ballots, causing long lines, especially in places that had historically lower turnout. There is no formula in Texas for allocating ballots – each county makes these determinations.

When there is not enough language assistance at the polls, **forcing a non-English speaker to rely on a family member to vote, that can suppress voter turnout.**

Ms. Perales is not aware of deceptive practices or dirty tricks targeted at the Latino community.

There have been no allegations of illegal noncitizen voting in Texas. Indeed, the sponsor of a bill that would require proof of citizenship to vote could not provide any documentation of noncitizen voting in support of the bill. The bill was defeated in part because of the racist comments of the sponsor. In Arizona, such a measure was passed. Ms. Perales was only aware of one case of noncitizen voting in Arizona, involving a man of limited mental capacity who said he was told he was allowed to register and vote. Ms. Perales believes proof of citizenship requirements discriminate against Latinos.

Recommendations

Ms. Perales feels the laws are adequate, but that her organization does not have enough staff to do the monitoring necessary. This could be done by the federal government. However, even though the Department of Justice is focusing on Section 203 cases now, they have not even begun to scratch the surface. Moreover, the choices DOJ has made with respect to where they have brought claims do not seem to be based on any systematic analysis of where the biggest problems are. This may be because the administration is so ideological and partisan.

011866

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Ms. Perales does not believe making election administration nonpartisan would have a big impact. In Texas, administrators are appointed in a nonpartisan manner, but they still do not always have a nonpartisan approach. Each administrator tends to promote his or her personal view regardless of party.

Pat Rogers, attorney, New Mexico

Major issues in NM w/ regard to vote fraud

**Registration fraud seems to be the major issue**, and while the legislature has taken some steps, Rogers is skeptical of the effect they will have, considering the history of unequal application of election laws. He also believes there are **holes in the 3<sup>rd</sup> party registration requirement deadlines**.

Rogers **views a national law requiring ID as the best solution to registration problems**. Rather than imposing a burden he contends it will enhance public confidence in the simplest way possible.

Registration Fraud in 2004 election

It came to light that **ACORN had registered a 13 year old**. The father was an APD officer and received the confirmation, but it was sent to the next door address, a vacant house. They traced this to an ACORN employee and it was established that this employee had been registering others under 18.

Two weeks later, in a crack cocaine bust of Cuban nationals, one of those raided said his job was registering voters for ACORN, and the police found signatures in his possession for fictitious persons.

**In a suspicious break-in at an entity that advertised itself as nonpartisan, only GOP registrations were stolen.**

In another instance, **a college student was allegedly fired for registering too many Republicans.**

Rogers said he **believed these workers were paid by the registration rather than hourly.**

There have been **no prosecution or convictions related to these incidents**. In fact, there have been no prosecutions for election fraud in New Mexico in recent history. However, Rogers is skeptical that much action can be expected considering the positions of Attorney General, Governor, and Secretary of State are all held by Democrats. Nor has there been any interest from the U.S. attorney—**Rogers heard that U.S. attorneys were given instruction to hold off until after the election in 2004 because it would seem too political.**

As part of the case against the Secretary of State regarding the identification requirement, the parties also sued ACORN. At a hearing, the head of ACORN, and others aligned with the Democratic Party called as witnesses, took the 5<sup>th</sup> on the stand as to their registration practices.

Other incidents

**Very recently, there have been reports of vote buying in the town of Espanola. Originally reported by the Rio Grande Sun, a resident of a low-income housing project is quoted as saying it has been going on for 10-12 years. The Albuquerque Journal is now reporting this as well. So far the investigation has been extremely limited.**

**In 1996, there were some prosecutions in Espanola, where a state district judge found registration fraud.**

**In 1991, the chair of Democratic Party of Bertolino County was convicted on fraud. Yet she was pardoned by Clinton on same day as Marc Rich.**

Intimidation/Suppression

**Rogers believes the most notable example of intimidation in the 2004 election was the discovery of a DNC Handbook from Colorado advising Democratic operatives to widely report intimidation regardless of confirmation in order to gain media attention.**

In-person polling place fraud

There have **only been isolated instances of people reporting that someone had voted in their name, and Rogers doesn't believe there is any large scale conspiracy.** Yet he contends that **perspective misses the larger point of voter confidence.** Although there has been a large

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

public outcry for voter ID in New Mexico, it has been deflected and avoided by Democrats.

In 2004, there were more Democratic lawyers at the polls than there are lawyers in New Mexico. Rogers believes these lawyers had a positive impact because they deterred people from committing bad acts.

Counting Procedures

The **Secretary of State has also taken the position that canvassing of the vote should be done in private.** In NM, they have a 'county canvas' where they review and certify, after which all materials—machine tapes, etc.—are centralized with the Secretary of State who does a final canvass for final certification. Conducting this in private is a serious issue, especially considering the margin in the 2000 presidential vote in New Mexico was only 366 votes. **They wouldn't be changing machine numbers, but paper numbers are vulnerable.**

On a related note, NM has adopted state procedures that will ensure their reports are slower and very late, considering the 2000 late discovery of ballots. In a close race, potential for fraud and mischief goes up astronomically in the period between poll closing and reporting. Rogers believes these changes are going to cause national embarrassment in the future.

Rogers attributes other harmful effects to what he terms the Secretary of State's incompetence and inability to discern a nonpartisan application of the law. **In the 2004 election, no standards were issued for counting provisional ballots.** Furthermore, the Secretary of State spent over \$1 million of HAVA money for 'voter education' in blatant self-promotional ads.

Recommendations

- Rogers believes it would be unfeasible to have nonpartisan election administration and favors transparency instead. To make sure people have confidence in the election, there must be transparency in the whole process. Then you don't have the 1960 vote coming down to Illinois, or the Espanola ballot or Dona Anna County (ballots found there in the 2000 election). HAVA funds should also be restricted when you have an incompetent, partisan Secretary of State.
- There should be national standards for reporting voting results so there is less opportunity for fraud in a close race. Although he is not generally an advocate of national laws, he does agree there should be more national uniformity into how votes are counted and recorded.

Rebecca Vigil-Giron, Secretary of State, New Mexico

Complaints of election fraud and intimidation are filed with the SOS office. She then decides whether to refer it to the local district attorney or the attorney general. Because the complaints are few and far between, the office does not keep a log of complaints; however, they do have all of the written complaints on file in the office.

Incidents of Fraud and Intimidation

During the 2004 election, there were a couple of complaints of polling place observers telling people outside the polling place who had just voted, and then **the people outside were following the voters to their cars and videotaping them.** This happened in areas that are mostly **second and third generation Latinos.** The Secretary sent out the sheriff in one instance of this. The perpetrators moved to a different polling place. This was the **only incident of fraud or intimidation Vigil-Giron was aware of in New Mexico.**

There have **not been many problems on Native reservations because, unlike in many other states, in New Mexico the polling place is on the reservation and is run by local Native Americans.** Vigil-Giron said that it does not make sense to have non-Natives running those polls because it is necessary to have people there who can translate. Because most of the languages are unwritten, the HAVA requirement of accessibility through an audio device will be very helpful in this regard. Vigil-Giron said she was surprised to learn while testifying at the Voting Rights Act commission hearings of the lack of sensitivity to these issues and the common failure to provide assistance in language minority areas.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

In 2004 the U.S. Attorney, a Republican, suddenly announced he was launching an investigation into voter fraud without consulting the Secretary of State's office. After all of that, there was maybe one prosecution. Even the allegations involving third party groups and voter registration are often misleading. People doing voter registration drives encourage voters to register if they are unsure if they are already registered, and the voter does not even realize that his or her name will then appear on the voter list twice. The bigger problem is where registrations do not get forwarded to election administrators and the voter does not end up on the voting list on Election Day. This is voter intimidation in itself, Vigil-Giron believes. It is very discouraging for that voter and she wonders whether he or she will try again.

Under the bill passed in 2004, third parties are required to turn around voter registration forms very quickly between the time they get them and when they must be returned. If they fail to return them within 48 hours of getting them, they are penalized. This, Vigil-Giron believes, is unfair. She has tried to get the Legislature to look at this issue again.

Regarding allegations of vote buying in Espanola, Vigil-Giron said that the Attorney General is investigating. The problem in that area of New Mexico is that they are still using rural routes, so they have not been able to properly district. There has, as a result, been manipulation of where people vote. Now they seem to have pushed the envelope too far on this. The investigation is not just about vote buying, however. There have also been allegations of voters being denied translators as well as assistance at the polls.

Vigil-Giron believes there was voter suppression in Ohio in 2004. County officials knew thirty days out how many people had registered to vote, they knew how many voters there would be. Administrators are supposed to use a formula for allocation of voting machines based on registered voters. Administrators in Ohio ignored this. As a result, people were turned away at the polls or left because of the huge lines. This, she believes, was a case of intentional vote suppression.

A few years ago, Vigil-Giron heard that there may have been people voting in New Mexico and a bordering town in Colorado. She exchanged information with Colorado administrators and it turned out that there were no cases of double voting.

Recommendations

- Vigil-Giron believes that **linking voter registration databases across states may be a way to see if people who are registered twice are in fact voting twice.**
- The key to improving the process is **better trained poll workers**, who are certified, and know what to look for on Election Day. These poll workers should then work with law enforcement to ensure there are no transgressions.
- There should be **stronger teeth in the voter fraud laws.** For example, it should be more than a fourth degree felony, as is currently the case.

Sarah Ball Johnson, Executive Director of the State Board of Elections, Kentucky

Procedures for Handling Fraud

Fraud complaints are directed first to the state Board of Elections. Unlike boards in other states, Kentucky's has no investigative powers. Instead, they work closely with both the Attorney General and the U.S. Attorney. Especially since the current administration took office, they have found the U.S. Attorney an excellent partner in pursuing fraud cases, and have seen many prosecutions in the last six years. She believes that there has been no increase in the incidence of fraud, but rather the increase in prosecutions is related to increased scrutiny and more resources.

Major Types of Fraud and Intimidation

Johnson says that **vote buying and voter intimidation go hand in hand in Kentucky.** While historically fraud activity focused on election day, **in the last 20 years it has moved into absentee voting.** In part, this is because new voting machines aren't easy to manipulate in the way

011869

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

that paper ballots were open to manipulation in the past, especially in distant rural counties. For this reason, she is troubled by the proliferation of states with early voting, but notes that there is a difference between absentee ballot and early voting on machines, which is far more difficult to manipulate.

Among the cases of absentee ballot fraud they have seen, **common practice involves a group of candidates conspiring together to elect their specific slate. Nursing homes are an especially frequent target.** Elderly residents request absentee ballots, and then workers show up and 'help' them vote their ballots. **Though there have been some cases in the Eastern district of election day fraud, most have been absentee.**

Johnson argues that it is **hard to distinguish between intimidation and vote buying.** They have also seen instances where **civic groups and church groups intimidate members to vote in a specific manner, not for reward, but under threat of being ostracized or even telling them they will go to hell.**

While she is aware of allegations of intimidation by the parties regarding minority precincts in Louisville, the board hasn't received calls about it and there haven't been any prosecutions.

Challengers

**Challengers are permitted at the polls in Kentucky.** Each party is allowed two per location, and they must file proper paperwork. **There is a set list of defined reasons for which they can challenge a voter, such as residency, and the challengers must also fill out paperwork to conduct a challenge.**

As for allegations of challengers engaging in intimidation in minority districts, Johnson notes that challengers did indeed register in Jefferson County, and filed the proper paperwork, although they ultimately did not show up on election day.

She finds that **relatively few challengers end up being officially registered, and that the practice has grown less common in recent years.** This is due more to a change of fashion than anything. And after all, **those wishing to affect election outcomes have little need for challengers in the precinct when they can target absentee voting instead.**

**In the event that intimidation is taking place, Kentucky has provisions to remove disruptive challengers, but this hasn't been used to her knowledge.**

Prosecutions

**Election fraud prosecutions in Kentucky have only involved vote buying.** This may be because that it is easier to investigate, by virtue of a cash and paper trail which investigators can follow. It is difficult to quantify any average numbers about the practice from this, due in part to the five year statute of limitations on vote buying charges. However, she does not believe that vote-buying is pervasive across the state, but rather confined to certain pockets.

Vote-hauling Legislation

**Vote hauling is a common form of vote buying by another name. Individuals are legally paid to drive others to the polls, and then divide that cash in order to purchase votes.** Prosecutions have confirmed that vote hauling is used for this purpose. While the Secretary of State has been committed to legislation which would ban the practice, it has failed to pass in the past two sessions.

Paying Voter Registration Workers Legislation

**A law forbidding people to pay workers by the voter registration card or for obtaining cards with registrations for a specific party was passed this session.** Individuals working as part of a registration campaign may still be paid by hour. Kentucky's experience in the last presidential election illustrates the problems arising from paying individuals by the card. That contest included a constitutional amendment to ban gay marriage on the ballot, which naturally attracted the attention of many national groups. **One group paying people by the card resulted in the registrar being inundated with cards, including many duplicates in the same bundle, variants on names, and variants on addresses. As this practice threatens to overwhelm the voter registration process, Kentucky views it as constituting malicious fraud.**

Deceptive practices

011870

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Other than general reports in the news, Johnson hasn't received any separate confirmation or reports of deceptive practices, i.e., false and misleading information being distributed to confuse voters.

Effect of Kentucky's Database

Johnson believes Kentucky's widely praised voter registration database is a key reason why the state doesn't have as much fraud as it might, especially the types alleged elsewhere like double and felon voting. While no database is going to be perfect, the connections with other state databases such as the DMV and vital statistics have been invaluable in allowing them to aggressively purge dead weight and create a cleaner list. When parties use their database list they are notably more successful. Johnson wonders how other states are able to conduct elections without a similar system.

Some factors have made especially important to their success.

- When the database was instituted in 1973, they were able to make everyone in the state re-register and thus start with a clean database. However, it is unlikely any state could get away with this today.
- She is also a big supporter of a full Social Security number standard, as practiced in Kentucky. The full Social Security, which is compared to date of birth and letters in the first and last name, automatically makes matching far more accurate. The huge benefits Kentucky has reaped make Johnson skeptical of privacy concerns arguing for an abbreviated Social Security number. Individuals are willing to submit their Social Security number for many lesser purposes, so why not voting? And in any event, they don't require a Social Security number to register (unlike others such as Georgia). Less than a percent of voters in Kentucky are registered under unique identifiers, which the Board of Elections then works to fill in the number through cross referencing with the DMV.

Recommendations

- Johnson believes the backbone of effective elections administration must be standardized procedures, strong record keeping, and detailed statutes. In Kentucky, all counties use the same database and the same pre election day forms. Rather than seeing that as oppressive, county officials report that the uniformity makes their jobs easier.
- This philosophy extends to the provisional ballot question. While they did not have a standard in place like HAVA's at the time of enactment, they worked quickly to put a uniform standard in place.
- They have also modified forms and procedures based on feedback from prosecutors. Johnson believes a key to enforcing voting laws is working with investigators and prosecutors and ensuring that they have the information they need to mount cases.
- She also believes public education is important, and that the media could do more to provide information about what is legal and what is illegal. Kentucky tries to fulfill this role by information in polling places, press releases, and high profile press conferences before elections. She notes that they deliberately use language focusing on fraud and intimidation.
- Johnson is somewhat pessimistic about reducing absentee ballot fraud. Absentee ballots do have a useful function for the military and others who cannot get to the polling place, and motivated individuals will always find a way to abuse the system if possible. At a minimum, however, she recommends that absentee ballots should require an excuse. She believes this has helped reduce abuse in Kentucky, and is wary of no-excuse practices in other states.

Stephen Ansolobhere, Massachusetts Institute of Technology

Chandler Davidson, Rice University

Methodology suggestions

In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources:

011871

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that asks whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. Mr. Ansolobohere recommended Jonathan Krosnick, Doug Rivers, and Paul Sniderman at Stanford; Donald Kinder and Arthur Lupia at Michigan; Edward Carmines at Indiana; and Phil Tetlock at Berkeley. In the alternative, Mr. Ansolobohere suggested that the **EAC might work with the Census Bureau to have them ask different, additional questions in their Voter Population Surveys.**

Mr. Chandler further suggested it is important to talk to private election lawyers, such as Randall Wood, who represented Ciro Rodriguez in his congressional election in Texas. Mr. Ansolobohere also recommended looking at experiments conducted by the British Election Commission.

Incidents of Fraud and Intimidation

Mr. Davidson's study for the Lawyers Committee for Civil Rights on the Voting Rights Act documented evidence of widespread difficulty in the voting process. However, he did not attempt to quantify whether this was due to intentional, malevolent acts. In his 2005 report on ballot security programs, he found that there were many allegations of fraud made, but not very many prosecutions or convictions. He saw many cases that did go to trial and the prosecutors lost on the merits.

In terms of voter intimidation and vote suppression, Mr. Davidson said he believes the following types of activities do occur:

- videotaping of voters' license plates;
- poll workers asking intimidating questions;
- groups of officious-looking poll watchers at the poll sites who seem to be some sort of authority looking for wrongdoing;
- spreading of false information, such as phone calls, flyers, and radio ads that intentionally mislead as to voting procedures.

Mr. Ansolobohere believes the biggest problem is absentee ballot fraud. However, many of these cases involve people who do not realize what they are doing is illegal, for example, telling someone else how to vote. Sometimes there is real illegality occurring however. For example:

- vote selling involving absentee ballots,
- the filling out of absentee ballots en masse,
- people at nursing homes filling out the ballots of residents, and
- there are stories about union leaders getting members to vote a certain way by absentee ballot.

This problem will only get bigger as more states liberalize their absentee ballot rules. Mr. Chandler agreed that absentee ballot fraud was a major problem.

Recommendations

- Go back to "for cause" absentee ballot rules, because it is truly impossible to ever ensure the security of a mail ballot. Even in Oregon, there was a study showing fraud in their vote by mail system.
- False information campaigns should be combated with greater voter education. Los Angeles County's voter education program should be used as a model.

Tracey Campbell, author, *Deliver the Vote*

While less blatant than in previous eras, fraud certainly still occurs, and he mentions some examples in his book. The major trend of the past 60-70 years has been that these tactics have grown more subtle.

011872

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

While he hasn't conducted any scientific study of the current state of fraud, his sense as a historian is that it seems naive, after generations of watching the same patterns and practices influence elections, to view suspect election results today as merely attributable to simple error.

Vote-buying and absentee fraud

Campbell sees **fraud by absentee ballot and vote buying as the greatest threats to fair elections** today. He says vote fraud is like real estate: location, location, location—the closer you can keep the ballots to the courthouse the better. **Absentee ballots create a much easier target for vote brokers who can manage voting away from the polling place, or even mark a ballot directly, in exchange for, say, \$50—** or even more if an individual can bring their entire family. He has noted some small counties where absentee ballots outnumber in-person ballots.

However, few people engaged in this activity would call it 'purchasing' a vote. Instead, it is candidate Jones' way of 'thanking' you for a vote you would have cast in any event. The issue is what happens if candidate Smith offers you more. Likewise, the politicians who engage in vote fraud don't see it as a threat to the republic but rather as a game they have to play in order to get elected.

Regional patterns

Campbell suggests such practices are more prevalent in the South than the Northern states, and even more so compared to the West. The South has long been characterized as particularly dangerous in intimidation and suppression practices—throughout history, one can find routine stories of deaths at the polls each year. While he maintains that fraud seems less likely in the Western states, he **sees the explosion of mail in and absentee ballots there as asking for trouble.**

Poll site closings as a means to suppress votes

Campbell points to a **long historical record of moving poll sites in order to suppress votes.** Polling places in the 1800s were frequently set-up on rail cars and moved further down the line to suppress black votes. He would include **door-to-door canvassing practices here, as well as voting in homes,** which was in use in Kentucky until only a few years ago. All of these practices have been justified as making polling places 'more accessible' while their real purpose has been to suppress votes.

Purge lists

Purge lists are, of course, needed in theory, yet Campbell believes the authority to mark names off the voter rolls presents **extensive opportunity for abuse.** For this reason, **purging must be done in a manner that uses the best databases, and looks at only the most relevant information.** When voters discover their names aren't on the list when they go to vote, for example, because they are "dead," it has a considerable demoralizing effect. **Wrongful purging takes place both because of incompetence and as a tool to intentionally disenfranchise.**

Campbell believes **transparency is the real issue here.** An hour after the polls close, we tend to just throw up our hands and look the other way, denying voters the chance to see that discrepancies are being rectified. He believes the cost in not immediately knowing election outcomes is a small price to pay for getting results rights and showing the public a transparent process.

Deceptive practices

Today's deceptive practices have are solidly rooted in Reconstruction-era practices—i.e. phony ballots, the Texas 'elimination' ballot. The **ability to confuse voters is a powerful tool for those looking to sway elections.**

Language minorities

Campbell argues there is a **fine line between offering help to non-English speakers and using that help against them.** A related issue, particularly in the South, is taking advantage of the illiterate.

Current intimidation

Another tactic Campbell considers an issue today is **polling place layout: the further vote suppressers can keep people away from the**

011873



EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**polls, the better. Practices such as photographing people leaving a polling place may also tie into vote-buying, where photos are used to intimidate and validate purchased votes. A good way to combat such practices is by keeping electioneering as far from the polls as possible.**

Recommendations

- Specific voting administration recommendations Campbell advocates would include **reducing the use of absentee ballots and improving the protective zone around polling places.**
- Campbell would also like to see **enforcement against fraud stepped up and stiffer penalties enacted, as current penalties make the risk of committing fraud relatively low.** He compares the risk in election fraud similar to steroid use in professional sports—the potential value of the outcome is far higher than the risk of being caught or penalized for the infraction, so it is hard to prevent people from doing it. People need to believe they will pay a price for engaging in fraud or intimidation. Moreover, we need to have the will to kick people out of office if necessary.
- He is **skeptical of the feasibility of nonpartisan election administration**, as he believes it would be difficult to find people who care about politics yet won't lean one way or the other—such an attempt would be unlikely to get very far before accusations of partisanship emerged. He **considers the judiciary the only legitimate check on election fraud.**

Douglas Webber, Assistant Attorney General, Indiana, (defendant in the Indiana voter identification litigation)

Litigation

Status of litigation in Indiana: On January 12 the briefing was completed. The parties are waiting for a decision from the U.S. district judge. The judge understood that one of the parties would seek a stay from the 7<sup>th</sup> Circuit Court of Appeals. The parties anticipate a decision in late March or early April. Mr. Webber did the discovery and depositions for the litigation. Mr. Webber feared the plaintiffs were going to state in their reply brief that HAVA's statewide database requirement would resolve the problems alleged by the state. However, the plaintiffs failed to do so, relying on a Motor Voter Act argument instead. **Mr. Webber believes that the voter ID at issue will make the system much more user-friendly for the poll workers.** The Legislature passed the ID legislation, and the state is defending it, on the basis of the problem of the *perception* of fraud.

Incidents of fraud and intimidation

Mr. Webber thinks that **no one can put his or her thumb on whether there has been voter fraud in Indiana.** For instance, if **someone votes in place of another, no one knows about it. There have been no prosecuted cases of polling place fraud in Indiana. There is no recorded history of documented cases, but it does happen.** In the litigation, he used articles from around the country about instances of voter fraud, but even in those examples there were ultimately no prosecutions, for example the case of Milwaukee. He also stated in the litigation that **there are all kinds of examples of dead people voting---totaling in the hundreds of thousands of votes across the country.**

One interesting **example of actual fraud in Indiana occurred when a poll worker, in a poll using punch cards, glued the chads back and then punched out other chads for his candidate.** But this would not be something that would be addressed by an ID requirement. He also believes that the perception that the polls are loose can be addressed by the legislature. The legislature does not need to wait to see if the statewide database solves the problems and therefore affect the determination of whether an ID requirement is necessary. When he took the deposition of the Republican Co-Director, he said he thought Indiana was getting ahead of the curve. That is, there have been problems around the country, and confidence in elections is low. Therefore Indiana is now in front of getting that confidence back.

Mr. Webber stated that the **largest vote problem in Indiana is absentee ballots. Absentee ballot fraud and vote buying are the most documented cases.** It used to be the law that applications for absentee ballots could be sent anywhere. **In one case absentee votes were**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

exchanged for “a job on election day”---meaning one vote for a certain price. The election was contested and the trial judge found that although there was vote fraud, the incidents of such were less than the margin of victory and so he refused to overturn the election. Mr. Webber appealed the case for the state and argued the judge used the wrong statute. The Indiana Supreme Court agreed and reversed. **Several people were prosecuted as a result – those cases are still pending.**

Process

In Indiana, voter complaints first come to the attorney for the county election board who can recommend that a hearing be held. If criminal activity was found, the case could be referred to the county prosecutor or in certain instances to the Indiana Attorney General's Office. In practice, the Attorney General almost never handles such cases.

Mr. Webber has had experience training county of election boards in preserving the integrity and security of the polling place from political or party officials. Mr. Webber stated that the Indiana voter rolls need to be culled. He also stated that in Southern Indiana a large problem was vote buying while in Northern Indiana a large problem was based on government workers feeling compelled to vote for the party that gave them their jobs.

Recommendations

- Mr. Webber believes that all election fraud and intimidation complaints should be referred to the Attorney General's Office to circumvent the problem of local political prosecutions. The Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes. At the local level, everyone knows each other, making it harder prosecute.
- Indiana currently votes 6 am to 6 pm on a weekday. Government workers and retirees are the only people who are available to work the polls. Mr. Webber suggested that the biggest change should be to move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- Early voting at the clerk's office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk's office. This should be expanded to other polling places in addition to that of the county clerk.
- Finally, Mr. Webber believes polling places should be open longer, run more professionally but that there needs to be fewer of them so that they are staffed by only the best, most professional people.

Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

Recent trends

Native election protection operations have intensified recently for several reasons. While election protection efforts in Native areas have been ongoing, leaders realized that they were failing to develop internal infrastructure or cultivate locally any of the knowledge and expertise which would arrive and leave with external protection groups.

Moreover, in recent years partisan groups have become more aware of the power of the native vote, and have become more active in native communities. This has partly resulted in an extreme increase in voter intimidation tactics. **As native communities are easy to identify, easy to target, and generally dominated by a single party, they are especially vulnerable to such tactics.**

Initially, reports of intimidation were only passed along by word of mouth. But it became such a problem in the past 5 to 6 years that tribal leaders decided to raise the issue to the national level. Thompson points to the Cantwell election in 2000 and the Johnson election in South Dakota in 2002 as tipping points where many began to realize the Indian vote could matter in Senate and national elections.

Thompson stressed that Native Vote places a great deal of importance on being nonpartisan. While a majority of native communities vote Democratic, there are notable exceptions, including communities in Oklahoma and Alaska, and they have both parties engaging in aggressive tactics. However, she believes the most recent increase in suppression and intimidation tactics have come from Republican Party organizations.

Nature of Suppression/Intimidation of Native Voters

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Thompson categorizes suppression into judge related and poll-watcher related incidents, both of which may be purposeful or inadvertent, as well as longstanding legal-structural constraints.

Structural problems

One **example of inadvertent suppression built into the system** stems from the fact that many Indian communities also include significant numbers of non-Indians due to allotment. Non-Indians tend to be most active in the state and local government while Indians tend to be more involved in the tribal government. Thus, the **individuals running elections end up being non-Indian. Having Indians vote at polling places staffed by non-Indians often results in incidents of disrespect towards Native voters (Thompson emphasized the considerable racism which persists against Indians in these areas). Also, judges aren't familiar with Indian last names and are more dismissive of solving discrepancies with native voters.**

Structural problems also arise from laws which mandate that the tribal government cannot run state or local elections. **In places like South Dakota, political leaders used to make it intentionally difficult for Native Americans to participate in elections. For example, state, local and federal elections could not be held in the same location as tribal elections, leading to confusion when tribal and other elections are held in different locations. Also, it is common to have native communities with few suitable sites, meaning that a state election held in a secondary location can suddenly impose transportation obstacles.**

Photo ID Issues

Thompson believes both **state level and HAVA photo ID requirements have a considerable negative impact.** For a number of reasons, **many Indian voters don't have photo ID.** Poor health care and poverty on reservations means that **many children are born at home, leading to a lack of birth certificates necessary to obtain ID.** Also, **election workers and others may assume they are Hispanic, causing additional skepticism due to citizenship questions.** There is a cultural issue as well—historically, whenever Indians register with the federal government it has been associated with a taking of land or removal of children. Thus **many Indians avoid registering for anything with the government, even for tribal ID.**

Thompson also offered examples of how the **impact of ID requirements had been worsened by certain rules and the discriminatory way they have been carried out.** In the **South Dakota special election of 2003, poll workers told Native American voters that if they did not have ID with them and they lived within sixty miles of the precinct, the voter had to come back with ID.** The poll workers **did not tell the voters that they could vote by affidavit ballot and not need to return, as required by law.** This was exacerbated by the fact that the poll workers didn't know the voters—as would be the case with non-Indian poll workers and Indian voters. Many left the poll site without voting and did not return.

In **Minnesota, the state tried to prohibit the use of tribal ID's for voting outside of a reservation, even though Minnesota has a large urban Native population.** Thompson believes this move was very purposeful, and despite any reasonable arguments from the Secretary of State, they had to file a lawsuit to stop the rule. They were very surprised to find national party representatives in the courtroom when they went to deal with lawsuit, representatives who could only have been alerted through a discussion with the Secretary of State.

Partisan Poll-Monitoring

Thompson believes the **most purposeful suppression has been perpetrated by the party structures on an individual basis, of which South Dakota is a great example.**

**Some negative instances of poll monitoring are not purposeful. Both parties send in non-Indian, non-Western lawyers, largely from the East Coast, which can lead to uncomfortable cultural clashes.** These efforts display a keen lack of understanding of these communities and the best way to negotiate within in them. But **while it may be intimidating, it is not purposeful.**

Yet there are **also many instances of purposeful abuse of poll monitoring.** While there were indeed problems during the 2002 Johnson election, it was small compared to the Janklow special election. Thompson says **Republican workers shunned cultural understanding outreach, and had an extensive pamphlet of what to say at polls and were very aggressive about it. In one tactic, every time a voter**

011876

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

would come up with no ID, poll monitors would repeat "You can't vote" over and over again, causing many voters to leave. This same tactic appeared across reservations, and eventually they looked to the Secretary of State to intervene. In another example, the head of poll watchers drove from poll to poll and told voters without IDs to go home, to the point where the chief of police was going to evict him from the reservation. In Minnesota, on the Red Lake reservation, police actually did evict an aggressive poll watcher—the fact that the same strategies are employed several hundred miles apart points to standardized instructions.

None of these incidents ever went to court. Thompson argues this is due to few avenues for legal recourse. In addition, it is inherently difficult to settle these things, as they are he said-she said incidents and take place amidst the confusion of Election Day. Furthermore, poll watchers know what the outline of the law is, and they are careful to work within those parameters, leaving little room for legal action.

Other seeming instances of intimidation may be purely inadvertent, such as when, in 2002, the U.S. Attorney chose Election Day to give out subpoenas, and native voters stayed in their homes. In all fairness, she believes this was a misunderstanding.

The effect of intimidation on small communities is especially strong and is impossible to ultimately measure, as the ripple effect of rumors in insular communities can't be traced. In some communities, they try to combat this by using the Native radio to encourage people to vote and dispel myths.

She has suggestions for people who can describe incidents at a greater level of detail if interested.

#### Vote Buying and Fraud

They haven't found a great deal of evidence on vote-buying and fraud. When cash is offered to register voters, individuals may abuse this, although Thompson believes this is not necessarily unique to the Native community, but a reflection of high rates of poverty. This doesn't amount to a concerted effort at conspiracy, but instead represents isolated incidents of people not observing the rules. While Thompson believes looking into such incidents is a completely fair inquiry, she also believes it has been exploited for political purposes and to intimidate. For example, large law enforcement contingents were sent to investigate these incidents. As Native voters tend not to draw distinctions between law enforcement and other officials, this made them unlikely to help with elections.

#### Remedies

- As far as voter suppression is concerned, **Native Vote has been asking the Department of Justice to look into what might be done, and to place more emphasis on law enforcement and combating intimidation.** They have been urging the Department to focus on this at least much as it is focusing on enforcement of Section 203. Native groups **have complained to DOJ repeatedly and DOJ has the entire log of handwritten incident reports they have collected.** Therefore, Thompson recommends **more DOJ enforcement of voting rights laws with respect to intimidation.** People who would seek to abuse the process need to believe a penalty will be paid for doing so. Right now, there is no recourse and DOJ does not care, so both parties do it because they can.
- Certain **states should rescind bars on nonpartisan poll watchers on Election Day; Thompson believes this is contrary to the nonpartisan, pro-Indian presence which would best facilitate voting in Native communities.**
- As discussed above, Thompson believes ID requirements are a huge impediment to native voters. At a minimum, Thompson believes all **states should be explicit about accepting tribal ID on Election Day.**
- **Liberalized absentee ballot rules would also be helpful to Native communities. As many Indian voters are disabled and elderly, live far away from their precinct, and don't have transportation, tribes encourage members to vote by absentee ballot. Yet obstacles remain. Some voters are denied a chance to vote if they have requested a ballot and then show up at the polls.** Thompson believes **South Dakota's practice of tossing absentee ballots if a voter shows up at the ED would serve as an effective built-in protection.** In addition, she believes there **should be greater scrutiny of GOTV groups requesting absentee ballots without permission. Precinct location is a longstanding issue, but Thompson recognizes that states have limited resources. In the**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

**absence of those resources, better absentee ballot procedures are needed.**

- **Basic voter registration issues and access** are also important in native communities and **need to be addressed.**
- Thompson is **mixed on what restrictions should be placed on poll watcher behavior, as she believes open elections and third party helpers are both important.** However, she would be **willing to explore some sort of stronger recourse and set of rules concerning poll watchers' behavior. Currently, the parties are aware that no recourse exists, and try to get away with what they will.** This is not unique to a single party—both try to stay within law while shaking people up. The existing VRA provision is 'fluffy'—unless you have a consent decree, you have very little power. Thompson thinks a **general voter intimidation law that is left a bit broad but that nonetheless makes people aware of some sort of kickback could be helpful.**

Jason Torchinsky, Assistant General Counsel, American Center for Voting Rights

Regarding the August 2005 Report

**ACVR has not followed up on any of the cases it cited in the 2005 report to see if the allegations had been resolved in some manner.** Mr. Torchinsky stated that **there are problems with allegations of fraud in the report and prosecution---just because there was no prosecution, does not mean there was no vote fraud.** He believes that it is **very hard to come up with a measure of voter fraud short of prosecution.** Mr. Torchinsky does not have a good answer to resolve this problem.

P. 35 of the Report indicates that there were coordinated efforts by groups to coordinate fraudulent voter registrations. P. 12 of the Ohio Report references a RICO suit filed against organizations regarding fraudulent voter registrations. Mr. Torchinsky does not know what happened in that case. He stated that there was a drive to increase voter registration numbers regardless of whether there was an actual person to register. He stated that when you have an organization like ACORN involved all over the place, there is reason to believe it is national in scope. When it is the same groups in multiple states, this leads to the belief that it is a concerted effort.

Voting Problems

Mr. Torchinsky stated **there were incidents of double voting---ex. a double voter in Kansas City, MO. If the statewide voter registration database requirement of HAVA is properly implemented, he believes it will stop multiple voting in the same state. He supports the HAVA requirement, if implemented correctly. Since Washington State implemented its statewide database, the Secretary of State has initiated investigations into felons who voted. In Philadelphia the major problem is permitting polling places in private homes and bars – even the homes of party chairs.**

Mr. Torchinsky believes that **voter ID would help, especially in cities in places like Ohio and Philadelphia, PA. The ACVR legislative fund supports the Real ID requirements suggested by the Carter-Baker Commission. Since federal real ID requirements will be in place in 2010, any objection to a voter ID requirement should be moot.**

Mr. Torchinsky stated that there are **two major poll and absentee voting problems---(1) fraudulent votes-ex. dead people voting in St. Louis and (2) people voting who are not legally eligible-ex. felons in most places.** He also believes that **problems could arise in places that still transport paper ballots from the voting location to a counting room. However, he does not believe this is as widespread a problem now as it once was.**

Suggestions

**Implement the Carter-Baker Commission recommendations because they represent a reasonable compromise between the political parties.**

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Robin DeJarnette, Executive Director, American Center for Voting Rights

[NO SUMMARY FOUND]

Joseph Rich, former Director of the Voting Section, Civil Rights Division, U.S. Department of Justice

Data Collection and Monitoring

- The (Voting) section developed a new database before the 2004 election to log complaint calls and what was done to follow up on them. They opened many investigations as a result of these complaints, including one on the long lines in Ohio (see DOJ letter on website, as well as critical commentary on the DOJ letter's analysis). DOJ found no Section 2 violation in Ohio. John Tanner should be able to give us this data. However, the database does not include complaints that were received by monitors and observers in the field.
- All attorney observers in the field are required to submit reports after Election Day to the Department. These reports would give us a very good sense of the scope and type of problems that arose on that day and whether they were resolved on the spot or required further action.
- The monitoring in 2004 was the biggest operation ever. Prior to 2000, only certain jurisdictions could be observed – a VRA covered jurisdiction that was certified or a jurisdiction that had been certified by a court, e.g. through a consent decree. Since that time, and especially in 2004, the Department has engaged in more informal "monitoring." In those cases, monitors assigned to certain jurisdictions, as opposed to observers, can only watch in the polling place with permission from the jurisdiction. The Department picked locations based on whether they had been monitored in the past, there had been problems before, or there had been allegations in the past. Many problems that arose were resolved by monitors on the spot.

Processes for Cases not Resolved at the Polling Site

- If the monitor or observer believes that a criminal act has taken place, he refers it to the Public Integrity Section (PIN). If it is an instance of racial intimidation, it is referred to the Civil Rights Criminal Division. However, very few such cases are prosecuted because they are very hard to prove. The statutes covering such crimes require actual violence or the threat of violence in order to make a case. As a result, most matters are referred to PIN because they operate under statutes that make these cases easier to prove. In general, there are not a high number of prosecutions for intimidation and suppression.
- If the act is not criminal, it may be brought as a civil matter, but only if it violated the Voting Rights Act – in other words, only if there is a racial aspect to the case. Otherwise the only recourse is to refer it to PIN.
- However, PIN tends not to focus on intimidation and suppression cases, but rather cases such as alleged noncitizen voting, etc. Public Integrity used to only go after systematic efforts to corrupt the system. Now they focus on scattered individuals, which is a questionable resource choice. Criminal prosecutors over the past 5 years have been given more resources and more leeway because of a shift in focus and policy toward noncitizens and double voting, etc.
- There have been very few cases brought involving African American voters. There have been 7 Section 2 cases brought since 2001 – only one was brought on behalf of African American voters. That case was initiated under the Clinton administration. The others have included Latinos and discrimination against whites.

Types of Fraud and Intimidation Occurring

- There is no evidence that polling place fraud is a problem. There is also no evidence that the NVRA has increased the opportunity for fraud. Moreover, regardless of NVRA's provisions, an election official can always look into a voter's registration if he or she believes that person should no longer be on the list. The Department is now suing Missouri because of its poor registration list.

011879

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

- The **biggest problem is with absentee ballots**. The photo ID movement is a **vote suppression strategy**. This type of suppression is a bigger problem than intimidation. There has been an increase in vote suppression over the last five years, but it has been indirect, often in the way that laws are interpreted and implemented. Unequal implementation of ID requirements at the polls based on race would be a VRA violation.
- The **most common type of intimidation occurring is open hostility by poll workers toward minorities**. It is a **judgment call whether this is a crime or not – Craig Donsanto of PIN decides if it rises to a criminal matter**.
- **Election Day challenges at the polls could be a VRA violation but such a case has never been formally pursued**. Such cases are often resolved on the spot. Development of a pre-election challenge list targeted at minorities would be a VRA violation but this also has never been pursued. These are choices of current enforcement policy.
- **Long lines due to unequal distribution of voting machines based on race, list purges based on race and refusal to offer a provisional ballot on the basis of race would also be VRA violations**.

Recommendations

- Congress should **pass a new law that allows the Department to bring civil actions for suppression that is NOT race based, for example, deceptive practices or wholesale challenges to voters in jurisdictions that tend to vote heavily for one party**.
- **Given the additional resources and latitude given to the enforcement of acts such as double voting and noncitizen voting, there should be an equal commitment to enforcement of acts of intimidation and suppression cases**.
- There should also be increased **resources dedicated to expanded monitoring efforts**. This might be the best use of resources since **monitors and observers act as a deterrent to fraud and intimidation**.

Joseph Sandler, Counsel to the Democratic National Committee

2004-Administrative Incompetence v. Fraud

Sandler believes the **2004 election was a combination of administrative incompetence and fraud**. Sandler stated there was a deliberate effort by the Republicans to disenfranchise voters across the country. This was accomplished by **mailing out cards to registered voters and then moving to purge from the voters list those whose cards were returned**. Sandler indicated that in **New Mexico there was a deliberate attempt by Republicans to purge people registered by third parties**. He stated that there were intentional efforts to disenfranchise voters by election officials like Ken Blackwell in Ohio.

The **problems with machine distribution in 2004 were not deliberate**. However, Sandler believes that a **large problem exists in the states because there are no laws that spell out a formula to allocate so many voting machines per voter**.

Sandler was asked how often names were intentionally purged from the voter lists. He responded that there will be a lot of names purged as a **result of the creation of the voter lists under HAVA**. However, Sandler stated **most wrongful purging results from incompetence**.

Sandler also said there was not much intimidation at the polls because **most such efforts are deterred and that the last systematic effort was in Philadelphia in 2003 where Republicans had official looking cars and people with badges and uniforms, etc**.

Sandler stated that **deliberate dissemination of misinformation was more incidental, with individuals misinforming and not a political party**. **Disinformation did occur in small Spanish speaking communities**.

Republicans point to instances of voter registration fraud but Sandler believes it **did not occur, except for once in a blue moon**. Sandler did not believe **non-citizen voting was a problem**. He also **does not believe that there is voter impersonation at the polls** and that Republicans allege this as a way of disenfranchising voters through restrictive voter identification rules.

011880

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

Fraud and Intimidation Trends

- Sandler stated that **over the years there has been a shift from organized efforts to intimidate minority voters through voter identification requirements, improper purging, failure to properly register voters, not allocating enough voting machines, failure to properly use the provisional ballot, etc., by voter officials as well as systematic efforts by Republicans to deregister voters.**
- At the federal level, **Sandler said, the voting division has become so politicized that it is basically useless now on intimidation claims. At the local level, Sandler does not believe politics prevents or hinders prosecution for vote fraud.**

Sandler's Recommendations:

- Moving the voter lists to the state level is a good idea where carefully done
- Provisional ballots rules should follow the law and not be over-used
- No voter ID
- Partisanship should be taken out of election administration, perhaps by giving that responsibility by someone other than the Secretary of State. There should at least be conflict of interest rules
- Enact laws that allow private citizens to bring suit under state law

All suggestions from the DNC Ohio Report:

1. The Democratic Party must continue its efforts to monitor election law reform in all fifty states, the District of Columbia and territories.
2. **States should be encouraged to codify into law all required election practices, including requirements for the adequate training of official poll workers.**
3. **States should adopt uniform and clear published standards for the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access. These standards should be based on set ratios of numbers of machines and pollworkers per number of voters expected to turn out, and should be made available for public comment before being adopting.**
4. **States should adopt legislation to make clear and uniform the rules on voter registration.**
5. The Democratic Party should **monitor the processing of voter registrations by local election authorities on an ongoing basis to ensure the timely processing of registrations and changes**, including both newly registered voters and voters who move within a jurisdiction or the state, and the Party should **ask state Attorneys General to take action where necessary to force the timely updating of voter lists.**
6. **States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle.**
7. **State and local jurisdictions should adopt clear and uniform rules on the use of, and the counting of, provisional ballots, and distribute them for public comment well in advance of each election day.**
8. The Democratic Party should **monitor the purging and updating of registered voter lists by local officials, and the Party should challenge, and ask state Attorneys General to challenge, unlawful purges and other improper list maintenance practices.**
9. **States should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.)**
10. **State Attorneys General and local authorities should vigorously enforce, to the full extent permitted by state law, a voter's right to vote without showing identification.**
11. Jurisdictions should be encouraged to use precinct-tabulated optical scan systems with a computer assisted device at each precinct, in preference to touchscreen ("direct recording equipment" or "DRE") machines.

011881



EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

12. Touchscreen (DRE) machines should not be used until a reliable voter verifiable audit feature can be uniformly incorporated into these systems. In the event of a recount, the paper or other auditable record should be considered the official record.
13. Remaining punchcard systems should be discontinued.
14. **States should ask state Attorneys General to challenge unfair or discriminatory distribution of equipment and resources** where necessary, and the Democratic Party should bring litigation as necessary.
15. Voting equipment vendors should be required to disclose their source code so that it can be examined by third parties. No voting machine should have wireless connections or be able to connect to the Internet.
16. Any equipment used by voters to vote or by officials to tabulate the votes should be used exclusively for that purpose. That is particularly important for tabulating/aggregating computers.
17. States should adopt "no excuse required" standards for absentee voting.

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011883

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011884

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011885

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011886

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011837

EAC SUMMARY OF EXPERT INTERVIEWS FOR  
VOTING FRAUD-VOTER INTIMIDATION RESEARCH

011888