



RUN-UP TO ELECTION EXPOSES WIDESPREAD BARRIERS TO VOTING

Some public and Party officials focus on preventing rather than encouraging voting, while dirty tricks campaigns seek to intimidate voters and discourage participation

On the eve of the November 2 election, news stories and reports from voting rights activists around the country indicate that the nation is poised for a repeat of widespread voter disenfranchisement on Election Day. Too many public and political Party officials are trying to discourage and prevent voters from exercising their right to vote, rather than devoting their energies to resolving the kinds of problems that disenfranchised millions of Americans nationwide in 2000. The failure to resolve those problems and the existence of ongoing organized voter suppression efforts represent a profound failure of leadership and pose a tremendous moral challenge to Americans and their elected representatives. Meanwhile, reports about dirty tricks campaigns designed to intimidate or discourage voters have escalated as Election Day approaches.

Introduction

In August 2004, People For the American Way Foundation and the NAACP published *The Long Shadow of Jim Crow: Voter Intimidation and Suppression in America*, which documented the continued use of illegal and unethical tactics to intimidate minority voters or otherwise keep them away from the ballot box.

Over the past two months, news reports and voting rights organizations, including the nonpartisan Election Protection coalition, have identified additional activities that could suppress minority turnout, as well as a wide range of more broadly defined incidents and official actions – some based on partisan considerations – that will keep people from having the opportunity to have their vote counted on Election Day.

Some problems are the actions of individuals or local Party officials. Even more disturbing are those that involve public officials using the power of their office to restrict access to the ballot box. Among the examples of the latter is the decision by some state election officials – with the backing of the U.S. Department of Justice – to violate the spirit if not the

letter of federal election reform law by adopting restrictive procedures regarding provisional ballots that will lead to thousands of voters unnecessarily having their votes disregarded.

Another appalling stand taken by some state election officials is to reject registration forms from voters who did not check a box indicating their U.S. citizenship, even though the same form includes an affirmation of citizenship signed by the voter. Both of these decisions indicate officials focused more on preventing rather than facilitating civic participation.

These official actions – along with systemic problems with registration procedures, voter identification, and equipment problems that persist a full four years after a traumatic, divisive, and tainted election – should engender a nationwide outcry that forces elected officials to muster the political will to establish and maintain standards and accountability safeguards that will protect all American voters in the months and years ahead.

This report summarizes some of the threats to voter rights that have emerged in recent weeks. It is illustrative and by no means comprehensive, as new incidents seem to come to light daily, others almost certainly have remained hidden from public scrutiny, and legal developments are changing hour to hour.

Unprecedented Voter Challenges

In the last two weeks leading up to the election, a clear pattern has emerged across the country. Republican Party officials in several states have launched twin initiatives. First, the Party mailed out hundreds of thousands, perhaps millions, of letters to new and existing voters, and is making last-minute challenges to voter eligibility before Election Day on the basis of returned mail. Second, the Party is placing extraordinary numbers of poll challengers at the polls to challenge individual voters on Election Day as they attempt to cast their ballots.

The first initiative is a strategy that has long been employed by the Party on the state and national level. These initiatives, undertaken in the name of “ballot security” or “ballot integrity,” have resulted in three court decrees, in which the party has been forced to agree that it will no longer base its challenges of voters on race, a violation of the 1965 Voting Rights Act. In each of the past court cases, the decrees came long after the election, far too late to help voters who were disenfranchised. This year, the strategy has been reported in Ohio and Wisconsin, and may be underway in other states.¹

The second is an initiative that uses various state laws permitting vote challenges by partisan poll watchers stationed inside the polls, or by individual electors or voters. Huge numbers of such partisan poll watchers have been registered where prior registration is required, including Florida² and Ohio³.

With election officials across the country predicting huge voter turnout, these initiatives hold the potential for long lines, increasing voter frustration and disenfranchising voters who do not have the time or resources to wait in line for many hours on a weekday. Further, the experience of past years gives reason to suggest that many of these challenges might be racially targeted. However, only a thorough study of the patterns of the challenges could determine such targeting, which again could not take place until after Election Day.

Voter Intimidation/Suppression

There are a discouraging number of incidents where actions taken by individuals, political party organizations, or elected officials are clearly intended to intimidate, misinform, confuse, hamper or otherwise discourage potential voters from casting a ballot.

- In **Lake County, Ohio**, a fake letter appearing to come from the Lake County Board of Elections was sent to newly registered voters. The letter said voter registrations gathered by the Kerry or Capri Cafaro campaigns or the NAACP are illegal and those voters will not be able to vote. The incident is being investigated by the Sheriff, who says “It will be a federal offense because you have interfered with the constitutionally protected right to vote.”⁴
- Dolores Cuellar, a first time voter in the Orlando area, received a visit from a woman with a clipboard, asking how she was going to vote. Cuellar said, “Not Bush. The other one.” The woman said that Cuellar didn’t need to bother to go to the polls, that her vote had been recorded on the clipboard and that she could record Cuellar’s daughter’s vote, as well. When Cuellar told her daughter about the visit, her daughter became suspicious and contacted county election officials.⁵

The week before the election, flyers were circulated in **Milwaukee** under the heading “Milwaukee Black Voters League” with some “warnings for election time.” The false information on the flyer included warnings that anyone who had already voted this year cannot vote in the presidential election; that anyone convicted of any offense, however minor, is ineligible to vote; that any family member having been convicted of anything would disqualify a voter; and that any violation of these warnings would result in ten years in prison and a voter’s children being taken away.⁶

- In **Columbia, South Carolina**, a fake letter purportedly coming from the NAACP made similar claims, saying that voters with any outstanding parking tickets or unpaid child support will be arrested. The letter also says voters must provide a credit check, two forms of photo ID, a Social Security card, a registration card and a handwriting sample.⁷
- A flyer designed to look like an official announcement from McCandless Township in **Allegheny County, Pennsylvania**, was designed to misinform voters on a partisan basis. The flyer claimed that “Due to the immense voter turnout that is expected on Tuesday, November 2 the state of Pennsylvania has requested an extended voting period.” The flyer claims that voters will be able to vote on both November 2 and November 3 and says that, in “an attempt to limit voter conflict,” Allegheny County is requesting that Republicans vote on November 2 and Democrats on November 3.⁸
- A flyer being distributed in **Jefferson County, Alabama** simply gave out the wrong date for voting. “Attention: Jefferson County!!!! See You At The Poles [sic] November 4, 2004.”⁹

- In **Florida**, the *St Petersburg Times* reported, “Across Florida, elections officials say voters are being approached by individuals misrepresenting themselves and offering misleading or inaccurate information about voting.” The paper reported on incidents of people coming to voters’ homes and telling them their vote could be recorded by the canvasser and they didn’t have to vote, that people were asking voters at an early voting center whether they had been arrested or had outstanding parking tickets or any debt.¹⁰
- In **Florida**, Haitian voters were challenged at the polls by individuals who allegedly identified themselves as “Republican lawyers” who tried to prevent volunteers from assisting Creole-speaking voters. Democratic activists have accused Republican observers of demanding that volunteers speak English when assisting Creole-speaking voters. Though the ballot questions are printed in Creole, some voters are illiterate and are turning to volunteers for assistance. Republicans have alleged that some of the Democratic volunteers have been threatening voters not to vote for President Bush.¹¹
- In **Atkinson, County, Georgia**, almost 100 Hispanic residents apparently identified by having a Hispanic surname received notice that their registrations were challenged on the basis of citizenship and that they had to appear before hearings on October 28. The challenges were rejected by the County Board of Registrars on October 28 for lack of evidence and over concerns that the challenges could be violations of the Voting Rights Act.¹²
- A caller to the Election Protection voter hotline from Bell County, **Texas** reported that when she went to vote early she was not allowed to fill out the entire ballot, but was told to write her party and the machine would do the rest. She asked other voters leaving the polling place and determined that white voters were allowed to fill out the whole ballot and black voters were told the machine would fill out the rest for them.¹³
- In **Ohio**, the state Republican Party has registered thousands of people to serve as partisan “vote challengers” and said they would challenge up to 35,000 voters, a plan that could create confusion and congestion at polling places, discouraging even more voters from attempting to vote.¹⁴ They have been assisted by rulings by Secretary of State Kenneth Blackwell to maximize the number of partisan challengers allowed in polling places and create confusion and chaos at the polls that could drive potential voters away. At the last minute, Blackwell shifted gears and asked the state attorney general to seek a court order barring the challengers, but the attorney general refused.¹⁵ A federal appeals court quickly rejected the Ohio Republican Party’s attempts to force thousands of newly registered voters to attend hearings and prove that they are eligible to vote.¹⁶ On November 1, a federal judge barred political party challengers from polling places throughout Ohio; state Republicans said they would appeal to the Sixth Circuit.¹⁷
- In **Arizona**, a Fox Network affiliate accused a student group of illegally registering voters. A women’s studies group at the University of Arizona was conducting a voter registration drive on campus when a reporter and film crew showed up to film the event. The reporter accused the students of participating in felony voter fraud, claiming that Arizona law prohibits students from out of state from registering in Arizona. Though students attempted

to explain that Arizona law requires only that those registering be residents of the state 29 days before the election, the reporter remained unconvinced. That evening's broadcast included an interview with an official from the County Registrar's office that echoed the reporter's charges.¹⁸

- In **Arizona**, a local anti-immigrant activist turned his attention to the voting booth and created a furor over possible voter intimidation as a result of his activities. Local officials and civil rights groups alike became concerned after Russ Dove became "bent on discovering" how many "illegal immigrants" were voting. During the September 7 primary election, Dove visited five polling places wearing a black shirt with the words "U.S. CONSTITUTION ENFORCEMENT" on the back and the image of a badge on the front. Dove also wore a tool belt that carried tools, a camera and a video recorder.¹⁹

Dove runs a web site called Truth in Action and has been an active supporter of Proposition 200, a ballot initiative that would, among other things, require that voters prove their citizenship at the voting booth.²⁰ He began his current efforts after campaigning door-to-door for the initiative and hearing "verbal evidence from individuals on the street who said, 'Yes, illegal immigrants are voting.'"

Dove says that more people want to help him monitor the polls in November and that the "only people we will bother are people who are in violation of the law." He elaborates by saying that, for example, 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.²¹ Following the September primary, Pima County Election Director Brad Nelson said that it appeared that Dove had violated laws limiting activities near polling places and that he planned to contact him and tell him to "basically stop it."²²

- In **New Mexico** in September 2004, Republican U.S. Attorney David Iglesias formed a task force—involving the U.S. Justice Department, the FBI, the New Mexico Department of Public Safety and the secretary of state's office²³—to investigate allegations of voter fraud in the run up to the election. The move came at the request of the co-chair of the Bush-Cheney campaign for Bernalillo County, who claims that thousands of voter registration forms from Democratic-leaning groups are suspect. Civil rights advocates argue that by starting the investigation mere weeks before the presidential election, Iglesias runs the risk of intimidating legitimate voters. These concerns are echoed by the Justice Department's own manual on election crime, which states that "Federal prosecutors and investigators should be extremely careful to not conduct overt investigations during the pre-election period" so as to avoid "chilling legitimate voting and campaign activities."²⁴ Other battleground states, including **Ohio** and **West Virginia** have initiated similar criminal investigations into voter fraud as part U.S. Attorney General John Ashcroft "Voting Access and Integrity Initiative."²⁵
- In Alamance County, **North Carolina**, the sheriff directed his deputies to single out Latino voters in a voter fraud investigation. Sheriff Terry Johnson sent a "sample list" of 125 Latino registered voters to the Bureau of Immigration and Customs Enforcement. He said that the agency could only confirm that 38 were in the country legally. He told county

commissioners that illegal immigrants used false documents to obtain drivers licenses and, at the same time, registered to vote. The director of a local group serving the Latino community expressed concern: "The sheriff has asked for a list of those who have Hispanic last names and then he is assuming that group is committing fraud. If the people in that list are citizens and they are being investigated, that is worrisome."²⁶

- Controversy has erupted over the use in the Orlando area of armed, plainclothes officers from the **Florida** Department of Law Enforcement (FDLE) to question elderly black voters in their homes. The incidents were part of a state investigation of voting irregularities in the city's March 2003 mayoral election. Critics have charged that the tactics used by the FDLE have intimidated black voters, which could suppress their turnout in this year's elections. Six members of Congress recently called on Attorney General John Ashcroft to investigate potential civil rights violations in the matter.²⁷
- In **Kentucky**, the Jefferson County Republican Party announced plans to place vote challengers in predominantly Democratic and African-American precincts for the second year running, raising concerns of voter intimidation. "The threat of challengers being placed in African-American and white districts is a form of intimidation of voters," said Raoul Cunningham of the Non-Partisan Coalition for Civil Rights.²⁸ A group of black Republicans called on Jefferson County GOP Chairman Jack Richardson to resign over the challenger plan, calling it "rogue and racist behavior." Although dismissing calls for resignation, Richardson appeared to soften his stance on vote challengers, stating that he would only use them if they were necessary to insure a fair election.²⁹ Still, Richardson remains a source of controversy. In July, his office distributed bumper stickers that read, "Kerry is Bin Laden's man/President Bush is mine."³⁰
- In preparation for the November elections, Milwaukee Mayor Tom Barrett requested 938,000 ballots, arguing that extra were needed in case of spoiled ballots and noting that **Wisconsin** law allowing same-day voter registration makes turnout unpredictable. However, Milwaukee County Executive Scott Walker refused Barrett's request, voicing concerns of vote fraud and even going so far as to suggest that unruly voters might try to steal extra ballots from polling places. Walker offered Milwaukee 679,000 ballots, fewer than were distributed in either the 2000 presidential election or the 2002 gubernatorial race. Barrett and civil rights groups charged that Walker was attempting to suppress Milwaukee voters. The controversy was politically charged, as Walker is a state co-chair of President Bush's re-election campaign and Barrett is state co-chair of the John Kerry campaign.³¹

Walker's decision sparked demonstrations from African-American residents concerned about disenfranchisement. African Americans make up nearly forty percent of Milwaukee's population.³² In addition, Wisconsin's governor, Democrat Jim Doyle cried foul: "I've personally never seen or heard anything like this...that anybody is somehow suggesting that we shouldn't have enough ballots for people." Doyle called for a state probe of Walker³³.

Ultimately, a compromise was reached. Milwaukee got all of the ballots originally requested, the cost of the additional ballots was split between the city and the county, and

unused ballots will be returned to the County Election Commission to allay concerns of vote fraud.³⁴

- **Minnesota's** Secretary of State, Republican Mary Kiffmeyer, came under fire in September for distributing flyers that raise the specter of election-related terrorism. The flyers, which Kiffmeyer asked be displayed in polling places, urged voters to be wary of people appearing at precincts with "shaved head[s] or short hair" who "smell of unusual herbal/flower water or perfume," wear baggy clothing or appear to be whispering to themselves, as they might be "homicide bombers."³⁵ Many local election officials refused to distribute the posters, arguing that they could trigger harassment of certain ethnic, racial, or religious groups. One state senator claimed that the warnings were "a Chicken Little attempt" to discourage voting. In addition, some raised concerns that the posters could "unnerve" poll workers. It appears that no other state has produced similar posters³⁶.
- State officials in **Rhode Island** distanced themselves from a list of Election Day security precautions suggested by a US Attorney. Among the suggestions were the use of bomb-sniffing dogs at polling places or directing additional scrutiny toward "higher value targets," limiting the type of articles that could be brought into polling places and searching bags prior to entry. State officials said the suggestion were not practical because the state didn't have the money to hire additional security or nearly enough dogs to protect the more than 500 polling places. While Rhode Island does have many more metal detectors than bomb-sniffing dogs, the use of metal detectors wasn't even suggested. According to John Enright, director of counterterrorism for the US Attorney's office in Providence, metal detectors weren't suggested because that "would not be reasonable." "[W]e aren't concerned about small weapons," Enright said. "You can't keep somebody with a gun out of a polling place."³⁷
- Republican operatives in **Pennsylvania** working in support of President Bush failed in a last-minute bid to relocate 63 Philadelphia polling places, most of which are located in African-American neighborhoods. The Republicans argued that they had made the request in the interest of voter "comfort" and to make polls more accessible to disabled voters. However, some of the requests were clearly racially motivated. Matt Robb, the GOP leader in South Philadelphia's 48th ward, said that he pressed for changes because he felt uncomfortable going to a polling place in an African-American neighborhood. "It's predominantly, 100 percent black," said Robb, who is white. "I'm just not going in there to get a knife in my back." The voter registration administrator for Philadelphia's City Commission refused the GOP's request, arguing that it was designed to suppress voter turnout and that it had come too soon before the election to be considered by the Commission.³⁸ However, a successful effort by Republicans resulted in the last-minute relocation of 21 polling places in Scranton, Pennsylvania. The move is likely to confuse voters and suppress turnout in an area where citizens typically vote Democratic more than 60 percent of the time.³⁹
- In **Michigan**, newly registered voters in at least two Secretary of State offices were incorrectly informed that they would not be eligible to vote in November's elections, prompting accusations of voter suppression. The notices, which were placed in offices in

Ann Arbor and Battle Creek prior to the general election registration deadline, read: "Registering today? Please be advised that you are not eligible to vote in the November 2, 2004 General Election." State Senator Mark Schauer (D-Battle Creek) said, "This flier is either intended to suppress voter turnout or is a serious mistake." Michigan's Secretary of State, Republican Terri Lynn Land, said that accusations of suppression were "absolutely ludicrous." While all newly registered voters in these locations will be notified by mail of the mistake, State Senator Liz Brater (D-Ann Arbor) worried that some potential voters, having seen the erroneous notice, chose not to register.⁴⁰

- In **Ohio** in the weeks before the November elections, several people have received phone calls in which someone claiming to be from the Franklin County Board of Elections gave them false voting information. In some instances, voters were told that their precincts had been changed and in others, the caller offered to deliver voters' absentee ballots. The law states that the only people, aside from the voters themselves, who can return absentee ballots are immediate family members. The county's Elections Director, Matthew Damschroder, warned voters that the calls are scams. "The only communication from the board of elections is printed on official board of elections paper with the logo," said Damschroder. "If they're saying they're the board of elections, that's a violation of the law. My recommendation to them would be to cease and desist."⁴¹
- Amid charges of racism, Republican commissioners in **North Carolina's** Mecklenberg County backed off their decision to cut off funding for Sunday voting. When the commission initially attempted, on a party-line vote, to refuse state funds for voting scheduled for Sunday, October 24, it disrupted plans by several black churches—working in conjunction with the Charlotte African-American Coordinating Committee, the NAACP, and others—to conduct "Souls to the Polls" events after Sunday services. The state co-president of the League of Women Voters reacted to the commission decision with disbelief: "I can't imagine elected officials trying to stop people from voting. What could they be thinking of?" At a press conference following the commission's vote, activists leveled accusations of minority voter suppression. "Why else would you target the Sunday vote?" asked the Rev. Gregory Moss of the St. Paul Baptist Church. Responding to the firestorm, the commission changed course and vowed to accept a state grant to pay for the Sunday voting.⁴²

Voter Registration

Vigorous voter registration drives by both nonpartisan and partisan organizations have resulted in dramatic increases in the number of registered voters. Some efforts were plagued by individual employees' failure to follow procedures that prevented registrations from being turned in. Some have been marred by deceptive practices, for example, by groups portraying themselves as nonpartisan to gain access to public places, but registering voters on a partisan basis. Some efforts have met with active resistance from public officials, who have relied on suspect logic or interpretations of election law to disallow registrations. And there are indications that some election officials have not invested in sufficient equipment and staff to

handle the additional registrations and ensure that election day runs smoothly enough to allow every eligible voter a chance to cast a ballot.

- Days after the voting registration deadline had passed, **Florida** Secretary of State Glenda Hood, a Republican political appointee, ordered local election supervisors to discard potentially thousands of voter registration forms. At issue was the failure of voters to check a box declaring that they were American citizens. If this box had been left unfilled, Hood ordered local election officials to consider the registration forms “incomplete” despite the fact that, in signing the form, the voter endorsed an oath that read “I do solemnly swear . . . I am a U.S. citizen.” As the ACLU of Florida explained, Florida election law “merely requires ‘An indication that the applicant is a citizen of the United States.’ Quite clearly, a sworn oath that includes ‘I am a U.S. citizen’ is ‘an indication that the applicant is a citizen of the United States.’”⁴³ This decision mainly effects first-time voters, more than 10,000 of whose applications the Supervisors of Elections have refused to process.⁴⁴ An analysis done by the *Washington Post* found that out of the 1,448 registrations considered “incomplete” in Duval County, nearly 3 times as many had come from Democrats as from Republicans and that blacks had more of their registrations flagged than any other racial group.⁴⁵ **Iowa** has also indicated that it will not accept the registrations of voters who have not checked a box indicating citizenship, despite the fact that the application also requires signing an affidavit to that effect. Colorado, Michigan, Ohio, Washington and Wisconsin have similar forms, but have said that failing to check that box will not prevent registration.⁴⁶
- In **Ohio**, Republican Secretary of State Kenneth Blackwell came under fire in September for instructing county boards of election to reject any voter registration forms not printed on 80-pound text paper, a heavy card-like stock.⁴⁷ Typical copier paper is 20 pounds.⁴⁸ Reaction to the rule varied, with some local election officials rejecting all applications on lighter paper, while others ignored Blackwell and continued to accept all otherwise-valid forms.⁴⁹ Blackwell's rule had the potential to cause widespread disenfranchisement, given the rapid pace of new registrations in the past year.⁵⁰ After weeks of criticism, Blackwell relented, instructing election officials to accept all forms and then send voters thicker cards to fill out for the permanent record. Kay Maxwell, president of the League of Women Voters, feels that Blackwell's clarification could still leave new voters wondering if they were properly registered. "There is plenty of room for confusion," said Maxwell, "and when there's confusion, there's an opportunity for people to be disenfranchised...."⁵¹
- Officials in Miami Beach, **Florida**, in conjunction with the Department of Homeland Security, blocked a voter registration drive for new citizens, citing crowd control and public safety issues.⁵² In August, John C. Shewairy, Chief of Staff to the District Director of Homeland Security, informed Mi Familia Vota (MFV), a nonpartisan voter registration project run by the Center for Immigrant Democracy in conjunction with People For the American Way Foundation, that they would no longer be allowed to conduct voter registration drives on the sidewalks just outside the Miami Beach Convention Center at the conclusion of naturalization ceremonies. Mi Familia Vota attempted to solve the issue without resorting to litigation, but when Mr. Shewairy refused to respond to their requests and Miami Beach officials denied MFV access to the public sidewalks in front of the convention center in September, the organization went to federal court seeking an

injunction. The judge issued an injunction restraining DHS and Miami Beach officials from prohibiting MFV's registration drive.⁵³

- In **Nevada**, a former executive director of the state Republican Party sought to purge an estimated 17,000 “inactive” Democratic voters from the rolls. Arguing that “inactive voters” no longer live at the addresses where they are registered, Dan Burdish challenged their registration but the County Registrar rebuffed his efforts, declaring that state law already determines that voters are removed from the rolls after they fail to vote in two federal elections and that the purge had already been done for this year.⁵⁴ Furthermore, the county maintained that Burdish only had standing to challenge “inactive voters” in his own precinct, which narrowed the number to 117. “Inactive voters” are still allowed to vote so long as they provide oral or written proof of their address or proof that they have moved.⁵⁵ Burdish admitted to targeting only Democratic “inactive voters” because he is, in his own words, “a partisan guy.”⁵⁶
- In **Nevada**, a company hired by the Republican National Committee to register Republicans in the state has been accused to throwing away registration forms signed by Democrats. A consulting firm headed by Nathan Sproul, a former director of the Arizona Republican Party, was paid nearly \$500,000 by the RNC to carry out the voter registration drive and began operating in Nevada under the name Voter Outreach for America.⁵⁷ Former employees allege that they were ordered to register only Republicans and one alleges that his pay was docked for also registering Democrats. This same employee alleges that his supervisor then tore up the Democratic registration forms and tossed them in the trash.⁵⁸ The Democratic Party filed a petition requesting that registration be re-opened for those voters who may have had their registration cards destroyed but a Nevada district judge denied the request.⁵⁹

Similar allegations have arisen against Sproul-run registration operations in **Oregon**, **Pennsylvania** and **West Virginia**. In some cases, the group misrepresented itself as the nonpartisan America Votes organization in order to gain access to public libraries and other locations, but then registered voters in a highly partisan manner. In West Virginia, temporary workers were reportedly hired to pose as opinion pollsters and instructed to only offer registration forms to those indicating they supported President Bush.⁶⁰ In Pennsylvania, registration workers were also told not to register Democrats and instructed to ask undecided voters if they were “pro-choice or pro-life.” If they answered “pro-life,” the canvassers were to offer to help them register. If they answered “pro-choice,” the canvassers were instructed to walk away.⁶¹

- Students at various universities in three **Florida** counties reportedly had their voter registration switched without their consent. One student apparently signed an abortion-rights petition only to soon receive a letter telling her that her application to switch party registration had been received but was incomplete.⁶² Some elections supervisors became suspicious when they began receiving unusually large numbers of registration change forms and a spot check of these applications revealed that most of the individuals listed had never intended to change party registration.⁶³ These changes and new registrations could cause problems for students who are already registered elsewhere.

- In **New Mexico**, officials at several Indian Health Service (IHS) hospitals and clinics stopped an on-site, nonpartisan voter registration program saying that even nonpartisan voter registration was prohibited on federal property. Clinic staff involved in the registration complained, noting that the federal government has encouraged registration on military bases. As criticism mounted, the Indian Health Service, a division of the Department of Health and Human Services, clarified its position saying that outside groups may register voters at IHS facilities but that “no IHS employee will be registering voters as part of his or her official duties.” When asked for clarification, IHS officials would only say that employees are expected to follow the Hatch Act, the law restricting partisan activity by federal workers.⁶⁴
- Students at universities across the country are finding it difficult, if not impossible, to register to vote in the towns where they reside. In **Virginia**, two students at the College of William and Mary had their registrations rejected by the Williamsburg registrar, citing the fact that the dorms where they lived were temporary residences “like a hotel room or a time share.” Williamsburg Registrar David Andrews claimed that he gave extra scrutiny to registration forms listing on-campus addresses and questioned those applicants regarding the address on their car registration and drivers licenses.⁶⁵ Students in **New York** and **Michigan** face similar hurdles, with the latter being prohibited by state law from registering to vote unless the address on their drivers license matches the address on their voter registration card. The Michigan law also mandates that first-time voters must register in person if they intend to vote via an absentee ballot, often forcing students to travel to their home districts in order to register.⁶⁶ In **New Hampshire**, the head of the Coalition of New Hampshire Taxpayers vowed to fight students’ efforts to register in that state, arguing that he didn’t want the state to be “stuck with a bunch of left-leaning whack jobs from the colleges.”⁶⁷
- Less than a month before the general election, hundreds of residents in **Iowa** who had registered by mail still had not had their registration forms verified, making them ineligible to vote in November. Registration forms require the voter to provide a drivers license number or other state identification number. Those who do not possess such documents are required to provide the last four digits of their Social Security number. But Iowa’s county auditors, who are required to verify the Social Security numbers, do not have access to the state’s Social Security database, making it impossible to process the registration forms. As a result, hundreds of forms are pending as the election approaches. Those whose forms have not yet been verified have been urged to register in person, where Social Security verification is not required.⁶⁸
- In **Minnesota**, a former employee of the Association of Community Organizations for Reform Now (ACORN) was pulled over for running a stop sign when police discovered more than 250 completed voter registration cards in the trunk of his car.⁶⁹ The man had apparently been fired by ACORN more than two-months earlier and, in his own words, “I got lazy and just kept them in the back of my car.”⁷⁰ By law, registration cards must be turned in within ten days of being completed, but these cards were weeks, or even months, old.⁷¹ A sampling done by police of the names appearing on the cards revealed that all 45 of

those contacted had filled out the cards recently with the intention of registering to vote.⁷² The employee now faces felony charges carrying up to five years in prison and a \$10,000 fine.⁷³

- In **Texas** an employee at the Harris County Courthouse refused to provide voter registration forms to a Democratic registrar, in clear violation of office policy. After a registrar had questioned why he had been receiving fewer registration forms and had eventually been denied forms outright, the employee grew hostile and claimed to be operating under a newly enacted policy. When questioned further about this new policy, the employee threatened to call the police and the registrar left. After receiving a complaint, the employee refused to explain her actions and was suspended from work for five days.⁷⁴
- After reviewing the state's new computerized voter registration list, officials in **Rhode Island** were shocked to discover that thousands of voters were registered in the wrong wards, districts and, in some cases, the wrong cities. Under the new system, longtime residents were missing from the voter rolls or listed as residents of different cities. Rhode Island's deputy secretary of state speculated that as many as 13,000 voters may have been voting in the wrong districts or wards for years.⁷⁵ At the same time, the new high-tech district mapping system resulted in some voters getting new addresses and new voting districts⁷⁶ and some questioned why the Board of Elections decided to implement the new system so close to the primary and general elections.

Voting Rights

- Civil rights advocates charge that in 2000, a faulty list intended to purge felons from **Florida's** voting rolls resulted in the disenfranchisement of possibly thousands of eligible voters, many of whom were African Americans.⁷⁷ In May 2004, in a move eerily reminiscent of 2000, Florida's Department of State went ahead with plans to purge nearly 48,000 suspected felons from the voter rolls despite serious concerns regarding the accuracy of the purge list. According to an October 16th report in *The Sarasota Herald-Tribune*, prior to the release of the list, state election officials warned Governor Jeb Bush, the President's brother, that the list was so unreliable that it should be abandoned, but Bush rejected their advice. Governor Bush denies this account.⁷⁸

Shortly after the list went into effect, CNN sued to have it made public.⁷⁹ Although Florida Secretary of State Glenda Hood, who oversees Florida elections, spent more than \$100,000 in legal fees in an attempt to keep the list secret, a judge released it to the public in July. Almost immediately, newspapers reported that thousands of people had been put on the list in error. In addition, voting rights groups noted that half of the people listed were black, and Democrats outnumbered Republicans by 3-to-1. Only 61 Hispanics, who tend to vote for Republicans in Florida, appeared on the list. In the wake of public outcry, Hood scrapped the list and asked her inspector general to determine how it became so riddled with errors.⁸⁰ Meanwhile, People For the American Way Foundation has called on U.S. Attorney General Ashcroft to appoint a special counsel to investigate the incident.⁸¹

- Fearing that thousands of ex-felons had been misinformed by **Ohio** election officials about their voting rights, the Prison Reform Advocacy Center filed suit in August. According to Ohio law, those who have been released from prison may still vote, even if on probation or parole. However, the Center claimed that Ohio counties have given out erroneous information, asserting that felons cannot vote until after probation or parole is concluded.⁸² The Center voluntarily dismissed its suit in September after Ohio parole officials agreed to provide written notice to former prisoners informing them of their voting rights.⁸³

Early Voting

Early voting has been adopted in a number of states. By allowing voters to cast ballots during a period before Election Day, early voting can reduce the Election Day pressure of enormous crowds and long lines that might discourage or prevent some people from voting. Early voting itself, however, is not immune to problems.

- Some of the 29,000 voters who cast their votes early in **Tennessee** may have voted in the wrong state legislative race due to mistakes made by election officials in programming the electronic voting machines. Voters in Davidson County can cast their votes at any one of the seven early voting locations, but since voters live in different districts, election officials must reprogram the voting machines before each person votes to ensure that the voter is casting his or her ballot for the proper candidates. It is not known how many voters voted in the wrong races and County Election Administrator Ray Barrett admitted that nothing could be done to find and correct any improper votes, but pledged to institute safeguards to protect against this problem in the future.⁸⁴
- **Florida's** early voting got off to a shaky start, with problems reported at polling places across the state. In Boca Raton, voting that we supposed to being at 9am could not being until about noon because poll workers had accidentally turned off the power the night before and were thus unable to activate the voting machines the following morning.⁸⁵ In Broward County, many voters faced a two-hour wait to cast their ballots after computer problems slowed voter verification to a crawl. Poll workers were unable to access the state's database of registered voters and were forced to call in to the main Elections Office to verify each registered voter. Some voters reportedly waited hours in line to vote before finally giving up and leaving.⁸⁶ Facing long lines, voters in Pinellas Park were given a slip of paper with their arrival times scribbled on it and urged to return a few hours later.⁸⁷

Civil rights groups and Republican legislators complained to election officials about the lack of early voting sites in minority districts. In Duval County, the Southern Christian Leadership Conference and others sued to force officials to open more early voting sites for the county's minority residents. Later that day, election officials agreed to open four more early voting sites in geographically diverse locations, but the group sought an emergency order from the court to provide an additional eight sites, claiming that the placement of the new locations discriminated against the African-American population.⁸⁸ In Miami-Dade, two Republican congressmen complained that the lack of voting machines and early voting sites in the Hispanic community constituted a "pattern of discrimination." The Miami-Dade

supervisors office agreed to provide more machines, but an elections supervisor claimed that Republicans in the state legislature had intentionally limited the number of early voting sites in order to prevent minority voters from voting. The lawyer for the state House committee in question flatly denied the charge.⁸⁹

In Daytona Beach, sheriff's deputies had to be stationed outside some early voting sites in order to prevent campaign workers from harassing early voters. State law normally prohibits these workers from being within fifty feet of the entrance to a polling place on election day, but that law apparently does not apply to early voting sites. Some voters complained that campaign workers were shoving literature at voters as they tried to enter and got into an argument in front of the entrance.⁹⁰

- Nearly 100 voters in **Iowa**, many of whom were students from a local university, were prevented from voting early after a Republican county auditor instructed the polling places to close as scheduled despite the fact that many people were still waiting in line. State law requires that polling places remain open until all voters who arrived before the scheduled closing time have voted, but County Auditor Mary Mosiman insisted that each precinct only had a "finite number of hours to work with." Moisman also stated that, at the time the polls closed, poll workers only had four unused ballots left and wouldn't have had enough supplies to allow everyone on line to vote. Furthermore, she declared that she had no intention of changing her policy and that, in the future, she would work to make sure that people know that voting hours will not be extended, regardless of how many people are still in line.⁹¹

Absentee Ballots

Allowing voters to cast absentee ballots is another way to relieve pressure on the election system on Election Day, as well as to accommodate voters who have difficulty traveling to a polling site or whose schedule will have them away from home on Election Day. Absentee ballots have also been the source of errors and disputes.

- In **California**, a variety of problems beset the absentee ballot period. In San Diego County, duplicate absentee ballot packets were sent to over 1000 voters, requiring the county to call the voters and ask them to destroy one of the packets. The county offered assurances that the processing system is set up to reject one of the ballots if both are used to vote.⁹² A number of San Diego County voters also received the wrong absentee ballot due to an error by the printing company. The county mailed letters to 36,000 voters to alert all possible voters of possible errors.⁹³ In San Bernadino County, 60,000 corrected ballots were mailed to voters after it was discovered that party affiliations were left off of a State Senate race. Voters were allowed to use either ballot.⁹⁴
- In **Colorado**, a printer miscommunication further delayed the delivery of 13,000 absentee ballots to Denver voters. The schedule was already tight, as election officials had to wait for a legal ruling on the ballot status of presidential candidate Ralph Nader. An earlier batch of ballots made it from the printer into the mail, but some included faulty instructions stating

that ballots needed to be returned by August 6, a reference to the primary election deadline.⁹⁵

- In Palm Beach County, **Florida**, both local Republican and Democratic officials reported voter complaints of delays and errors in their absentee ballots. The head of the county Democratic Executive Committee said her office was inundated with calls from voters who requested their ballots months ago, but haven't yet received them. Reported ballot errors concern missing pages that include proposed state constitutional amendments. Many voters also complained of not being able to report this to the county elections office due to busy phone lines. The elections office, which has 100 phone lines, reports that phones are ringing off the hook and they are fielding 7000 to 8000 calls a day.⁹⁶
- In **Indiana**, a Marion County judge ordered hundreds of absentee votes thrown out in a state legislative district because of a legal dispute over which Republican candidate was to be included on the ballot. One candidate won the May primary but then suddenly moved out of the district, creating a vacancy on the ballot. The GOP is seeking to replace the candidate but Democrats charge the first candidate didn't really move, and that Republicans want the switch because they were losing. The state House is currently controlled by Democrats 51-49. If the ruling stands, it could possibly affect hundreds of votes in the district, which includes Terre Haute. It would also nullify votes in other races, including the close gubernatorial race.⁹⁷
- In **Iowa**, at least six counties have had problems with absentee voting. Over 1000 mailed absentee ballots in Kossuth County gave incorrect voter instructions for a county agricultural race. In Plymouth County, ballots failed to list Iowa's 5th Congressional District candidates. Finally, in Des Moines, Henry, Lee and Louis counties, a judge's name was left off of 60,000 ballots, prompting the Secretary of State to temporarily stop absentee voting in the four counties.⁹⁸
- In **Pennsylvania**, a court challenge over whether candidate Ralph Nader's name would appear on the state's ballot caused problems with overseas mailing of absentee ballots. The shifting status of Nader's listing as a presidential candidate resulted in some ballots being sent with his name and some without. The U.S. Justice Department sought an emergency order seeking to force the state to send corrected ballots to overseas voters and extend the period for ballot returns by two weeks.⁹⁹ A federal judge denied the request, saying it could do more harm than good.¹⁰⁰

In Lancaster County, election officials defied state election officials and voted along party lines to mail thousands of absentee ballots including presidential candidate Ralph Nader, even though his appearance on the ballot was the subject of court challenge and a decision was imminent. A court threw Nader off the ballot the same day that county officials mailed ballots including his name.¹⁰¹

- In **Ohio**, many counties saw absentee ballot errors. In Hamilton County, 17,500 absentee ballots were canceled after it was discovered that they contained an error that switched the

positions of a county candidate with one of the state Supreme Court candidates. Elsewhere, Hamilton and other Ohio counties were in the middle of absentee ballot distribution when a ruling came down that presidential candidate Ralph Nader had been disqualified from appearing on the ballot. As a result, many voters will receive ballots including the candidate's name, though the votes will not be counted.¹⁰²

Provisional Balloting

Some have suggested that provisional ballots have the potential to become the "hanging chads" of the 2004 election. Provisional ballots were mandated by the Help America Vote Act of 2002 in response to the chaotic 2000 presidential election. The law requires that when voters who arrive at the polls are not listed on the rolls, they be given the option of voting provisionally. If their registration information is later confirmed, their votes will be counted. However, states differ over when the ballots should count. While some states count statewide and national votes for those who cast their ballots in the wrong locality, other states require that ballots be cast in the correct precinct to be counted. There is also a wide variation from state to state regarding how much time election officials have to tabulate provisional ballots. For example, while California officials have 28 days to count them, Florida, which was the location of so much electoral strife in 2000, gives officials a mere two days to reach a final tally.¹⁰³ In several states, voting rights activists have filed suit in an effort to make the provisional balloting process more inclusive.

- In September, **Ohio** Secretary of State Kenneth Blackwell directed county election officials to only give provisional ballots to voters who report to the correct precinct.¹⁰⁴ His ruling has the potential to be particularly problematic this election cycle because many polling places have changed since the last federal election, increasing the likelihood that voters will show up at the wrong precinct.¹⁰⁵

Both the state Democratic Party¹⁰⁶ and the Ohio Voter Protection Project¹⁰⁷, a voting-rights group, filed lawsuits contending that Blackwell's rules violate the Help America Vote Act of 2002. In mid-October, U.S. District Judge James Carr ruled that Ohio voters who go to the wrong polling place should still have their provisional ballots counted as long as they are in the county where they are registered. "Lessened participation at the polls diminishes the vitality of our democracy," said Carr.¹⁰⁸ Still, Blackwell was defiant, filing an appeal to 6th U.S. Circuit Court of Appeals and vowing to take his case all the way to the U.S. Supreme Court if necessary.¹⁰⁹ Promising that he would go to jail before allowing out-of-precinct voters to have their provisional ballots counted, Blackwell likened his stance to those of Gandhi and the Rev. Martin Luther King Jr. Responded a spokesman for the Ohio Democratic Party's Voter Protection Program, "Many civil rights leaders went to jail to defend the right to vote. If this official wants to go to jail to thwart it, that would be unfortunate."¹¹⁰ A federal appeals court then reversed the lower court ruling, thereby preventing Ohio voters from casting their provisional ballots anywhere in the county.¹¹¹

- In **Florida's** August primary, two of every five provisional ballots were rejected due in large part to the state's requirement that such ballots be cast in the voter's home precinct.¹¹² People For the American Way Foundation, the American Civil Liberties Union and a group of

unions filed suit over Florida's restrictive rules. However, in October, the Florida Supreme Court ruled in favor of the state.¹¹³

- Meanwhile, in **Michigan** in October, U.S. District Judge David Lawson took the opposite view, ruling that as long as voters go to the right city, township, or village, their votes for federal offices should count. The state is appealing the decision, which came about due to a suit filed by Michigan Democrats, the NAACP and voting rights groups.¹¹⁴ Lawson's ruling came in spite of protests raised by the U.S. Department of Justice. "Congress made an explicit decision not to disturb states' long-standing authority to determine how ballots are to be counted, and the United States believes that courts must respect that congressional decision," said Justice Department spokesman Mark Corallo. Justice's stance prompted a rebuke from Robert F. Bauer, national counsel for voter protection at the Democratic National Committee: "Here you have the Justice Department waiting until two weeks before the election and suddenly taking this position, which is the Republican Party's position."¹¹⁵ A federal appeals court issued a stay of the lower court's ruling and agree to hear an expedited appeal of the case.¹¹⁶

Voter ID

Voter identification requirements are the frequent cause of confusion at polling places, where poorly trained poll workers often wrongly insist that voters provide photo I.D.s or neglect to inform voters without identification of alternatives, like signing an affidavit. Overly restrictive identification requirements have a disproportionate impact on minority voters, who are less likely to have photo identification.

- Two lawsuits¹¹⁷ pressed by Republican state representatives could have resulted in onerous identification requirements for 112,000¹¹⁸ **New Mexico** voters. The suits contended that all first-time voters who do not register in person with their county clerk are required to produce identification at the polls on Election Day. According to the plaintiffs in these cases, new voters who register in person at other government offices or in voter registration drives would face the I.D. requirement. New Mexico's Secretary of State, a Democrat, disagreed, arguing that the I.D. requirement only applies to new voters who register by mail.¹¹⁹ The broader I.D. requirement could have been particularly burdensome for college students, rural voters, returning veterans¹²⁰, and minorities.¹²¹ After conflicting decisions¹²² from lower courts, the state Supreme Court ruled that only first-time voters who registered by mail were required to show I.D. on Election Day.¹²³
- In **Florida's** primary election, some eligible voters were prevented from casting a ballot because election officials were misapplying the law requiring identification. Florida law requires photo identification when voters go to the polls, but those without identification can sign an affidavit swearing to their identities. In Broward and Miami-Dade Counties, some voters were told about the photo-identification requirement but not the affidavit option. In some cases, poll workers insisted on requiring a photo ID even after being shown voting-rights leaflets specifically citing Florida's election law. In Osceola County, a sample ballot mailed to county residents said "Photo and Signature ID Required at Polls," but did not let voters know of the option to vote if they did not have ID.¹²⁴

- **Colorado's** new law requiring identification at the polls was challenged by Colorado Common Cause and three voters who were turned away from the polls in the August 2004 primary. In September, they filed a suit against Secretary of State Donetta Davidson, arguing that the rule amounted to a poll tax because most proof of identification costs money.¹²⁵ Election officials claimed that voter identification was needed to prevent fraud.¹²⁶ Republican Governor Bill Owens said he would appeal the decision if a judge overturns the identification requirement.¹²⁷

Machines and Miscellaneous

- Problems with electronic machines misrecording votes intended for Democratic candidates and changing votes in the middle of the selection process were reported in Harris, Tarrant, and Travis County. The report was initially dismissed as an urban myth,¹²⁸ but then election officials and a spokeswoman for the company that made the voting machines determined that the problem for voters who had cast straight Democratic ballots but appear to have had their presidential votes “switched” from Kerry to Bush was caused by pressing an “enter” button at the wrong time. They said the error was probably caught and corrected in most cases when voters got to the final review page. A Party official said “we need to go back to the drawing board” because the way screens present themselves to voters is “confusing.” A company official said “it’s part of the learning curve.”¹²⁹
- According to the *Columbus Dispatch*, voters in **Ohio's** predominantly black neighborhoods face the prospect of having their votes go uncounted at a rate nearly three times higher than those in the rest of the state because of the continued use of punch-card ballots. Based on an analysis conducted by the paper, in 2000, the percentage of votes cast in predominately black areas for which no presidential vote was counted was about 5% versus less than 2% for the rest of Ohio. A further analysis of the areas with the most uncounted votes revealed that the chances of a majority white district falling into that category was 2 in 33 versus 2 in 3 for majority black districts. Every one of those majority black precincts will be using punch-card ballots again in 2004.¹³⁰
- Delayed arrival of voting machines at polls in **Louisiana's** Orleans Parish resulted in a chaotic primary election on September 18. When the polls opened at 6:00 am, 91 of the parish's precincts--which serve 58,134 registered voters--lacked voting machines.¹³¹ While the machines arrived eventually, the last one was delivered a mere four hours before the polls closed.¹³² This fiasco triggered investigations by Louisiana's secretary of state as well as the state legislature, and a civil rights group has asked the U.S. Justice Department to investigate possible violations of the Voting Rights Act. In addition, several candidates who lost close primary elections have filed lawsuits to challenge the results.¹³³ In order to prevent similar problems during the presidential election, the NAACP Legal Defense and Education Fund has requested that the Justice Department monitor voting in New Orleans on November 2nd.¹³⁴

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