

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Liheslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

APR 24 2015

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'trentai Tres Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

RE: Committee Report on Bill No. 25-33(COR) As Amended

Hafa Adai Speaker Won Pat:

The Committee on Rules, Federal, Foreign and Micronesian Affairs, Human and Natural Resources, Election Reform and Capitol District hereby reports out its findings and recommendations on **Bill No. 25-33 (COR) As Amended- "AN ACT TO ADD A NEW § 3101.3 TO ARTICLE 1 OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING THE REGISTRATION OF ELIGIBLE VOTERS INCIDENT TO OBTAINING A GUAM MOTOR VEHICLE DRIVER'S LICENSE OR IDENTIFICATION CARD,"** sponsored by Senator Mary C. Torres.

Committee votes are as follows:

<u>2</u>	TO PASS
<u>0</u>	NOT TO PASS
<u>7</u>	TO REPORT OUT ONLY
<u>0</u>	TO ABSTAIN
<u>0</u>	TO PLACE IN INACTIVE FILE

Very Truly Yours,


Rory J. Respicio

2015 APR 28 PM 4:52


SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

COMMITTEE REPORT

ON

BILL NO. 25-33 (COR) As Amended

by the Committee on Rules, Federal, Foreign and Micronesian Affairs;
Human and Natural Resources, Election Reform, and Capitol District

**"AN ACT TO ADD A NEW §
3101.3 TO ARTICLE 1 OF
CHAPTER 3, TITLE 16, GUAM
CODE ANNOTATED, RELATIVE
TO ENABLING THE
REGISTRATION OF ELIGIBLE
VOTERS INCIDENT TO
OBTAINING A GUAM MOTOR
VEHICLE DRIVER'S LICENSE
OR IDENTIFICATION CARD,"**
Sponsor- Senator Mary C. Torres

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT




I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

APR 24 2015

MEMORANDUM

To: **All Members**
*Committee on Rules, Federal, Foreign and Micronesian Affairs, Human and Natural Resources
Election Reform and Capitol District*

From: **Senator Rory J. Respicio** 

Subject: **Committee Report on Bill No. 25-33 (COR) As Amended**

Transmitted herewith for your review and consideration is **Bill No. 25-33 (COR) As Amended- "AN ACT TO ADD A NEW § 3101.3 TO ARTICLE 1 OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING THE REGISTRATION OF ELIGIBLE VOTERS INCIDENT TO OBTAINING A GUAM MOTOR VEHICLE DRIVER'S LICENSE OR IDENTIFICATION CARD,"** Sponsor- Senator Mary C. Torres

This report includes the following supporting documents:

- Committee Report of Bill No. 25-33 (COR) As Amended
 - Committee Vote Sheet
 - Committee Report Digest
 - Copy of Bill No. 25-33 (COR) As Amended
 - Copy of Bill No. 25-33 (COR) As Introduced
- Committee Report of Bill No. 25-33 (COR) As Introduced
 - Committee Vote Sheet
 - Committee Report Digest
 - Copy of Bill No. 25-33 (COR)
 - Public Hearing Sign-in Sheet
 - Copies of Submitted Testimony & Supporting Documents
 - Fiscal Note Requirement for Bill No. 25-33 (COR)
 - Referral of Bill No. 25-33 (COR)
 - Public Hearing Notices
 - Public Hearing Agenda

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse!

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
 COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
 HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

COMMITTEE VOTING SHEET

Bill No. 25-33 (COR) As Amended- "AN ACT TO ADD A NEW § 3101.3 TO ARTICLE 1 OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING THE REGISTRATION OF ELIGIBLE VOTERS INCIDENT TO OBTAINING A GUAM MOTOR VEHICLE DRIVER'S LICENSE OR IDENTIFICATION CARD," Sponsor- Senator Mary C. Torres

	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Senator Rory J. Respicio Chairperson	<i>Rory Respicio</i>	4-24-15 <i>RR</i>				
Senator Thomas C. Ada Vice-Chairperson	<i>TC Ada</i>			✓ 4/24/15		
Speaker Judith T. Won Pat, Ed.D. Member	<i>JT Won Pat</i>			4/24/15		
Vice-Speaker Benjamin J.F. Cruz Member	<i>B Cruz</i>			4/24/15		
Legislative Secretary Tina Rose Muña Barnes Member						
Senator Frank B. Aguon, Jr. Member	<i>4/24/15 FB Aguon Jr</i>			✓		
Senator Dennis G. Rodriguez, Jr. Member	<i>DG Rodriguez Jr</i>			✓ 4/24		
Senator Michael F.Q. San Nicolas Member	<i>MFQ San Nicolas</i>			✓ 4/24/15		
Senator Nerissa B. Underwood, Ph.D. Member						
Senator V. Anthony Ada Minority Leader	<i>VA Ada</i>			4/24		
Senator Mary Camacho Torres Minority Member	<i>MC Torres</i>	✓				

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

COMMITTEE REPORT DIGEST

I. OVERVIEW

The Committee on Rules, Federal, Foreign and Micronesia Affairs; Human and Natural Resources, Election Reform, and Capitol District hereby submits this updated Committee Report Digest along with the previous Committee Report on Bill No. 25-33 (COR)- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION," Sponsor-Senator Mary C. Torres and history is as follows:

- Introduced on January 20, 2015;
- Referral forwarded to this committee for public consideration on January 22, 2015;
- Was publicly heard on February 11, 2015 and March 4, 2015;
- Was discussed on the Session floor and sent back to Committee on March 20, 2015.

II. SUMMARY

The Committee at this time is offering a Committee Report to include Bill No. 25-33 (COR) As Amended- "AN ACT TO ADD A NEW § 3101.3 TO ARTICLE 1 OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING THE REGISTRATION OF ELIGIBLE VOTERS INCIDENT TO OBTAINING A GUAM MOTOR VEHICLE DRIVER'S LICENSE OR IDENTIFICATION CARD," Sponsor- Senator Mary C. Torres which reflects the corrected title of the bill and removal of Section 2 in the amended bill.

III. FINDINGS AND RECOMMENDATIONS

The Committee on Rules, Federal, Foreign and Micronesia Affairs; Human and Natural Resources, Election Reform, and Capitol District hereby reports out Bill No. 25-33 (COR) As Amended- "AN ACT TO ADD A NEW § 3101.3 TO ARTICLE 1 OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING THE REGISTRATION OF ELIGIBLE VOTERS INCIDENT TO OBTAINING A GUAM MOTOR VEHICLE DRIVER'S LICENSE OR IDENTIFICATION CARD," with the recommendation to Report out only.

I MINA'TRENTAI TRES NA LIHESLATURAN GUÁHAN
2015 (First) Regular Session

Bill No. 25-33 (COR)

Introduced by:

M.C. Torres *MCT*

AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION

2015 JUN 20 PM 2:12
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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A *new* subsection § 3101.3 is hereby *added* to Chapter 3, Title 16, Guam
3 Code Annotated, to read as follows:

4 “§ 3101.3. Voter Registration Incident to Applications for Driver’s Licenses and
5 Identification Cards and Renewals of Same.

6 (a) Every person applying at the Department of Revenue and Taxation for a Guam
7 driver’s license or a renewal of said license, or a Guam Identification Card or a renewal of said
8 identification card, and who meets all eligibility requirements to register to vote pursuant to
9 Chapter 3, Title 3, Guam Code Annotated, shall be afforded the opportunity to register to vote, or
10 if previously registered, to change their address for voting purposes.

11 (b) The application to register to vote must be offered simultaneously with the application
12 for the driver’s license, the Guam identification card, or renewal of either or both. Department
13 of Revenue and Taxation employees must provide to applicants for driver’s licenses or Guam
14 identification cards, or renewals of either or both, the same level of assistance and instruction
15 with respect to the application to register to vote as is provided with respect to applications for
16 driver’s licenses, Guam identification cards, or renewals of either or both; provided, that separate
17 signatures shall be required on the application for a driver’s license or Guam identification card

1 (or renewal of either or both), and the application to register to vote. The applicant may decline
2 to register to vote by failing to sign the voter registration form. In order to protect the privacy of
3 those who do not wish to register to vote for any reason, the failure of an applicant for a driver's
4 license or a Guam identification card, or the renewal of either or both, to sign the voter
5 registration form may not be used for any purpose other than to determine the person's voter
6 registration status.

7 (c) (1) The voter registration application shall contain the applicant's name, residence
8 address, mailing address if different from residence address, date of birth, and applicant's
9 signature and date of affixation of signature, and may include any other information,
10 certifications, and declarations, including those made under the penalty of perjury, that may be
11 required by the Guam Election Commission in order to administer a single and unified system of
12 voter registration in accordance with applicable local and federal laws which shall enable duly
13 registered voters to vote in all elections in their respective municipality, division or districts
14 including, elections for federal officers. The voter registration application must also include the
15 statement that unlawful voter registration is a crime and any person who willfully causes,
16 procures or allows himself or herself or any person to be registered as a voter, knowing himself
17 or herself or other person not to be entitled to registration, is guilty of a felony of the third
18 degree.

19 (2) It shall be the responsibility of the Department of Revenue and Taxation to
20 print and to have available at all times a sufficient number of voter registration forms in
21 order to carry out the provisions of this Section.

22 (d) The completed voter registration application shall be transmitted by the Department
23 of Revenue and Taxation to the Guam Election Commission not later than five (5) business days

1 after the date of acceptance by the Department of Revenue and Taxation. Transmission may be
2 made by electronic means as prescribed by Guam Election Commission, and in an electronic
3 form compatible with the voter registration system maintained by the Guam Election
4 Commission. For each registration electronically transmitted, a hard copy will be provided to the
5 Guam Election Commission.

6 (e) Any person who has fully and correctly completed an application to register to vote at
7 the Department of Revenue and Taxation is presumed to be registered as of the date of the
8 acceptance of the registration by Department of Revenue and Taxation, subject to verification of
9 the registration by the Executive Director of the Guam Election Commission as provided in §
10 3102 of Chapter 3, Title 3, Guam Code Annotated.

11 (f) Refusal by an applicant to register to vote shall not be a basis for denial of a driver's
12 license or a Guam identification card or renewal thereof.

13 (g) The Guam Election Commission shall have the authority to adopt regulations to
14 implement and administer the provisions of this section, including all registrations taken at the
15 Department of Revenue and Taxation."

16 **Section 2. Effective Date.** This Act shall become immediately effective upon
17 enactment.

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 25-33 (COR)

As Amended by the Committee on Rules, Federal,
Foreign and Micronesian Affairs; Human and Natural
Resources, Election Reform, and Capitol District

Introduced by:

M. C. Torres

**AN ACT TO ADDA NEW SUBSECTION § 3101.3 TO
ARTICLE 1 OF CHAPTER 3, TITLE 16, GUAM CODE
ANNOTATED, RELATIVE TO ENABLING THE
REGISTRATION OF ELIGIBLE VOTERS INCIDENT TO
OBTAINING A GUAM MOTOR VEHICLE DRIVER'S
LICENSE OR IDENTIFICATION CARD.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. ~~A new subsection § 3101.3~~ is hereby *added* to Article 1 of Chapter 3, Title 16, Guam Code Annotated, to read as follows:

“§ 3101.3. Voter Registration Incident to Applications for Driver's Licenses and Identification Cards, and Renewals of Same.

(a) Every person applying at the Department of Revenue and Taxation for a Guam driver's license or a renewal of said license, or a Guam identification card or a renewal of said identification card, and who meets all the eligibility requirements to register to vote pursuant to Chapter 3, Title 3, Guam Code Annotated, shall be afforded the opportunity to register to vote, or if previously registered, to change their address for voting purposes.

(b) The application to register to vote must be offered simultaneously with the application for the driver's license, the Guam identification card, or

1 renewal of either or both. Department of Revenue and Taxation employees
2 must provide to applicants for driver's licenses or Guam identification cards, or
3 renewals of either or both, the same level of assistance and instruction with
4 respect to the application to register to vote as is provided with respect to
5 applications for driver's licenses, Guam identification cards, or renewals of
6 either or both; *provided*, that separate signatures *shall* be required on the
7 application for a driver's license or Guam identification card (or renewal of
8 either or both), and the application to register to vote. The applicant may
9 decline to register to vote by failing to sign the voter registration form. In order
10 to protect the privacy of those who do not wish to register to vote for any
11 reason, the failure of an applicant for a driver's license or a Guam identification
12 card, or the renewal of either or both, to sign the voter registration form may not
13 be used for any purpose other than to determine the person's voter registration
14 status.

15 (c) (1) The voter registration application *shall* contain the applicant's
16 name, residence address, mailing address if different from residence address,
17 date of birth, and applicant's signature and date of affixation of signature, and
18 may include any other information, certifications, and declarations, including
19 those made under the penalty of perjury, that may be required by the Guam
20 Election Commission in order to administer a single and unified system of voter
21 registration in accordance with applicable local and federal laws which *shall*
22 enable duly registered voters to vote in all elections in their respective
23 municipality, division or districts, including, elections for federal officers. The
24 voter registration application must also include the statement that unlawful
25 voter registration is a crime and any person who willfully causes, procures or
26 allows himself or herself or any person to be registered as a voter, knowing

1 himself or herself or other person not to be entitled to registration, is guilty of a
2 felony of the third degree.

3 (2) It shall be the responsibility of the Department of Revenue
4 and Taxation to print and to have available at all times a sufficient number of
5 voter registration forms in order to carry out the provisions of this Section.

6 (d) The completed voter registration application shall be transmitted
7 by the Department of Revenue and Taxation to the Guam Election Commission
8 not later than five (5) business days after the date of acceptance by the
9 Department of Revenue and Taxation. Transmission may be made by electronic
10 means as prescribed by the Guam Election Commission, and in an electronic
11 form compatible with the voter registration system maintained by the Guam
12 Election Commission. For each registration electronically transmitted, a hard
13 copy will be provided to the Guam Election Commission.

14 (e) Any person who has fully and correctly completed an application
15 to register to vote at the Department of Revenue and Taxation to register to vote
16 is presumed to be registered as of the date of the acceptance of the registration
17 by the Department of Revenue and Taxation, subject to verification of the
18 registration by the Executive Director of the Guam Election Commission, as
19 provided in § 3102 of Chapter 3, Title 3, Guam Code Annotated.

20 (f) Refusal by an applicant to register to vote shall not be a basis for
21 the denial of a driver's license or a Guam identification card, or renewal thereof.

22 (g) The Guam Election Commission shall have the authority to adopt
23 regulations to implement and administer the provisions of this Section,
24 including all registrations taken at the Department of Revenue and
25 Taxation^[L21].

1 ~~Section 2. Effective Date. This Act *shall* become immediately effective~~
2 ~~upon enactment.~~

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON

COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

March 17, 2015

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'trentai Tres Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

RE: Committee Report on Bill No. 25-33(COR) as Introduced

Hafa Adai Speaker Won Pat:

The Committee on Rules, Federal, Foreign and Micronesian Affairs, Human and Natural Resources, Election Reform and Capitol District hereby reports out its findings and recommendations on **Bill No. 25-33 (COR) as Introduced - "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION,"** sponsored by Senator M.C. Torres

Committee votes are as follows:

6 TO PASS
 NOT TO PASS
3 TO REPORT OUT ONLY
 TO ABSTAIN
 TO PLACE IN INACTIVE FILE

Very Truly Yours,

Rory J. Respicio

2015 MAR 17 PM 3:46

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

COMMITTEE REPORT
ON
BILL NO. 25-33 (COR)
As Introduced

"AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION," sponsored by Senator Mary C. Torres

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON

COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM AND CAPITOL DISTRICT

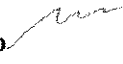


I Mina'trentai Tres na Libeslaturan Guåban
THIRTY-THIRD GUAM LEGISLATURE

March 17, 2015

MEMORANDUM

To: All Members
*Committee on Rules, Federal, Foreign and Micronesia Affairs, Human and Natural Resources
Election Reform and Capitol District*

From: Senator Rory J. Respicio 

Subject: Committee Report on Bill No. 25-33 (COR) as Introduced

Transmitted herewith for your review and consideration is the **Bill No. 25-33 (COR) as Introduced - "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION,,"** sponsored by Senator M.C. Torres

This report includes the following supporting documents:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 25-33 (COR) As Introduced
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- Fiscal Note Requirement for Bill No. 25-33 (COR)
- Referral of Bill No. 25-33 (COR)
- Public Hearing Notices
- Public Hearing Agenda

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse!

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
 COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS,
 HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

COMMITTEE VOTING SHEET

Bill No. 25-33 (COR) As Introduced- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION," by Senator Mary C. Torres.

	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Senator Rory J. Respicio Chairperson	<i>Rory Respicio</i>	<i>3/17/15</i>				
Senator Thomas C. Ada Vice-Chairperson	<i>TC Ada</i>			✓		
Speaker Judith T. Won Pat, Ed.D. Member						
Vice-Speaker Benjamin J.F. Cruz Member	<i>B Cruz</i>	<i>3/17/15</i>				
Legislative Secretary Tina Rose Muña Barnes Member						
Senator Frank B. Aguon, Jr. Member	<i>Frank Aguon</i>					
Senator Dennis G. Rodriguez, Jr. Member	<i>D Rodriguez</i>			✓		
Senator Michael F.Q. San Nicolas Member	<i>Michael San Nicolas</i>	✓				
Senator Nerissa B. Underwood, Ph.D. Member	<i>Nerissa Underwood</i>			✓		
Senator V. Anthony Ada Minority Leader	<i>V Anthony Ada</i>	✓				
Senator Mary Camacho Torres Minority Member	<i>Mary Camacho Torres</i>	✓				

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

COMMITTEE REPORT DIGEST

I. OVERVIEW

The Committee on Rules, Federal, Foreign and Micronesian Affairs; Human and Natural Resources, Election Reform, and Capitol District convened a public hearing on Wednesday, February 11, 2014 and Wednesday, March 4, 2015 at 9:00 A.M. in the Public Hearing Room of *I Libeslaturan Guåhan*. Among the items on the agenda was the consideration of **Bill No. 25-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION," **Sponsor- Senator Mary C. Torres** and history is as follows:

- Introduced on January 20, 2015;
- Referral forwarded to this committee for public consideration on January 22, 2015.

Public Notice Requirements

Notices were disseminated via e-mail and facsimile to all senators and all main media broadcasting outlets on February 3, 2015 and February 23, 2015 (5-Day Notice), and again on February 6, 2015 and February 26, 2015 (48-Hour Notice), thereby meeting the noticing requirements of the Open Government Law. Notices were also transmitted to various stakeholders.

Senators Present

Senator Rory J. Respicio, Chairperson
Senator Frank B. Aguon, Jr., Member
Senator Mary C. Torres, Member
Senator James V. Espaldon
Senator Frank F. Blas, Jr.
Senator Thomas A. Morrison

II. SUMMARY OF TESTIMONY & DISCUSSION

A. Wednesday, February 11, 2015

1. **Mr. Anthony Quenga, Member of the Community, Provided Oral Testimony in Support of the Bill.**
2. **Mr. Joe Garrido, Provided Oral Testimony in Opposition of the Bill.**
3. **Mr. Ben Garrido, Provided Oral Testimony in Opposition of the Bill.**
4. **Mr. Daniel Perez, Provided Oral Testimony on the Bill.** (*Mr. Perez did not indicate in Support or Opposition of the Bill.*)
5. **Ms. Maria Pangelinan, Executive Director, Guam Election Commission, Provided Written Testimony on the Bill.** (*Please see attached for written testimony.*)

B. Wednesday, March 4, 2015

1. **Mr. Lawrence Alcairo, Guam Youth Congress, Provided Oral Testimony in Support of the Bill.**
2. **Mr. Angel Sablan, Executive Director, Mayors Council of Guam, Provided Written Testimony in Support of the Bill.** (*Please see attached for written testimony.*)
3. **Mr. Tim Diras, Student of Mr. Tupaz, Guam Community College Tupaz** (*Did not indicate in Support or Opposition of the Bill.*)
4. **Mr. Lewis Nauta, Student of Mr. Tupaz, Guam Community College Tupaz** (*Did not indicate in Support or Opposition of the Bill.*)
5. **Ms. Maria Pangelinan, Executive Director, Guam Election Commission, Provided Written Testimony on the Bill.** (*Please see attached for written testimony.*)

Chairman Rory J. Respicio called the public hearing on Bill No. 23-33 (COR), Bill No. 24-33 (COR) and Bill No. 25-33 (COR) to order at 9:00 A.M. and invited the main sponsor of the bill to provide remarks.

Senator Mary C. Torres

Hafa Adai and *Si Yu'os Ma'ase*, Senator Respicio, *Hafa Adai* to all of you that are here in the audience. I appreciate your attendance at this public hearing this morning. I've introduced three bills to modernize and streamline voter registration on Guam. Bill No. 23-33, essentially is a proposal to adopt a system for online voter registration on Guam. Online voter registration is a growing nation trend in the US, with approximately 50% of the states having adopted online voter registration and studies have shown that it saves tax payer dollars, it increases the accuracy of voter roles and it provides a convenient option for citizens who wish to register to vote. But in order to make this a viable option for Guam, we have to repeal some of our antiquated requirements for multiple forms of identification from those people requesting to register. For example, in one section, it requires us to produce a passport and original form of birth certificate or certified birth certificate. Many of the requirements that the studies have found have resulted in obstacles to register and the demographics of people who have been mostly affected are those that are disadvantaged or minorities. What I would like to also do is to address a lot of the concerns that have been voiced today, since the introduction of the bill, around January 20th. I am going to submit for the record a series of documents that substantiate research findings and are evidence based on the subject of online registration. There is a study by the Pews Charitable Trust, entitled "Understanding Online Voter Registration," a study by the Immigration Policy Center titled, "Chicken Little in Voting Booth" which addresses immigration concerns with voter fraud by non-US citizens, a third article is from the Scholars Strategy Network Key Findings on the "Misleading Myth of Voter Fraud in

American Elections." I also have lengthy documentations from the Brennan Center for Justice, "The Truth About Voter Fraud" and lastly I'm introducing into the record "The Politics of Voter Fraud," a study by Lorraine Minnite of Columbia University.

Bill No. 23-33 (COR)- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." The second piece of legislation that I've introduced is Bill No. 24-33 (COR)- "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." The gist of this legislations is to enable a person who is at least 16 years old, whom may or may not be turning 18 at the next general election to preregister to vote and in this instance, his registration is on the record and he will not have to again register when he turns of age. And the third bill that I introduced is Bill No. 25-33 (COR)- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION."

Chairman Respicio invited the first panel to testify on the bill. He explained to the panel reference the bill that they are testifying on although the Committee entertained the three bills together so the Committee will be able to differentiate. Chairman Respicio recognized that the Executive Director of the Guam Election Commission submitted a letter saying that they have upcoming Board Meeting and that this matter will be presented to the Board. *(Please see attached for written testimony).*

Mr. Anthony Quenga

I'm a graduate student of the University of Guam and I'm here to provide my testimony in support for Bills 23-33, 24-33, and 25-33. As a member of the voting population and one who identifies with the youth, I see that there's a need for increased voter participation. I agree with the intent of the proposed legislation that created a voter registration process that is widely accessible and I think that whining accessibility encourages stronger civic engagements from our citizens. Senator Torres' proposed legislation is a progressive move toward creating that opportunity and I strongly encourage consideration of the committee and the legislative body to approve those bills. Thank you.

Mr. Joe Garrido

Senator Torres, I cannot support your Bill at this point in time and I realize that what you are doing is to find out ways and means to increase the voting population and for the people who can actually go out and vote. But several things that need to be refined. At some point, I know that it's in the states and it seems like a popular thing, that even illegal aliens are now being asked to vote, I know that. There are five point some millions aliens that are now being able to get a drivers license and a work permit, although they are a illegal and there are 12 million illegal aliens. We do a better job taking care of the immigrants here on Guam, than the federal government in the states. Even though the migrants and immigrants population on Guam is a federal jurisdiction, but I think that in some point, I'm not going to ask you because you're the one that is for this hearing, but is it necessary to consult with the US Attorney General and the immigration people, to make sure that some of your requirements here are not ultimately ending up contradicting federal regulations.

Senator Torres

I would love to very much Mr. Garrido because you bring up very valid and very popular concerns with regard to this type of legislation. First of all, I want to address your concerns about the qualification for US citizenship and you're absolutely right. The two fundamental requirements for voting in the US is you must be of age, 18 years old and you must be a US citizen and what we're found in addressing this issue. There's a lot of concern that illegal aliens can register to vote if we don't force them to produce a passport or an original birth certificate. What is occurring with election reform across the nation is the recognition that a lot of people don't have a passport, will never own a passport. Even on Guam, even within my own family, some people don't have passports they have no need to travel. They can't afford a passport, it's very expensive, very hard to obtain and then there are also some instances where people don't have an original birth certificate. Perhaps they were naturalized in a province in the Philippines and obtaining that, either the certified copy or the original copy is difficult. Now with regard to your concern about providing proof of citizenship, even within the federal government, all that's required to vote in federal elections is in an attestation, you have to swear and sign sworn statement that you are in fact a US citizen. Now with that sworn attestation comes the penalty of perjury. If you are lying and that penalty is a third degree felony and deportation. So the reason that I mention the articles that I was able to obtain is, your very concern is a very popular concern, but studies have shown that it's really not a problem. The myth of that occurring is just that, it's a myth. There aren't many documented cases of illegal aliens willfully and knowingly defrauding the system and registering to vote. There have been even cases where people have been prosecuted, there was once by the US Department of Justice, where they did an extensive study of voter fraud that issue for example and of all of those, they found a handful of people who in fact voted illegally. They weren't US citizens, but in those cases, a lot of times it was error. They hadn't been sworn in, they were naturalized, they got their papers, someone gave them a form, they signed it and turned it in, but they weren't sworn in. So you know there is a fine line between someone who, through error of either a registrar or the persons themselves sometimes its being naïve to the system, they make those mistakes. So the concern about illegal aliens or non residents coming in and fraudulently registering to vote is not documented in the US and they say that, one study said that the likelihood of voter fraud of happening is almost like getting struck and killed by lightning, it's just very, very rare, extremely rare. You also mentioned that this bill is intended to be an incentive, and in fact it is an incentive to make it easier for people who want to vote and you're absolutely right, if people don't want to vote, they're not going to vote. They're too lazy to go out and register, no matter what we do to make it easy isn't going to happen. But what we found also is that, a lot of people, when the requirements are very, very strict, the voter ID requirements and those sort of thing. It discourages people from going through the process and studies have shown that when you take those restrictions and make it a little easier for them. The voter registration and the voter turn out in fact increases and my bill, to address also Mr. Quenga. My bill is also marked for those people that are already computer savvy. You know those people that have access to online registrations, filling out forms, things like that. It's also targeting the demographic of 18-24 year olds, that's really a low voter turn out on Guam. I mean many of us grew up very responsible, I mean we had civic lessons in school, we had parents that mentored us and really pushed us to go vote and exercise, but we're finding that, that trend is not keeping, it's actually going down. So in looking at having online registration, it's also to appeal to that demographic of people. You know that other wise may not even bother to go

somewhere to register and bring all these documents, so that was the idea about that. I appreciate your thoughts in verifying whether the proof of citizenship is going to be okay with the federal government, with immigration, that sort of thing. As I mentioned, the federal government right now, most of the test are met by your sworn affidavit. You know, I am of sound mind, I am not a convicted felon, I am not incarcerated in a mental institution, I am 18 years of age, and I am a US citizen. Those things are very real concerns and the immediate reaction and in fact, I went through the exercise of looking at everything to see that, that my thought was actually clear and valid.

Mr. Joe Garrido

I personally think that the two part system should be responsible somewhere in there to register people and not the government in its entirety to depend on the government to register. You got a two party system, they should make it their business to go out and register as many people as they can. The other one is you got a hacking problem and if you place this thing in the electronic system, you got hacking problems that we hear all the time. It costs billions and billions of dollars, I'm not sure what it is and there is absolutely no enforcement here on Guam where Mr. and Mrs. Perez was arrested, but I think personally that they arrested the wrong people. They should have arrested those people that voted, who are not US citizen in the last election and other people who continue to defraud our rights here on Guam and that says something. I have more to say but like I say, I guess it goes without my saying that I don't necessarily support all three bills today. I treasure my right, but if my right is watered down, then I might as well not have that right and I'll leave it at that. Because I do know that even dead people voted on Guam, but there were no enforcement. Somebody made that dead person voted and I believe you are aware of those cases, no?

Senator Torres

In fact, Mr. Garrido I encourage you to, please if you have some challenges or some concerns please bring it up to the election commission because a lot provides for any citizen to challenge any vote, so please exercise that right.

Chairman Respicio

Thank you, Mr. Garrido, I want to make sure that you also submit your thoughts relative to Bill 24-33 where you also signed up to testify. This is regarding, in allowing 16 year olds to register to vote.

Mr. Joe Garrido

I'm just saying as a 16 year old myself, maybe we can wait until we're 17 ½. I think that the process is good enough, why change it? You're just creating an opportunity for somebody to hack somebodies identity and you know, use it. I don't know I need to read it more and see what benefits there are.

Mr. Ben Garrido

Someone, somebody come up with this kind of bill and it happens. As far as I concern, it's nothing wrong with our present voters' right to vote. The proof of citizenship when the people, when you see new aliens being sworn in at the court, to be US citizens, the first thing that just do after they become US citizens is don't forget the right to vote and with this bill, you want to repeal the US citizenship and the passport, no, you just don't want to have evidence that they're US citizens?

Senator Torres

Let me clarify: The main purpose of this amendment is to provide for online registration, so that in addition to the way we do it right now. The way that we do it right now is that you do it manually, you fill out a form in front of somebody, and you submit all these things. What this bill is proposing is to add another kind of registration, where you can go on the computer and do it on the computer. Right now the computer online registration is already been exercised to some degree at GEC. If you're resident and you're not on Guam, you're off island, they allow you to register online, but the local people that are living here right can not go online. So the idea is if we have a provision to do an online registration there are things you have to do, because obviously you can not give a copy, so how do you streamline it?

Mr. Ben Garrido

I agree with many of these mayors that are questioning your bill. So there might be problem here if you're going to have to register online. There's no exact proof that is he the same person that is registering online. We're colonized people and we're coming out with new thing about this thing. Just imagine, even if you want to become a Chamorro you have to be a US citizen. Is it not true? Am I right speaker? To be Chamorro you have to be US citizen, but if this bill is passed by you guys, all you need to show proof is at least you have a Guam's driver license, an ID card and the entire thing. To vote, make sure that, but my brother was right. The reason that many of those people that don't want to vote or register is that, many Chamorros that I come across that they don't vote because they are so lazy, or they don't want to vote or don't want to go register. But many of the other people that don't want to, because many, a lot of illegal aliens on this island. Are we saying now that we're going to allow permanent resident alien to vote in this part? They carry driver's license and Guam ID.

Senator Torres and Mr. Ben Garrido dialogued back and forth in Chamorro regarding the Bill.

Chairman Respicio called the last individual to testify.

Mr. Daniel Perez

What my main concern is at this point first is that this is probably the fourth time that I come here to testify and is very disappointing that we have fifteen senators and very few are here today and in the past three that I have testified, there was never a perfect attendance. It's not mandatory for senators to go through this public hearing, we understand that and it's the same talking on the other side of this table, it's not mandatory for the tax payers to come and testify. But I think that every bill that is introduced and will go through the process of deliberation is just as important as any bill that has gone through the system. In all due respect, my testimony and my opinion and my comments, is well intended and in no way intended to be in any derogatory. Are we just speculating or is it a true fact that eligible voters are not registering to vote or is it because they do not want to get involved with the unsatisfactory record of performance of our governments public services. The true facts of that opinion that I had just mentioned is to take a realistic survey of why so many people don't want to get involved. It would give a comprehensive view of results from registered voters. Our major problem is voter turn out; a whole lot of voters do not exercise their right to vote. I think that's where we need to spend out energy is to encourage voters. We have a track record of elected officials winning by a very narrow margin, by one or two votes or by two digit number of votes. If these bills were to pass, it may be an injustice to mayors knowing that voters physically live in another municipality yet exercising their votes in other than where they physically live. If these bills were justified to save tax payer, resources, and with accuracy and integrity of voter registration, still the final responsibility with decisions and authority are still within 33rd Guam Legislature, Thank you.

Senator Torres

Thank you very much for expressing your concerns and its true. Many of the concerns about voter turn out point not only to the facility of voting whether it's convenient or not convenient, but voter incentive and whether they have the incentive. A lot of times you can provide rules, change the rules to encourage the voters, that's what I'm trying to do. Give another layer of opportunity and convenience and to not discourage people, but you're absolutely right. If we don't have quality candidates, if the issues aren't so pressing for people to want to get involved, they're not going to get involved and we do need to put more money into education. Getting people to understand their civic duties, you're absolutely right. I also want to address the issue of residency and the concerns that the mayors have that the people aren't truthful about where their truly residing and if they're residing in the place that they're voting. They law says that you should vote in the precinct that you're residing and there is a declaration of residency. My bill has nothing to do with residency, that issue is in another Chapter of Title 3, it's in Chapter 9 and perhaps what I need to do it work with the mayors to address their concerns to see how we can and perhaps with the GEC to see how we can better educate people and have them understand that they must vote in the districts that they reside and to change their place of residency when they move. That is a problem and we see with the small margins of victory how it can be a problem in future elections, but this bill has nothing to do with that, this bill neither makes the problem worse or helps the problems, because that's addressing another section. But I will certainly look at that and encourage more dialogue with the mayors and perhaps with the GEC about what we can do to get people to understand and to be forthright about voting in their district and changing their registrations when they move.

Mr. Perez

We are all aware that the technology is convenient in today's fast paced technological process, but there are a lot of disadvantages about the high tech in our society and there's a lot of risk and in secured process with technology. Technology is moving faster than the law of the land and we have so many laws extremely and so many in the GCA and there's a lot of bad laws and every law/bill that's introduced that becomes law is not a perfect law, I am sure you understand that.

Senator Frank B. Aguon, Jr.

First and foremost, one of these particular measure deals directly with allowing our younger generation to be able to register with the GEC indirectly through the division of motor vehicles for getting their drivers license. So I certainly hope that we can get a response from the Department of Revenue and Taxation in regards to how this process can proceed and I hear the underlying concern here and that is to safe guard of the registration process. How is it going to be enforced? How are we going to be complied with? I take the issues here is certification, that in fact this individuals that are registering whether it be online or through the drivers license process. How can we prove that in fact that they are US citizens, because that is the underlying primary prerequisite before any individual can exercise their right to vote? So I certainly, Mr. Chair, I look forward to the comments that are going to be presented by the GEC in terms of how, conceivably this can be perhaps passed into law with the safeguards and with the enforcement capability that we can ensure our voters out there that any individual that registers has the right to vote and bringing them to the posts is a different issue. So we just want to, I think the idea here is to get our people to register at a younger age and I commend the sponsor for these particular legislative measures cause its reaching out to our community. Finding and using technology to be able to get our people to register so that eventually we can get them to the poles during election time. That's the first phase of the process. Now getting them to the poles maybe a separate issue based on the candidates, based on the issues at hand, but as long as they are in the system they are registered. Then we are definitely not in the position to force anyone to vote but to encourage them to go out and exercise their right to vote. So anyone that's eligible to vote I think the opportunity would be extended by the virtue of the adoption of these legislative measures, but it comes back to the concerns that I heard this morning, which is safe guarding an individuals right to vote and ensuring that individuals who have that right are given that right. Individuals who do not have that right by virtue of not being a US citizen or by not being eligible, do not have an opportunity to register. A mark up meeting in regards to these particular measures, so that should the sponsor decide to push it within the next several months, it will allow our people to also be a part of that conversation, Thank you.

Senator Nerissa B. Underwood

I just wanted to thank you for you giving us feedback. I like you and I'm concerned about the level of participation in our democracy here and so the information that you provided is very valuable, we take that to heart. I just wanted to ask for any of you. You've been here for a very long time, you've seen the patterns of voting and I know that I had grown up here but it seems there is a significant decreases in participating in our voting.

Mr. Quenga

It's interesting you bring that up Senator Underwood. So as a graduate student of the Masters of Public Administration, one of the classes that we have discussed, the voter turn out over the passed two decades and I'm going to speak on the side of the youth because identify with them and I'd like to think that I'm part of that demographic. I want to say that I recognize the issues but we live in a community that's immersed in technology and as you mentioned Mr. Perez that technology has grown exponentially over the years and I think that we need to be present in that area. We appreciate and take part in technological advances like cell phones or computers or the internet in general and I think that having the youth, or incentivizing the ability to register to vote through online registration would dramatically, and I'd like to hope, increase voter registration at least with that demographic. But I do agree with Senator Aguon, there's a concern to safe guard the integrity of voter registration. I think that the measure establishes an opportunity and gives the power for both the voters to raise concern and also for the government such as the GEC to address those concerns.

Senator Underwood

So when you were looking at your study, you said that you've done a study. Did you take a look at the different ages? Was it by age group, or ethnic group? What was the study about? Did you see any patterns or shifts?

Mr. Quenga

I don't want to say it's a formal study, but just a discussion. We looked at the data and we found that voter participation has declined over the years. Let's say the youth in 1980-86, there were strong voter turn out, there were strong civic engagement amongst that age group. But if you look at the most recent election, it was disappointing, at least for me because as a youth I want to participate, I want to encourage my peers to participate, but you come to question why they're not participating and so I'm glad that Sen. Torres brings up this issue. Maybe we need to be present in their terms and they're present online so we need to be present online.

Mr. Joe Garrido

I've been voting for quite some time, maybe over 50 years. I see the creating an electronic form of registration, but still in today's world, not everybody has that electronic means, I'm looking into more like a proactive approach by the political parties involved in these elections. They need to go out and register in people. I've attended the UOG and I've known people or students that are actually attending a political science class and they never voted. Although they're qualified to vote if they just go and register, so what do you do? Maybe this is one of the approach to increase the voting population. It's getting people to go and drink, you know, the old saying goes, and you can register a 100,000 people on Guam but can't bring these people to the voting booth if they don't want to go there. What is the incentive? I don't know, but they just have to respect that right that they have. If you don't exercise that right, then you're just like a person who has no rights. So I'm just saying that maybe there's a way to increase this, but I'm still thinking that a part of the people or the group that could make these possible is the democratic and the republican party and I think that they should do a better job. When I registered to vote, I didn't think that it was really a big deal to go around take papers and all that. I just registered and that's it, why is it difficult for other people? I don't know but I was going to say something else but I lost that train of thought and I'm just saying maybe the UOG, the students that are attending there. Do you know? During the election season, say more about voting. The high school says more about civil rights, the voting rights and all that. I've voted in Guam enough, but the only time I didn't vote is when I'm off island in military duties and all that. I never actually thought about voting absentee, that's another issue that I have to bring with the election commission because in order for you to know how many absentee voters, you have to go onto the internet. I just wanted that also to be publicized in the newspaper, so that I have a chance to read it instead of findings somebodies computer on the internet.

Mr. Ben Garrido

When they have this republican party and democratic party to register and say that you are a democrat or a republican. Maybe we should do away with that. Some people don't want to register because they don't want to be known as a democrat or republican.

Vice Speaker Benjamin J.F. Cruz

Just a quick question and comment, not too much to the panel, but Mr. Chair, when you ask the GEC to provide testimony, I think it's imperative that we either confirm or dispel urban myth of the low voter turnout. If it was true that, a couple weeks ago, that they purged 7,000 voters from the voter registration list and if in the last election we had 71% of those registered to vote. If we took those 7,000 names out before we get the percentage of those eligible to vote, we'd be a lot higher. I'm not sure if it's an urban myth or but we got to do something because we cannot continue to believe that there is no participation when you're purging 7,000 names. That would drive up the percentage to well over 80% and closer to 90%.

Chairman Respicio

The Vice Speaker makes a good point.

Senator James V. Espaldon

Thank you Mr. Chair, I apologize, it's just something came to mind and I wanted to ask Mr. Quenga. You made a comment about being in the present and especially when it comes to the young voters and what not. I know that you and your brother and many of your group have been very active in following the politics of this island and such issues. Being at a UOG, was there an initiative by the students to register the students?

Mr. Quenga

That's a great question, I know that for a fact that we've had registrars on campus to offer the ability for students to register but I still think there's a way that we can augment the current activity by providing online registration.

Senator Espaldon

No and I appreciate that, I was just wondering do you know the results of how successful it was, in terms of numbers?

Mr. Quenga

At this time, no. It really depends because sometimes the student government association of the UOG, hosts these registration sessions and other times it comes from the party and having their volunteers go out to the campuses like they do to the villages. So unfortunately I do not have that data.

Senator Espaldon

I was just wondering cause I would imagine that if you would have a registrar who goes to the center of an area, where there is nothing but young people and they were not successful in enticing them and again this is just as easy as going online because as you're walking towards the cafeteria there's that registrar right there.

Senator Espaldon

And the initial attraction to register to vote is there, but when they see that they need a passport and birth certificate and come back and finalize the process, that can discourage their participation and registration. There is a lot of effort to the registrar to make it convenient for that person and seeking them out and say hey where ever you need to be I'll meet you, where ever so we can finalize processing. Mr. Chair, along those lines and again its just a thought that came out of this brief conversation is that one of the areas, the problematic areas that Mr. Quenga pointed out is the whole idea of having to provide proof of citizenship. If we go down this road, with these bills, I would imagine there would have to be some kind of an accommodation for even the on sight registration that they would no longer will have to provide proof of citizenship, so again I just want to make note of that. That that might have to be a consideration if and when this bill hits the floor, cause if it is, it has to be consistent. Thank you.

Chairman Respicio thanked the panel for testifying and the senators present at the hearing and recessed the Public Hearing.

Chairman Respicio reconvened the on Wednesday, March 4, 2015.

Chairman Respicio

The Committee reassessed on these three bills wanting to give the GEC an opportunity and even the Mayors Council and I do have written testimony from Angel Sablan who is the Executive Director on the Mayors Council of Guam (MCOG). Since it's a recess on these three bills, let me just quickly recognize Senator Torres to give an over view of these three bills and maybe an update as to what happened from the last time we had this hearing until today.

Senator Torres

The first Bill 23-33 proposes that Guam adopts a system for online voter registration. We recognize that online voter registration is a growing national trend and studies show it saves tax payer dollars, increases the accuracy of voter roles, and provides a convenient option for citizens who wish to register to vote and in order to make the online voter registration viable, we have to repeal certain requirements that I believe are antiquated. With regard to multiple forms of identification from persons registering to vote, specifically requiring a passport or an original birth certificate and statistics have shown and studies through out the nation that many of these registration requirements are considered to be humorous and were originally designed to exclude citizens of color and low income citizens from casting a ballot and that in our diverse society we have to address this issue. My second legislation proposes that Guam permit young voters to pre-register at age 16 and automatically be added to voter roles when they turn age 18. What we're doing here is targeting a demographic of 18-20 year olds that have come out in low numbers of any age group in our voting demographic. The third bill that I introduced aims to increase voter registration rates by requiring the department of revenue and taxation to affirmatively offer voter registration opportunities whenever residents obtain or renew their driver's licenses or Guam ID cards. What I'm doing with these legislations essentially is expanding the number of ways to register so that we can encourage more voter participation among our population, Thank you.

Chairman Respicio invited the first panel to testify.

Mr. Lawrence Alcairo

Thank you Senator Mary Torres for introducing the Bills 23-33, 24-33 and Bill 25-33. I very much appreciate the effort made to ensure that our democracy is held in high regard. Disillusionment with the government often wakens at a young age, they often feel that the youth decisions are made without their input but definitely feel empowered when their words is even considered as was the case with the Chamorro month festivities in the schools this past week and I want to thank Senator Morrison for taking notice in the issue. Bill 24-33 which allows for pre-registration for those who meet the current requirements and are at least 16 years old is a great way to reach out to those you may start feel some type of disdain for the government process. I know that the Youth Congress in of itself are full of individuals who I'm sure will take full advantage of this opportunity. I also think that he intent behind Bill 25-33 which would allow the Department of Revenue and Taxation (DRT) to ask individuals if they wish to register while they renew their drivers license is great. It's also a great way to capture that youth audience that are often excited to pick up their drivers license and if both Bill 24-33 is enacted would allow them to preregister. It's also beneficial for those that may wish to go off-island to pursue higher education and will not reach 18 years of age but will still like to participate in our islands democratic process through absentee ballots. And lastly with Bill 23-33 which allows for the online voter registry, I'm sure it would allow for swifter registration and greater involvement in the democratic process. My only concern with Bill 23-33 is not in of itself but with our online infrastructure in general. We live in a very technologically savvy age and its been affirmed that in past Legislatures as well with PL 32-037 which created the Guam Public Notice website which, to the best of my knowledge is not very accessible to the people of Guam and we do intend to create another website for use by the public for their benefit. According to PL 32-037, the website should have been active in December of 2013, 180 days after enactment. The website concept is simple, I think a lot simpler than the voter registration online would be and it's important because although such notices are made in print. A lot of youth especially are going through technology to digest news and get more information about the government. I understand that the

maintenance of the two websites by law would fall under two different entities: DOA and GEC. I do believe that the Government of Guam as a whole should first make good on its obligation so that the people of Guam before such time that we continue to add to our online presence. Again I have to thank Senator Morrison for the push of the Office of Technology and I hope that we are able to reach our fullest potential as we push for better online to serve the people of Guam, Thank you.

Ms. Maria D. Pangelinan

Testified in Chamorro. *(Please see attached written testimony).*

Chairman Respicio

It's hard to hold a sixteen year old accountable when they're only sixteen and not eighteen yet.

Ms. Pangelinan

Actually it's pretty clear the perjury would only be enforceable at the time the person signs.

Chairman Respicio

Correct and so I was asking if you can go back and see if maybe if the sponsor will agree, then to have it be counter signed by the parent or legal guardian, and I think that will satisfy that.

Senator Torres

I just want to point out that there are at least sixteen states that already have this type of thing and its growing and these are states that are very large states. So there are mechanisms in place certainly and your concerns are valid. Those thing I've already researched and seen because it is an effective program and its wide practiced and so we'll just incorporate those best practices into this.

Senator Thomas A. Morrison

Thank you Mr. Chair and I thank thee for your testimony. Mr. Chairman, I'm not sure, I appreciate the authors intent with trying to advance the level of voter participation through online participation and I'm not sure if there were notices that were sent to seek representation from the office of technology and their representation and providing some input as we know that we established an office to address any IT initiatives that will be going forward through out the government, especially within the lying agencies. If I can make the request Mr. Chair that maybe we can get some input from the Office of Technology representatives and see who knows maybe they may have an angle as far as the IT side of it and as far as cyber activity of anything that might take place with such a process, Thank you.

Senator Aguon

Just a quick question in regards to the implementation of this legislation. I know that right now during the course of your open registration process anyone that will realize at the age of eighteen upon the date of the election is given an opportunity to register, so the way I look at this is it would open that registration time line to anyone whose sixteen plus, who will turn the age of eighteen by the next election, whether it'd be the Primary Election, whether it'd be the General Election. So would this particular provision, I was listening intently to your comments, and you said yes it can be implemented, but are you going to experience any challenges or in extending the time and in allowing those who are, lets say allowing individuals to register two years out from the day of the election.

Ms. Pangelinan and Senator Aguon dialoged in Chamorro.

Senator Aguon

You know until the registration deadline, just immediately preceding the election. So anytime as long as that individual, isn't that the case or do you have designated registration open time lines?

Ms. Pangelinan

No, we begin to register immediately after every election and we begin to transfer except after the primary. So if we take the calculation it would be a sixteen year old can definitely register right after an election before the Primary, possibly and we're allowed to do that by law. It's part of our mandate and what we experienced is maybe the seventeen year old or the high school senior, that's what we're looking at. That's what we've seen in the past, not very many of them, but we've seen them.

Senator Aguon

I commend the sponsor Senator Torres for initiating a proposal like this, because it's always trying to involve at the earliest stages of their eligibility, the younger generation in the process. Because one thing that last summer I was very fortunate to have two very aggressive young gentlemen, who came in as summer interns and when they started to understand the process here in the legislature, they understood how laws were passed and made and how proposals were prepared. They appreciated really the legislative aspect and the legislative branch of the government and they started to understand the political arena that much more. It really encouraged them to go the Election Commission, register and to vote in that upcoming election but what was even more interesting is that they've reached out to their friends. They encouraged, I believe six or seven of their colleagues and their peers to go directly to the GEC to register. That's the sense of ownership that we want to instill in some of our younger generation so that they can start off at a young age at the earliest time possible, participate in the political process, have that sense of appreciation that not only can they actively participate and vote, but yes their

vote counts. Their vote will count when in fact they go to the post and exercise that right. So I certainly hope that you will continue your dialogue like you said a little earlier with Senator Torres and see if we can realize the passage of these particular proposals because I think it sends a very good message to our impending electoral voting population. A process will be expanded to allow you to register early, the process will be expanded to allow you to participate in the process and them hopefully come election time line, you'll be able to exercise your right to vote. So I appreciate your participation and your comments this morning.

Ms. Pangelinan

Mr. Chairman, at this point in time I want to make known of a practice that has been going on for years by, I've never met the man, but his name is Professor Armstrong from Guam Community College, but every semester at the beginning of the semester. Students from his class come in to GEC to register and it doesn't stop there. For every additional friend or person that comes in to register, the student gets extra points in that class for bringing the student in. I never met the man, but I saw that he retired from the newspaper, so and you know, *kudos* to him and hopefully other people at the GCC and UOG follows soon.

Senator Torres

I just wanted to comment also on the voter registration one of the facilities of it, if you already have a drivers license or a Guam ID, that becomes your justification. So this issue of justifying who you are and all of that, the record is already established for you, so it's a very easy process and in terms of verifying that these people are really who they are and it's easy for them to just go online, there are no errors because they are entering it themselves and all that. But what I also want to point out is that there does exist a mechanism already for online voter registration for residents that are residing off Guam. So switching over from on system to another shouldn't be too hard and I know that a lot of the material I provided, you previously was statistics for a very, very large jurisdiction that included also online voting. We're looking at something very simple here, so the task is not going to be as momentous as some of the other jurisdictions that we're looking at.

I also want to point out that, you know, while the universities and many of the young voter groups including the Vote Smart have done an incredible job of reaching out. Sometimes its those requirements that are barriers, because I've also had students say to me, "Oh yes, the registrar is up at my school, but I don't have a passport, it's in a safe deposit box, my mom doesn't trust me to hold it, I don't have an original birth certificate." So although the intent is there, the hurdles are large for them and that's what I'm addressing. How do you make it so that at the ease of their thing, with their own desire to become a civically responsible person, they can just go online and do it themselves like that and it saves you a ton of money *Senora*.

So there's a lot of savings in that way. I also want to address the Speaker of the Youth Congress. Larry, thank you very much for taking the opportunity. The question is always, have we done something right with prior legislation before us another burden to the government. My point on this is what we're looking at is perhaps not such an honorable system, that we have to build for security or just to devise the registration process. As I mentioned it before we do have it in some fashion. Where you just download, complete, and upload, it could be as easy as that. What we have to do though is we have to move on, you know if we at least get people responsible, all the people, young people, thinking that they are a part of his process and this is a great way to engage them, that they are a part of this process, then they can push to get the government to be a little more responsible and get the government to own up to a lot of their representations, but you know sometime the pressure comes from the outside in, right? So we can be policy makers but a lot of times what gets us beyond that is the will of the people and what I'm trying to do is reach that demographic that right now doesn't believe perhaps in government officials. Don't feel that they can make a difference and maybe who had never aspired to be leaders because they are put off by what they see. So the only way to grow something is to include and that's what this measure is about. So the actual cost should not be measured by the national standards because we are a smaller demographic and we can certainly also avail ourselves with certain grants, such as the help America Vote Act grants and other resources that are designed to bring electoral systems up to speed and modernized and *senora* I will definitely work with you on what I found, looking at best practices in other jurisdictions, Thank you.

Chairman Respicio

Thank you Sen. Torres, I want to also echo my appreciation to both of you and particularly to the GEC in this case. Your presentation with respect to these three bills has a significant departure from what the GEC has done in the past, where they would just save whatever the policy is who implemented and I think, since you became the director of the GEC and together with your board, you've really been helpful in this whole idea of reforming how we do elections on Guam and you're there at the perfect time. When you are required by law to do all these election reform initiatives and I believe we've come a very long way since the past elections. Particularly the 2010 election which causes to really focus and analyze whether or not this process provides for legitimacy in terms of people who are eligible to vote, but more importantly to make sure that every vote that's cast, is treated as currency and that you balance out, as any bank would, those ballots and things that I want to say under your leadership the GEC as come a very long way and makes it right for these three initiatives that Senator Torres would like to have us consider, to make it so that people don't have a hard time registering. As you know that there's a national movement to remove barriers on getting people to the polls and one of that barrier is providing for two identifications and Senator Torres pointed all those things out, I also want to say I appreciate you having your legal council, Attorney Cook, really look at these three bill and offer some suggestions on how we can make things clearer. Senator Torres did a great job in the presentation of these bills and I think that it was prudent that we waited for the GEC feedback.

We also have the feedback from the MCOG. Mr. Sablan is the Executive Director, he writes that they are also concerned because in some of the municipal elections those elections are decided by few votes. In the case of the legislature's race, there was one election where number 15 and 16 was decided by three votes. So in this case they are asking that while they agree with the provision with the online voter registration, they're offering an amendment to include the street name and number, municipality or lawn number, and municipality with the person resides on Guam. So I'll work with the sponsor and the committee to see if that's acceptable, which I think really should be considered.

On the matter of Bill 23-33, your attorney and you suggest that there be a declaration or penalty or perjury that the person is a US citizen who will be at least 18 years of age and I think we'll also work with sponsor and hopefully she's in agreement to including them. Bill 24, your legal council recommends that because a person is 16 how do you legally bind them? Senator Torres pointed out that that's done in sixteen other jurisdictions so there's a press there. I want to say your feedback on Bill 23-33 is something that I particularly appreciate of because there are timelines of when there's a voter

registration, you just can't do same day voting. So I think the sponsor will hopefully be amenable to making sure that if someone gets a drivers license at a time where registration is closed, certainly they shouldn't be able to register vote. We have to make sure that those things are consistent.

The other thing I wanted to publicly, two more things that I wanted to publicly bring out in this form is when Senator Torres first introduced this bill and given how the 15-16 race and the mayoral races are municipality, is you want to make sure that there's no concerted organized effort to go and identify, five hundred people can swing an election even in a gubernatorial race as in the case of when Senator Aguon was running in that election. I want us to consider imposing criminal penalties for anyone convicted of organizing a fraudulent voter registration drive, so it's not just the penalty of perjury of the individual that goes online to sign that say I'm a US citizen and I'm a resident on Guam for thirty days or more and so I'm eligible to vote. There could be the case where you might have a ring leader going and identifying pockets of people, bringing them to the public library or having internet access and just registering all these people. My concern is although they are going to sign under the penalty of perjury and if it's determined that they perjured themselves and the election is over, what's the remedy? What's the remedy when someone lost an election by three votes? Even if you identify a hundred people that may have lied on how they registered, how do you go in and determine who those hundred people voted for, so I think that we always want to increase voter confidence and move any clouds so I will work with you more to not only have that person who we prosecuted under penalty perjury but also someone who organized a group of people, one or more to do that kind of activity.

Senator Torres

And if I may just comment on that there is substantial literature on studies with regard to voter fraud done by the Department of Justice, among others and what we found are there are laws in place and there definitely at the stations that people sign under penalty of perjury that exists right now. But the incidence of voter fraud is extremely rare. In all the cases that have been investigated nation wide, they find an average of eight throughout the nation per year, which is almost nonexistent. But what I also want to point out is although people have this idea that you're anonymous when you go online and register, there is in fact a verification that the director has to put in place. So you are not automatically registered, you are only registered when the director ascertains that you are in fact a valid person and your registration is true and correct and that is the only way you get on the roles. So this notion that the people can have a free for all, I think is maybe exaggerated in the publics opinion but there are already in place, many laws, federal laws as well about voter fraud and also the director has a great responsibility of verifying voters before they get on the roles.

Chairman Respicio

Yes and good that we openly talk about these things because a lot of people are following this conversation, but aren't there penalties imposed for the registrar. My point is if someone registers people fraudulently, there can be penalties taken against them. I want us to consider criminal penalties for anyone caught organizing these kinds of, it's just something to consider. Because right now someone can organize a hundred people to go and register and I know you still have to verify that, but just as an added safety net if someone know that as an organizer of this effort, they can be in trouble I think that will have a really chilling affect in any of those kinds of movement.

Ms. Pangelinan

You know, people are asking us "What's keeping the Commission busy?" Well part of the existing law says that we, after the purging, which we're doing as we speak, we have to clean it out, put it in the system and those people that have registered after the election to the day of June. We have to send this list out, the voter registry list, we have to send it out to the mayors every July of every odd year. So every time I meet a mayor out there, I say, "You're going to get your list and come back with me if you find any errors." In fact, some of the mayors have already requested that even with the list we had for the 2014 general elections, they've asked for it to start looking at it and the purge list. You know, why are these people still here? Why are they being purged? It's a bunch of money we spent in going through the purge process, but it is a good system, maybe there is a better system but right now that's what we have.

Chairman Respicio

But if someone is able to register online and they just under the penalty of perjury say I'm an eligible voter, it's possible that you may never see that person, right? Face to face?

Ms. Pangelinan

That's correct. Even currently.

Chairman Respicio

I know, even currently, but I'm saying is then on the election day they would present their ID and vote, but you would never be able to ascertain if they were an eligible voter, with the exception of the penalty of perjury.

Senator Torres

What I think that we have to do is, there's many scenarios that you can pose, but let's be reasonable about this. What non-US citizen would fraudulently under the threat of a third degree felony and deportation put themselves out to fraudulently register to vote, to cast one vote. That's really the point that we have to go when we talk about all of this. The risk that someone would take to cast one vote is a risk too great for many people, especially a person who is a non-US citizen that runs the risk of being prosecuted under a third degree felony and being deported. So that's really what we're talking about, if you're talking about people rigging the system, it's doubtful that someone can register their pets or whatever it just doesn't happen.

Chairman Respicio

No, would be registering human beings, they wouldn't ever be able to register a fictitious person because the person would still have to present themselves in the daily election, their identification, and vote. But I just think that there could be an opportunity for I mean people, the canvas, the villages during the

election time find pockets of people that may not be registered to vote, round them up, put them on the computer, and register them and their all saying under penalty of perjury is fine, but what happens after the election when that effort could have resulted in someone losing their seat. So I think we can bring more comfort to this if we just say, because in order to do that, you have to have someone organizing them to do that. So I hope you would think about going after the person or the people that are going to be organized to be doing this. I mean, I'm very idealistic, I always want to give people the benefit of the doubt, but we've seen in past elections, I mean five hundred vote difference in a gubernatorial race, it's do or die in most cases and so we think, we're not just talking about just one vote, if you add all those one votes up. I mean but this is, you've covered a lot of safeguards and if we can think of more safeguards as we prepare this bill to go into session in March and I know if the community is following they may have some ideas as well.

Senator Torres

And what we'll do, we'll cross reference those laws with regard to voter fraud because those are contemplated in other areas, not here. So that's one thing, but then, what we also have to do is there are institutions that have actually studied this and those sorts of scenarios do not exist.

Chairman Respicio

See all of it is public education too.

Senator Torres

All of it is largely urban myth. We can just come to understand that because what it comes down to really is what is one individual willing to risk to cast one vote. Because one person in this small island, imagine if you were to go to fourteen different polling precincts. You're not going to get away with it, right?

Chairman Respicio

Well, I want you to know too, that I spent a lot of my time to introduce the bill, dispelling rumors or myths about what your bill would do. Some people think that this would provide for online voting, some people think that you're going to have someone at a computer and just keep voting and voting, but I tell them that's not the case. It's an online registration process that's bedded and in the end that person has to show up in person to vote. Now along with this discussion, the sponsor Senator Torres also brought up the idea of streamlining the decolonization registry. Would it be possible to amend this bill to, I mean if it's good for voter registration, I think that the same should apply with people just signing under penalty of perjury by way of affidavit that they are eligible to be registered in the Chamorro registry with the commission support amending this bill to include that.

Ms. Pangelinan

Like I told Shawn from PDN, "Absolutely, it's a fantastic idea."

Chairman Respicio

Yes, I already have it in my hand. I was going to bring it up to I'm in Committee. I was so inspired by her, no we talked about it and I just want to bring it out so that the public is noticed.

Senator Torres

Thank you Mr. Chair.

Ms. Pangelinan

And just all of us know that in registration for decolonization, there's only one photo identification required and it's not that complicated, except the form is a little longer, but that's all and it's a great idea to bring up the numbers.

Senator Torres

So we want to help you out and get both of your roles complete in the event that we have it publicized. But I also wanted to point out that you brought up the cost in one of your comments and I was mentioning earlier that the average cost may not apply to Guam because it's a different scenario and I'll just finish my statement. What they found in all the jurisdictions is almost half the states in the US have adopted online voter registration. Whatever cost that they had upfront, they recovered almost immediately in savings. So where one state would spend an average of eighty-three cents to register one voter, with online registration, eighty-three cents dropped to three cents. So the return on investment is very quick.

Ms. Pangelinan

May I talk to Sen. Torres?

Senator Torres

You're asking for more money and the answer is maybe.

Ms. Pangelinan

Well actually, what's going on is, based on what has gone on in looking at the cost, because we're such a small population base. The fixed cost to get the infrastructure in for secure internet access is so much higher for us, because we're not there yet and the cost per vote is much higher because of the small population base. So with that may I let you all know that the commission has been brain storming as recent as last Friday, the staff into what our dream central voter registration system will be. We have a very antiquated one, not to anyone one person or committees fault, but it's because over the years attempts have been made to get on in place in fact, the commission had purchased one before, but we're in the process of working so that we can get one before 2016, hopefully.

Senator Espaldon

Ms. Pangelinan, thank you for all the information and I guess one of the central issues I need to address with you is concerns the issue that the right to vote really belongs to a US citizen and yes I understand that through this process that's being proposed, all it would take would be an affidavit. Let me just ask you this, do you foresee having to perhaps communicate with, I guess Homeland Security who has a basically taken over the role of immigration on this island to verify whether that applicant is indeed a US citizen?

Ms. Pangelinan

We don't even do residency verification and so when it comes to the mayoral race of whether they're from that village, as far as the US citizenship goes, it would probably fall in the same process.

Senator Espaldon

But that would be one of the real deviations from the existing practice right now and as we migrate into this new system. Where as in the existing practice right now the election commission does require some proof of US citizenship, whether it's naturalization papers, passport, or what not. And I understand the arguments and all the studies that have been done, that the frauds not going to be there or its going to be a very low incidence, but that being said, my concern is because we're a multicultural society with people coming in from so many different places of the world. It would seem to me that we need to protect the right just for the citizenship, so can you speak to that issue at all or is that not yet ripe for discussion.

Ms. Pangelinan

Back, right after the Help American Vote Act came into play. There was a requirement for DMV's to be able to communicate with social security administration to validate identification. Should somebody come before the DMV to register to vote and they don't have no ID's. You set up with social security administration to validate that persons identity with file basis. One every time somebody comes in, social security should be able to verify it, and all that was covered under HAVO and that was back in about 2004. You know we can progress to this, that's something that I would think would be workable, where we could get, and I don't know about the access to it, but what's exciting for us right now is for the times since I've been executive director of Guam election commission. The federal election assistance commission is fully staffed. So the board, there's lots and lots of progress right now, immediate progress right now, since those people have been put in place. So again, because of that and other things, we've learned of a program call CERA where people from the commission can become certified in elections registration administration. Through that process I hope to be able to network and find out whatever everybody else is doing and let them know what our issues here, in that you're right, people come in and go very often and very easily. So I don't have all the information but we're looking into it.

Senator Espaldon

And I appreciate your answer and again, I just bring that to your attention because again I just want to make sure regardless of all those studies and because of the environment that we sit in, in terms of being the hub of migrations from a lot of different destinations that the right to vote belongs to the citizens, US citizens, not just anybody and I get it, something I believe you are already mindful of but I just want to reiterate it to strengthen that concern.

Senator Torres

A lot of times when we look at citizen and we think about the US and their practices, just to put a thought in your mind, I talked a lot about fraud and urban myths and stuff, but to vote right now in the US all you need is to attest. So if they don't even require you to produce hard documents, that begs the question, why are we so rigid? When their own federal voting system doesn't require it. There's a lot of best practices and stuff that I think we should always balance and take all considerations, and all fears, and worries and balance it and as we go forward with the legislation we will certainly look very carefully into the concerns and sentiments of all the population, Thank you.

Chairman Respicio

Thank you again for your participation. Director, can you update the Committee on the Board of Education election. It would be a good opportunity too and the PDN reporter is listening intently. Could I tell you the feedback I got, is that the Mrs. Tainatongo has been certified and that the certificates have been signed with the exception of a couple members.

Ms. Pangelinan

At the same meeting where the three bills were discussed the commission also certified the qualification of Ms. Rosie Tainatongo as the next highest vote getter garnering at least 50% of the votes that the late Albert San Agustin garnered and so the certificate was signed and forwarded to the Guam education board, as well as to Ms. Rosie Tainatongo herself and the certificate is saying that you're the next highest vote getter.

Chairman Respicio

So what's the next step, because I believe the Chairman of the Board was trying to get an appointment by the Governor, but that appointment is not necessary presume to law, it's automatic.

Ms. Pangelinan

The discussions with our legal council was that when Senator Rory Respicio was elected, a certificate was provided to you.

Chairman Respicio

And I presented to the Chief Justice.

Ms. Pangelinan

That's correct, so in this regard it would be presented to the Chairman of the Board and whoever swears them in. On that same certification, certificate that we gave them and I had spoken to the Chairman of the Guam Education Board yesterday and given him this same information.

Chairman Respicio

And as soon as you're ready with your report surrounding the 2014 Election. I will give you an opportunity to present that in a round table type setting, so the public can continue to feel confident about the election process.

Ms. Pangelinan

The first draft will be presented to our commission this March meeting and we will probably have two drafts before we give you a final.

Chairman Respicio

If there's no further question or comments, thank you very much for your guidance and I hope that the sponsor will agree that waiting a couple weeks for your feedback is certainly going save us a lot of time on the session floor.

Senator Torres

And your feedback is very valuable and thank you very much for taking the time to research it and to be so considerate, so I really appreciate your effort.

Ms. Pangelinan

I must say that you all say I'm the face to the name, but I wanted to make a comment when you mentioned about it's refreshing to see that we're not only minutes there.

Chairman Respicio

A departure from past practices.

Ms. Pangelinan

Yes, absolutely, so I want to give credit where credit it due. That was totally discussed in our Commission meeting in February where she was in attendance and I only have one staffer here because everyone else is busy, but ten of them are phenomenal. You know one night our packet for the February 19th meeting, was four folders like this and they went through it thoroughly and it was great, thank you, including our three bills.

Chairman Respicio

And again for the record if the Committee will agree I will entertain an amendment by the sponsor Senator Torres to provide the same process for the decolonization registry.

Chairman Respicio thanked the panel for testifying and the senators present at the hearing.

No further testimony being offered, Chairman Respicio then declared that Bill No. 25-33 (COR) was duly heard.

III. WRITTEN TESTIMONY

A. Wednesday, February 11, 2015

1. Ms. Maria Pangelinan, Executive Director, Guam Election Commission, Provided Written Testimony on the Bill. *(Please see attached for written testimony.)*

B. Wednesday, March 4, 2015

2. Mr. Angel Sablan, Executive Director, Mayors Council of Guam, Provided Written Testimony in Support of the Bill. *(Please see attached for written testimony.)*
3. Ms. Maria Pangelinan, Executive Director, Guam Election Commission, Provided Written Testimony on the Bill. *(Please see attached for written testimony.)*

IV. FINDINGS AND RECOMMENDATIONS

The Committee on Rules, Federal, Foreign and Micronesian Affairs; Human and Natural Resources, Election Reform, and Capitol District hereby reports out Bill No. 25-33 (COR)- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION," with the recommendation to

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2015 (First) Regular Session

Bill No. 25-33 (COR)

Introduced by:

M.C. Torres *MCT*

AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE
16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING
REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE
REGISTRATION

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A *new* subsection § 3101.3 is hereby *added* to Chapter 3, Title 16, Guam

3 Code Annotated, to read as follows:

4 “§ 3101.3. Voter Registration Incident to Applications for Driver’s Licenses and
5 Identification Cards and Renewals of Same.

6 (a) Every person applying at the Department of Revenue and Taxation for a Guam
7 driver’s license or a renewal of said license, or a Guam Identification Card or a renewal of said
8 identification card, and who meets all eligibility requirements to register to vote pursuant to
9 Chapter 3, Title 3, Guam Code Annotated, shall be afforded the opportunity to register to vote, or
10 if previously registered, to change their address for voting purposes.

11 (b) The application to register to vote must be offered simultaneously with the application
12 for the driver’s license, the Guam identification card, or renewal of either or both. Department
13 of Revenue and Taxation employees must provide to applicants for driver’s licenses or Guam
14 identification cards, or renewals of either or both, the same level of assistance and instruction
15 with respect to the application to register to vote as is provided with respect to applications for
16 driver’s licenses, Guam identification cards, or renewals of either or both; provided, that separate
17 signatures shall be required on the application for a driver’s license or Guam identification card

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1 (or renewal of either or both), and the application to register to vote. The applicant may decline
2 to register to vote by failing to sign the voter registration form. In order to protect the privacy of
3 those who do not wish to register to vote for any reason, the failure of an applicant for a driver's
4 license or a Guam identification card, or the renewal of either or both, to sign the voter
5 registration form may not be used for any purpose other than to determine the person's voter
6 registration status.

7 (c) (1) The voter registration application shall contain the applicant's name, residence
8 address, mailing address if different from residence address, date of birth, and applicant's
9 signature and date of affixation of signature, and may include any other information,
10 certifications, and declarations, including those made under the penalty of perjury, that may be
11 required by the Guam Election Commission in order to administer a single and unified system of
12 voter registration in accordance with applicable local and federal laws which shall enable duly
13 registered voters to vote in all elections in their respective municipality, division or districts
14 including, elections for federal officers. The voter registration application must also include the
15 statement that unlawful voter registration is a crime and any person who willfully causes,
16 procures or allows himself or herself or any person to be registered as a voter, knowing himself
17 or herself or other person not to be entitled to registration, is guilty of a felony of the third
18 degree.

19 (2) It shall be the responsibility of the Department of Revenue and Taxation to
20 print and to have available at all times a sufficient number of voter registration forms in
21 order to carry out the provisions of this Section.

22 (d) The completed voter registration application shall be transmitted by the Department
23 of Revenue and Taxation to the Guam Election Commission not later than five (5) business days

1 after the date of acceptance by the Department of Revenue and Taxation. Transmission may be
2 made by electronic means as prescribed by Guam Election Commission, and in an electronic
3 form compatible with the voter registration system maintained by the Guam Election
4 Commission. For each registration electronically transmitted, a hard copy will be provided to the
5 Guam Election Commission.

6 (e) Any person who has fully and correctly completed an application to register to vote at
7 the Department of Revenue and Taxation is presumed to be registered as of the date of the
8 acceptance of the registration by Department of Revenue and Taxation, subject to verification of
9 the registration by the Executive Director of the Guam Election Commission as provided in §
10 3102 of Chapter 3, Title 3, Guam Code Annotated.

11 (f) Refusal by an applicant to register to vote shall not be a basis for denial of a driver's
12 license or a Guam identification card or renewal thereof.

13 (g) The Guam Election Commission shall have the authority to adopt regulations to
14 implement and administer the provisions of this section, including all registrations taken at the
15 Department of Revenue and Taxation."

16 **Section 2. Effective Date.** This Act shall become immediately effective upon
17 enactment.

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS,
HUMAN & NATURAL RESOURCES, ELECTION REFORM AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

PUBLIC HEARING SIGN-IN SHEET
Wednesday, February 11, 2015 • 9:00 AM
I Liheslatura • Public Hearing Room • Hagåtña, Guam

Bill No. 25-33 (COR)- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." Sponsor- Senator Mary C. Torres

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
DANIEL PEREZ	SELF			✓	704-7215	

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

PUBLIC HEARING SIGN-IN SHEET
Wednesday, March 4, 2015 • 9:00 AM
I Liheslatura • Public Hearing Room • Hagåtña, Guam

Bill No. 25-33 (COR)- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." Sponsor- Senator Mary C. Torres

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
Lawrence McCain	Guam Youth Congress	support	✓	✓		
Angel Sablan	M Co S	✓	✓			
Tina Diaz	GCC - Mr. Tapaz					
Louis Naranjo	GCC - Mr. Tapaz					



GUAM ELECTION COMMISSION
Kumision Ileksion Guåhan



Your VOTE is your voice. ✓ BOTA ya un ma kuenta.

February 10, 2015

Honorable Rory J. Respicio
 Chairman, Committee on Rules; Federal, Foreign & Micronesian Affairs,
 Human & Natural Resources, Election Reform and Capitol District
 I Mina'Trentai Tres Na Liheslaturan Guåhan
 155 Hesler Place
 Hagåtña, Guam 96910

Hafa Adai Senator Respicio:

Si Yu'os ma'ase' for the invitation to testify on Bills Nos. 23-33, 24-33, and 25-33, relative to voter registration.

The Guam Election Commission will hold its regular monthly meeting on Thursday, February 19, 2015, which will include discussion of the bills. Written testimony may be provided after the meeting. Until then, please let us know if the Guam Legislature requires additional information.

Sincerely,


 MARIA PANGELINAN
 Executive Director

cc: Honorable Mary Camacho Torres
 Senator, I Mina'Trentai Tres Na Liheslaturan Guåhan

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Office of Senator Rory J. Respicio	
Name:	<i>Glenn</i>
Date/Time:	FEB 10 2015 <i>12:28 pm</i>



GUAM ELECTION COMMISSION
Kumision Ileksion Guåhan



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March 3, 2015

Honorable Rory J. Respicio
 Chairman, Committee on Rules; Federal, Foreign & Micronesian Affairs,
 Human & Natural Resources, Election Reform and Capitol District
 I Mina'Trentai Tres Na Liheslaturan Guåhan
 155 Hessler Place
 Hågatña, GU 96910

Office of Senator Rory J. Respicio	
Name:	<i>Rory</i>
Date/Time:	4:32PM 3/3/15

Hafa Adai Mr. Chairman:

Si Yu'os ma'ase' for the continued support and assistance! The Guam Election Commission (GEC), at a public meeting on Thursday, February 19, 2015, unanimously agreed that the legal memorandum on Bills No. 23-33, 24-33 and 25-33 be forwarded to the Guam Legislature. These proposed bills deal with a core function of the Commission, namely overseeing fair elections and encouraging polices which increase voter registration and voter turnout. The Commission notes with concern a decline in registration of young citizens between 18 and 25 years of age, and a gradual downward trend in voter turnout. The Commission supports the Bill's objective of reducing barriers to registration and of providing additional methods by which citizens can register to vote. The Commission unanimously supports the principles of the bills and wishes to address some matters pertaining to the proposed legislations.

Bill No. 23-33. The GEC recommends that the Affidavit of Registration contain a declaration under penalty of perjury that the person is a United States citizen who will be at least 18 years of age upon the date of the next election conducted by the GEC.

Bill No. 24-33. The bill does not specify how the GEC is to determine if the information obtained two years before an election is still valid. Additionally, the perjury provision will be problematic since it would only be enforceable as of the date the person registered to vote. If the person subsequently becomes ineligible to vote they would not have committed perjury by failing to disclose this information.

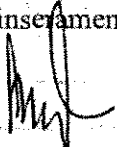
Bill No. 25-33. The GEC recommends additional language making it clear to individuals registering to vote while obtaining or renewing a driver's license, vehicles registration, or identification card, that they must still comply with 3 GCA §3104 and register before the close of

Page 2 of 2
Honorable Rory J. Respicio
3/3/2015

registration, and 3 GCA § 3107 which prohibits the voter from transferring their registration between primary and general election as well as all other requirements of Title 3.

Please let us know if you require additional information. Si Yu'os ma'ase'.

Sincerely,



MARIA I.D. PANGELINAN
Executive Director

Enclosure

cc: Honorable Mary Camacho Torres, Senator
I Mina'Trentai Tres Na Liheslaturan Guåhan

F RANDALL CUNLIFFE
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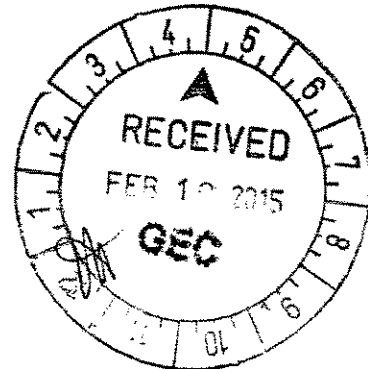
Cunliffe & Cook

Suite 200
210 Archbishop Flores Street
Hagåtña, Guam 96910

JEFFREY A. MOOTS

MEMORANDUM

February 10, 2015



TO: Maria Pangelinan, Executive Director
GUAM ELECTION COMMISSION

FR: Jeffrey A. Cook, Esq.
CUNLIFFE & COOK

RE: **BILL NO.'S B023-33, B024-33 AND B025-33**

Legal counsel has been asked to provide input regarding the above referenced bills currently before the 33rd Guam Legislature.

Bill No. 23-33 is intended to make voter registration easier and less expensive. It removes the requirement that the voter provide evidence of U.S. citizenship. It requires the person to swear under penalty of perjury that they are a citizen of the United States and a resident of Guam.

The first paragraph of §3102(a) requires the declaration under penalty of perjury. However, the second paragraph, which sets forth the information that is to be included in the Affidavit of Registration does not specifically include the declaration under penalty of perjury that the person is a U.S. citizen. It is suggested that the portion outlining the Affidavit of Registration contents include a declaration under penalty of perjury that the person is a United States citizen who will be at least 18 years of age upon the date of the next election conducted by the Guam Election Commission (GEC) and that the statements and information provided in the Affidavit of Registration are true and correct and made under the penalty of perjury.

Section 3 of the bill deletes §3102(b), which is the language that sets forth what information is currently required to prove citizenship.

Section 4 of Bill No. 23-33 creates a new §3102.1 entitled "Electronic Registration". This new section allows individuals to register electronically on the GEC website. It raises a question of how will the person attest to the truth of the information provided on the application? This is a question regarding being able to enforce this provision. What is the method of establishing that the person completing the online application is, in fact, the person who is being registered to vote? To prosecute for perjury the government must prove beyond a reasonable doubt that the person signing an oath is the same person charged. How will this information be verified? Presumably the commission will require additional funding to obtain the services of an internet security firm to assist in developing the software necessary to allow the actual enforcement of

this provision if perjury is suspected. Legal counsel leaves it to GEC staff to advise what additional funding would be necessary to obtain such internet security services.

Bill No. 24-33 allows 16 year olds to register to vote so they will already be registered when they reach 18 years of age. The bill numbers this new section as §3102(c). Counsel would note that if Bill No. 23-33 was enacted in its current form there would no longer be a §3102(b).

It is unclear how the GEC is to determine if the information filed up to two years before an election is still valid. Also the perjury provision will be problematic, since it would only be enforceable as to the date the registration was made. If the person subsequently becomes ineligible to vote then they would not have committed perjury. Also the statute says if the information is not current at the time the registration will become effective they have to update the information. However, there is no time frame specified as to when this must occur. There also is no sanction specified for failing to update the information other than the registration not being valid.

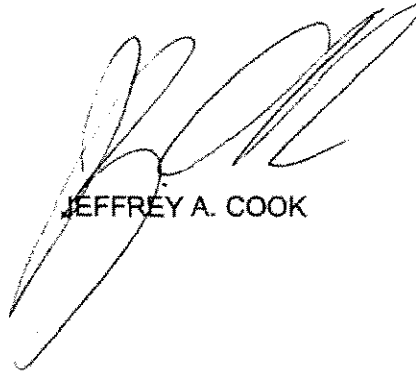
Bill No. 25-33 allows individuals to register to vote when they are renewing their driver's license and identification cards. The title of the bill is "ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION". The language in the bill only pertains to voters registering when they are obtaining or renewing driver's licenses and identification cards. There is no provision for registering to vote when registering motor vehicles. If this provision became law allowing people to register to vote while obtaining or renewing driver's licenses and identification cards, it would seem that they should also be offered the opportunity to register to vote when registering their vehicles.

Language should be included that makes it clear to the individual registering to vote while obtaining or renewing a driver's license or identification card that the effect of the registration as to the individual's ability to vote will be controlled by 3 G.C.A. including, but not limited to, 3 G.C.A. §3104 (close of registration) and 3 G.C.A. §3107 (transfer of registration between primary and general election).

Copies of the three bills are attached for easy reference. Please advise if you need further information regarding this matter.

Respectfully submitted this 10th day of February, 2015.

CUNLIFFE & COOK



JEFFREY A. COOK

TESTIMONY ON BILL 23-33 (COR)

AN ACT TO AMEND SUBSECTION 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES

Dear Mr. Chairman and Committee Members:

On behalf of the Mayors' Council of Guam, we submit testimony today on Bill 23-33 with recommendations for amendments. We applaud Senator Mary Torres for introducing legislation to enhance the practice of democracy and the involvement in it.

If all elections on Guam were done on an islandwide basis, then this bill and its proposal would be an ideal way to improve voter registration. However, Mayoral and Vice-Mayoral elections are done within village jurisdictions and thus our concern to ensure that online registration is not only a convenience, but a verifiable method as well. We have been witnesses to mayoral elections that have been decided by very few votes, even by one vote, and this is with the paper registration. While we agree with the provisions for online voter registration, we would like to offer an amendment to include:

"the street name and number, municipality or lot number, and municipality where that person resides on Guam"

This provision is important especially for an online registration. We would also recommend that if the online registrant cannot provide what is asked for in the amendment that the online registration process cannot continue or be completed.

We would also like to bring attention to Section 3102. (a). If online voter registration is to be made a part of the existing law, then this section must be amended to allow for online registration as permitted by this act. Otherwise how would an online registrant make an affidavit of registration before an authorized registration clerk.

While we believe that the Guam Election Commission(GEC) can review the practices of other jurisdictions who have online voter registration, we would recommend that the GEC provide Mayor's Offices with an online voter registrant list at least once a week to confirm and verify the existence of such voters in that village so if there is to be a challenge to the veracity of such voter it can be done well in advance of an election.

Again, we acknowledge the work of Senator Mary Torres in this effort and her kindness in reaching out to the Mayors' Council of Guam in how we can make our electoral voting process easier for all, especially our new voters. We also support the intent of Bill 24-33 and Bill 25-33.



MR. ANGEL SABLAN

THE POLITICS OF VOTER FRAUD

by Lorraine C. Minnite, Ph.D.
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KEY FINDINGS

- ***Voter fraud is the “intentional corruption of the electoral process by the voter.”*** This definition covers knowingly and willingly giving false information to establish voter eligibility, and knowingly and willingly voting illegally or participating in a conspiracy to encourage illegal voting by others. All other forms of corruption of the electoral process and corruption committed by elected or election officials, candidates, party organizations, advocacy groups or campaign workers fall under the wider definition of ***election*** fraud.
- ***Voter fraud is extremely rare.*** At the federal level, records show that only 24 people were convicted of or pleaded guilty to illegal voting between 2002 and 2005, an average of eight people a year. The available state-level evidence of voter fraud, culled from interviews, reviews of newspaper coverage and court proceedings, while not definitive, is also negligible.
- ***The lack of evidence of voter fraud is not because of a failure to codify it.*** It is not as if the states have failed to detail the ways voters could corrupt elections. There are hundreds of examples drawn from state election codes and constitutions that illustrate the precision with which the states have criminalized voter and election fraud. If we use the same standards for judging voter fraud crime rates as we do for other crimes, we must conclude that the lack of evidence of arrests, indictments or convictions for any of the practices defined as voter fraud means very little fraud is being committed.
- ***Most voter fraud allegations turn out to be something other than fraud.*** A review of news stories over a recent two year period found that reports of voter fraud were most often limited to local races and individual acts and fell into three categories: unsubstantiated or false claims by the loser of a close race, mischief and administrative or voter error.
- ***The more complex are the rules regulating voter registration and voting, the more likely voter mistakes, clerical errors, and the like will be wrongly identified as “fraud.”*** Voters play a limited role in the electoral process. Where they interact with the process they confront an array of rules that can trip them up. In addition, one consequence of expanding voting opportunities, i.e. permissive absentee voting systems, is a corresponding increase in opportunities for casting unintentionally illegal ballots if administrative tracking and auditing systems are flawed.
- ***There is a long history in America of elites using voter fraud allegations to restrict and shape the electorate.*** In the late nineteenth century when newly freed black Americans were swept into electoral politics, and where blacks were the majority of the electorate, it was the Democrats who were threatened by a loss of power, and it was the Democratic party that erected new rules said to be necessary to respond to alleged fraud by black voters. Today, the success of voter registration drives among minorities and low income people in recent years threatens to expand the base of the Democratic party and tip the balance of power away from the Republicans. Consequently, the use of baseless voter fraud allegations for partisan advantage has become the exclusive domain of Republican party activists.

INTRODUCTION

The claim that voter fraud threatens the integrity of American elections is itself a fraud. It is being used to persuade the public that deceitful and criminal voters are manipulating the electoral system. No available evidence suggests that voters are intentionally corrupting the electoral process, let alone in numbers that dilute and cancel out "the lawful votes of the vast majority of Americans."¹ The lack of evidence is not due to a failure to codify voter fraud as a crime, nor is it due to the inability or unwillingness of local law enforcement agencies to investigate or prosecute potential cases of voter fraud. In fact, when we probe most allegations of voter fraud we find errors, incompetence and partisanship. The exaggerated fear of voter fraud has a long history of scuttling efforts to make voting easier and more inclusive, especially for marginalized groups in American society. With renewed partisan vigor fantasies of fraud are being spun again to undo some of the progress America has made lowering barriers to the vote.

The purpose of this report is to disentangle the myth from the reality and to separate the politics of voter fraud from legitimate administrative concerns about the integrity of the electoral process. To make the argument, we present a usable definition of voter fraud, discuss the problem of evidence, and explain how and why the dynamics of electoral competition drive the use of baseless fraud claims in American politics. We present several contemporary examples to illustrate how poor election administration and voter mistakes are misleadingly labeled "fraud." Recent allegations against voter registration campaigns highlight the need for an analysis sensitive to the partisanship and race and class issues just beneath the surface of most voter fraud claims. The last section of the report makes policy recommendations for improving public understanding and removing the canard of voter fraud from the election reform debate. The appendix discusses what to look for in evaluating voter fraud allegations.

¹ U.S. Senate Republican Policy Committee, "Putting An End to Voter Fraud," (February 15, 2005); available online at http://rpc.senate.gov/_files/Febl504VoterFraudSD.pdf.

Allegations of "voter fraud" should be analyzed to determine 1) who is alleged to have committed the fraud, and 2) which stage of the electoral process is alleged to have been corrupted. This approach will go a long way toward clarifying whether electoral integrity is being breached and what needs to be done to secure the process (see the appendix for further discussion of how to identify fraud).

at www.eac.gov/docs/Voter%20Fraud%20&%20Intimidation%20Report%20-POSTED.pdf (herein cited as 'EAC Report'). Moreover, although it is simple, it preserves the meaning of "fraud" in the electoral context as outlined by the Justice Department. The Department's manual for training U.S. Attorneys in investigating and prosecuting election crimes divides "election frauds" into two categories, one that involves the participation of voters and another that does not. Those election fraud crimes involving the participation of voters include vote buying schemes, absentee ballot frauds, voter intimidation schemes, migratory-voting (or floating-voter) schemes, and voter 'assistance' frauds, in which the wishes of the voters are ignored or not sought. See, Donsanto and Stewart (1995), 22-24. Acts of voter intimidation which are included in the election fraud definitions offered in both the EAC Report and the DOJ Manual are excluded here. While the intimidation of voters certainly corrupts the electoral process, it is a crime that more directly involves the deprivation of rights guaranteed by law and for that reason should be treated separately from acts of deceit.

Federal Prosecutions for Illegal Voting 2002 – 2005

CASTING A FALSE BALLOT	DISPOSITION				
	Dismissed	Acquitted	Pleaded Guilty	Convicted	Total
False claim of eligibility					
Non-citizen	4	1	3	11	19
Felon	4	1	3	2	10
Multiple voting	3	1	5		9
TOTAL	11	3	11	13	38

Source: U. S. Department of Justice, Criminal Division, Public Integrity Section, *Election Fraud Prosecutions & Convictions, Ballot Access & Voting Integrity Initiative, October 2002 – September 2005* (n.d).

In addition, the BAVII uncovered several vote buying schemes that have resulted in the convictions or guilty pleas of about 30 people, though most of those convicted were party and election officials, candidates for public office and elected officials, and in one case, the commander of a local VFW post. The vote buying cases involved a handful of elections in the Appalachia regions of eastern Kentucky and West Virginia, East St. Louis, Illinois and Caldwell County, North Carolina.

The available state-level evidence of voter fraud, culled from interviews, reviews of newspaper coverage and court proceedings, while not definitive, is also negligible.¹² There are no reliable, officially compiled, national or even statewide statistics on voter fraud.¹³ Even though many criminal acts associated with “voter fraud” are classified as felonies, voter fraud fails to appear in the F.B.I.’s uniform crime reports. There are no publicly available criminal justice databases that include voter fraud as a category of crime. No states collect and publish statistics on voter fraud.¹⁴

The lack of evidence is not due to a failure to codify voter fraud as a crime

If fraud is such a persistent concern of those who run elections, government agencies responsible for election administration should collect statistics on it, as they do in other serious matters, certainly other crimes. It is not as if the states have failed to detail the ways voters could corrupt elections. There are hundreds of examples drawn from state election codes and constitutions that illustrate the precision with which the states have criminalized voter and election fraud.

If we use the same standards for judging voter fraud crime rates as we do for other crimes, which is to calculate the incidence of crime from law enforcement statistics on arrests, indictments and convictions, we must conclude that the lack of evidence of arrests, indictments or convictions for any of the practices defined as voter fraud means very little fraud is being committed relative to the millions of votes cast each year in state, local and federal elections.

¹² Lori Minnite and David Callahan, *Securing the Vote: An Analysis of Election Fraud* (New York: Dēmos: A Network for Ideas and Action, 2003). The author is engaged in a more thorough analysis of state-level voter fraud data and investigations which will be published in her forthcoming book. To-date, the findings only confirm Minnite and Callahan’s earlier conclusions.

¹³ This is an urgent concern. Law professor Spencer Overton persuasively argues for a more empirical cost-benefit approach to evaluating the value and constitutionality of new restrictive photo identification voting requirements. As Overton notes, this approach is hampered by the lack of systematic data on fraud. See, Spencer Overton, “Voter Identification,” *Michigan Law Review* 105(2007), 631-682.

¹⁴ The California Secretary of State’s Office compiled information on electoral fraud cases referred to its office from 1994 to 2003. The data were analyzed in an unpublished conference paper (see, R. Michael Alvarez and Frederick J. Boehmke, “Contemporary Election Fraud: A Quantitative Analysis of Election Fraud Cases in California,” paper prepared for Election Fraud Conference, Center for Public Policy and Administration, The University of Utah, and the Caltech/MIT Voting Technology Project, Salt Lake City, Utah, September 29-30, 2006; available online at www.vote.caltech.edu/events/2006/FraudConf/AlvBmk:paper.pdf), but they are not publicly available.

The lack of evidence of voter fraud is not due to law enforcement agencies ignoring their duties

Even if crime reports underestimate true crime rates because some crimes go unreported or undetected, or because criminal behavior is sometimes addressed by means other than prosecution, crime is still measured as a function of law enforcement efforts to address it. Under the rule of law, enforcement efforts establish the core evidence of crime. It is difficult to conceive of whole categories of criminal behavior that go almost completely undetected or ignored by law enforcement officials at all levels of government across the U.S. today. And yet, those who believe there is a lot of voter fraud despite the lack of evidence frequently fall back on this argument. When confronted they charge the paucity of evidence is due to the government's failure to undertake the investigations and prosecutions that would produce it.¹⁵ A more plausible explanation is that voters are not committing fraud, leaving little to investigate or prosecute.

The lack of evidence of voter fraud is not due to the inability of law enforcement agencies to pursue voter fraud investigations

Some argue that local officials are ill-equipped to detect voter fraud and poorly motivated to pursue investigations and prosecutions of voter fraud given their lack of expertise and resources and the public's demand for attention to more serious or violent crimes.¹⁶ If election crime, perhaps like international securities fraud or organized crime, were beyond the ken of local officials to investigate, then we might expect a dearth of prosecutions and little evidence of voter fraud. This is another explanation offered by those who argue that there is a lot of fraud despite the lack of evidence. Local officials, the argument goes, can't or won't prosecute fraud for a variety of reasons. The detection and prosecution of voter fraud, however, is not beyond the ken of local officials. In fact, as the Justice Department manual on how to investigate and prosecute election crime argues, "there are several reasons why election crime prosecutions may present an easier means of obtaining convictions than do other forms of public corruption." They are, 1) "election crimes usually occur largely in public," 2) "election crimes often involve many players," and 3) "election crimes tend to leave a paper trail."¹⁷ Without any evidence to support it, the notion that local law enforcement officials are unable or unwilling to investigate or prosecute voter fraud lacks merit. But, as the saying goes, if you repeat a rumor enough times people will start to believe it.

¹⁵ Recently, a federal appeals court judge repeated the rumor that, "... the absence of [voter fraud] prosecutions [in Indiana] is explained by the endemic under enforcement of minor criminal laws (minor as they appear to the public and prosecutors, at all events)." See, *Indiana Democratic Party v. Rokita*, U.S. Court of Appeals, 7th Circuit, Case No. 06-2218, 7. This is a contentious issue, but like most allegations of voter fraud, one that fails to rise above the level of anecdote.

¹⁶ For example, in affirming the lower court's decision upholding Indiana's new photo identification law, U.S. Court of Appeals Judge Richard Posner proposed the idea that as a crime, voter fraud is analogous to littering. See also Donsanto and Stewart, asserting, "... local law enforcement is often not equipped to prosecute election offenses" (1995, 8), and Donsanto's subsequent statement that, "Voter fraud investigations are labor intensive. Local law enforcement agencies often lack the manpower and the financial resources to take these cases on." (Donsanto, n.d.) Here, Donsanto, the director of the Elections Crimes Branch of the Justice Department's Public Integrity Section since its inception in 1978, undermines a claim he makes earlier in a *University of Baltimore Law Review* article, that, "Most election fraud is easily recognized." If it's easily recognized, why would local law enforcement agencies lack the manpower and resources to take on investigations and prosecutions? See, Craig C. Donsanto, "Federal Jurisdiction Over Local Vote Fraud," *University of Baltimore Law Review* 13(1), 4.

¹⁷ Donsanto and Stewart (1995), 6.

- Prosecutors in West Palm Beach, Florida agreed not to charge a woman who registered her poodle, "Cocoa Fernandez," as a Republican on the condition that the woman stay out of trouble for a year. She averted a third-degree felony charge carrying a maximum 5-year prison term and a \$5,000 fine.²²
- A story appeared in the Marquette University student paper that 174 of 1,000 students surveyed said they voted more than once in the November 2000 presidential election. Another 170 claimed to have voted for write-in candidates, but the official canvass of the voting precincts surrounding the Marquette campus recorded only 12 write-in votes for president. One student told ABC News, the *Milwaukee Journal Sentinel* and the Marquette student paper that he voted four times. He later recanted when a list of voters from his precinct did not include his name at all. The Milwaukee County District Attorney said he had no evidence of any student voting more than once. The student who told the media he voted four times was later charged with selling other students fake Ohio drivers licenses he printed using his dorm room computer.²³

Examples of fraud as voter error

- The *Milwaukee Journal Sentinel* conducted a two-month review of 203,000 votes cast in Milwaukee and found that 361 felons still under state supervision cast votes in 2000. This was in violation of an "often misunderstood state law" that disqualifies felons on probation or parole from voting. Ninety percent of the 361 illegal votes were cast by African Americans living in central city neighborhoods, most with convictions for welfare fraud, forgery and other property offenses. The newspaper reasoned that the illegal votes probably went to Al Gore, since 92 percent of African Americans in the state voted for Gore. They estimated that if disqualified felons elsewhere in the state voted illegally at the same rate obtained in Milwaukee, as many as 1,100 illegal votes could have been cast statewide, a significant number given Gore's margin of victory was only 5,708 votes. None of the illegal voters contacted by the paper knew they were prohibited from voting, and a review of parole and probation procedures suggested they were never informed.²⁴ Charges were filed against three people but later dropped when prosecutors couldn't prove those charged knew they were breaking the law.
- A voter inadvertently filled out five ballots in a local election in Montgomery County, Texas. "It (the five ballots, sic) was just handed to me and I just put them in the box," said the culprit, 52-year old Ruben Jones, "I wasn't paying attention." An election judge allowed one of Jones' votes to count resulting in a tie at 83 votes each between two candidates who were then forced into a run-off. Fraud was charged. The city attorney acknowledged the judge's mistake but could not overturn his decision to allow one of the votes to count. There was no provision in Texas election law for overruling an election judge on such matters.²⁵

Examples of cases of administrative incompetence and mistakes leading to misplaced allegations of voter fraud in St. Louis and Milwaukee are discussed in detail below.

²² "In Brief/Florida: No Charges, But Pooch Can't Punch Ballot," *Los Angeles Times* (December 17, 2001), A23.

²³ "Marquette Student Admits He Didn't Vote Four Times," *Chicago Sun-Times* (November 16, 2000), 3; "Voter Fraud Inquiries Lead to Charges Against 3 in Milwaukee," *St. Louis Post-Dispatch* (December 21, 2000), A8.

²⁴ Dave Umhoefer and Jessica McBride, "361 Felons Voted Illegally in Milwaukee: Law Is Poorly Understood, Rarely Invoked Here," *Milwaukee Journal Sentinel* (January 21, 2001), 1A.

²⁵ Harvey Rice, "Ballot Error Won't Change Deadlocked Race," *The Houston Chronicle* (May 12, 2001), 33.

Much has been written about the colorful and varied forms of political corruption in the nineteenth century.²⁹ The debate over the extent of fraud among scholars, however, has failed to settle the question of whether it accounted for the extraordinarily high levels of turnout that disappeared with the adoption of personal voter registration systems.³⁰ Nor is it certain that the new voter registration laws were responsible for reducing the election fraud they were aimed at eliminating. But, election fraud documented by the reformers usually involved organized efforts by election officials and politicians, not by the voters who were the intended target of restrictive reforms like voter registration.³¹

Nevertheless, voting rights have been won. Most of the conditions that once gave rise to what we would characterize as fraudulent practices today, such as ballots produced and distributed by the political parties, have changed. In the nineteenth century, election fraud was sometimes perpetrated by partisans acting together to steal elections. Local party organizations competed for voters and controlled votes through patronage, and the stakes were high. In those days, parties, patronage and fraud were intertwined. Today, local party organizations are weak to nonexistent, in part because their access to patronage has all but disappeared. They no longer control lucrative franchises, run police and fire departments, set utility rates or build large-scale public works. The demise of local parties and patronage over the last century has undermined the logic and eroded the means of committing voter fraud.

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The Civil Rights Era and Beyond

With each significant effort to protect and extend the right to vote, opponents have argued that the expansion of the franchise, whether through federal protections for voting rights or through reduced structural barriers to the franchise, would lead to more voter fraud. The threat of fraud was taken up by congressional opponents of the Voting

Rights Act of 1965; it was raised in the conflict over extending the Act during the first Reagan Administration; and again, in more recent debates over the National Voter Registration Act.³² It is the very success of these reforms that explains why fraud claims have re-emerged as a principle form of voter intimidation. The victories of the civil rights movement make it no longer easy or acceptable to suppress voting through the use of terrorism or violence, or with a poll tax or a literacy test. Today the intimidation is more subtle.

The dynamics of electoral competition in a two-party plurality system also contribute to the resurrection of the specter of voter fraud. When elections are close, the logic of competition drives opponents to fierce conflict. The winner in a two-party system needs only one vote more than his or her opponent; 51 percent of the votes wins it all, 49 percent wins nothing. Competing parties in

²⁹ See, for example, Glenn C. Altschuler and Stuart M. Blumin, *Rude Republic: Americans and Their Politics in the Nineteenth Century* (Princeton: Princeton University Press, 2000); and Tracy Campbell, *Deliver the Vote: A History of Election Fraud, an American Political Tradition ~ 1724-2004* (New York: Carroll & Graf, 2005).

³⁰ See Piven and Cloward (2000), 25-6, discussing the work of Walter Dean Burnham, Philip Converse, Paul Kleppner and Jerrold G. Rusk. See also, Howard W. Allen and Kay Warren Allen, "Vote Fraud and Data Validity," in Jerome M. Clubb, William H. Flanigan, and Nancy H. Zingales, eds., *Analyzing Electoral History: A Guide to the Study of American Voter Behavior* (Beverly Hills: Sage Publications, Inc., 1981), 153-194.

³¹ See Cunningham (1991), 384, citing Joseph P. Harris, *Election Administration in the United States* (Washington, D.C.: The Brookings Institution, 1934).

³² For an important account of the movement to reform voter registration laws leading to the passage of the National Voter Registration Act of 1993, see Margaret M. Croarke, *Expanding Access to the Vote: An Analysis of Voter Registration Reform in the United States, 1970-1993* (Ph.D. diss., Department of Political Science, City University of New York, 2000).

In a competitive electoral environment it is easier and safer for the parties to try to stabilize the base and reduce the opposition's support than it is for either to recruit new voters. Given the particular party and competitive dynamics of the current period, the use of baseless voter fraud allegations for partisan advantage has become the exclusive domain of Republican party activists.

Take the American Center for Voting Rights (ACVR). This organization established a presence on the Internet in March 2005, just six days before a Republican-controlled U.S. House Administration Committee hearing on problems in the 2004 Ohio election, and was the only "voting rights" group allowed to testify. Although ACVR claims it is nonpartisan, its founders, leadership, and staff have strong ties to the Republican party.³⁷ Its report on "Voter Fraud, Intimidation and Suppression in the 2004 Presidential Election," professes to be "the most comprehensive and authoritative review of the facts surrounding allegations of vote fraud, intimidation and suppression made during the 2004 presidential election." It is little more than a compendium of poorly scrutinized newspaper articles sensationalizing election shenanigans allegedly instigated in all but two instances by Democrats.³⁸ Despite the not so veiled partisanship and absence of credentials, ACVR has achieved remarkable influence advocating for strict, government-issued photo identification requirements and promoting the idea that American elections are riddled with voter fraud. Its leader, attorney and political operative, Mark F. (Thor) Hearne, II, is a serial expert witness before Congress and other government bodies on the need for photo ID. His testimony repeatedly relies for evidence on anecdotes and misleading news reports that grossly overstate the problem of voter fraud.³⁹

The systematic use of baseless voter fraud allegations is strategic and in this sense rational, if unethical. In the late nineteenth century when freedmen were swept into electoral politics and where blacks were the majority of the electorate, it was the Democrats who were threatened by a loss of power, and it was the Democratic party that erected new rules they claimed were necessary to respond to the alleged fraud of black voters.

Today, the success of voter registration drives among minorities and low income people in recent years threatens to expand the base of the Democratic party and tip the balance of power away from the Republicans. Therefore, it is not difficult to understand why party operatives might seek to strategically generate enough public support for new restrictions on the vote that will disproportionately hinder opposition voters.⁴⁰ These efforts are misleadingly labeled "the electoral integrity" movement because after two hundred years struggling for the vote and winning it from below, ordinary voters are not so easily discredited in the name of democracy. Efforts to do so must appeal to misplaced moral sensibilities like the idea that "integrity" trumps rights. In the end, baseless voter fraud claims are essentially political acts because the contested history of party, race and class in American politics makes them so.

³⁷ See [bradblogger.com \(www.bradblog.com/ACVR.htm\)](http://bradblogger.com/ACVR.htm) for a collection of articles on the ACVR by Brad Friedman and his colleagues.

³⁸ Dimitri Vassilaros, "Study is Political Fraud," *Pittsburgh Tribune-Review* (August 8, 2005); available online at: www.pittsburghlive.com/d/pittsburghtrib/s_360812.html.

³⁹ Hearne is listed as an "academic advisor" to the Commission on Federal Election Reform (the Carter-Baker Commission), despite his lack of academic credentials. For Hearne's testimony before government bodies, see: Testimony of Mark F. (Thor) Hearne, II, on "Voter Fraud in Ohio in the 2004 Presidential Election," U. S. House of Representatives, Committee on House Administration, March 21, 2005; "Regarding the Continuing Need for Federal Examiners and Observers to Ensure Electoral Integrity," Testimony of Mark F. (Thor) Hearne, II, Before the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution Civil Rights and Property Rights, July 10, 2006; "Assessing the Conduct of the 2006 Mid-term Elections," Testimony of Mark F. (Thor) Hearne, II, Before the U.S. Elections Assistance Commission, December 7, 2006.

⁴⁰ There is strong empirical evidence suggesting restrictive photo identification requirements place a disproportionate burden on low income people and minorities. See, Brennan Center for Justice at NYU School of Law and Spencer Overton, "Response to the Report of the 2005 Commission on Federal Election Reform," 2005; available online at www.carterbakerdissent.com. Overton served as a commissioner on the 2005 Commission on Federal Election Reform.

Those registering through drives were more likely to be people of color and of lower income than other registered voters.

Method of Registration by Race and Income**

Filled Out Form at Registration Drive	
Race	
Whites only, non-Hispanic	8.9
Blacks only, non-Hispanic	15.2
Hispanic (all races)	15.5
Asian only, non-Hispanic	17.7
Others	10.1
Total Annual Family Income	
Less than \$15,000	11.6
\$15,000 or more	10.0

Source: U.S. Dept. of Commerce, Bureau of the Census, Current Population Survey, November 2004: Voter Supplement File.

The number of low income drive registrants is three times the number of low income voters registering at public assistance agencies mandated by the National Voter Registration Act of 1993 (NVRA) to provide registration opportunities. Just four percent of registered voters with total annual family income below \$15,000 (approximately 470,000 people) were registered to vote through a public assistance agency. This compares to approximately 1,328,000 low income voters, or 11.6 percent of those with less than \$15,000 in annual family income, who said they were registered through a registration drive.⁴⁵ It is clear that despite the intent of NVRA to open registration opportunities to low income Americans, thousands of eligible citizens would be left out of the electoral process were it not for the third party groups who register and encourage them to vote.

Competitive or high interest elections like those of the last six years increase incentives to mobilize voters, including the recruitment of new voters – not only to the parties, but to all the other groups who believe they have a stake in the outcome. The use of thousands of volunteers and temporary workers in these drives contributes to the potential for mistakes and duplication in the registration process. This is one of the consequences of essentially “outsourcing” voter registration to the private sector rather than placing the burden of registration on the state as is done in many of the European democracies.⁴⁶ If voter registration were mandatory like paying taxes, voter registration drives would not be necessary.

** The table compares only those registered voters who could identify their method of registration. Data on income are limited to people living in families. Family income is the combined income of all family members over the previous year and includes money from jobs, net income from business, farm or rent, pensions, dividends, interest, Social Security payments and any other money income received by family members who are 15 years of age or older.

⁴⁵ U.S. Dept. of Commerce (2005); author’s calculations. For an analysis of the recent drop off in implementation of the agency-based requirements of the NVRA, see *Ten Years Later, A Promise Unfulfilled: The National Voter Registration Act in Public Assistance Agencies, 1995-2005*, a report compiled by Diemos, A Network for Ideas and Action; ACORN; and Project Vote (July 2005); available online at http://projectvote.org/fileadmin/ProjectVote/pdfs/Tens_Years_Later_A_Promise_Unfulfilled.pdf.

⁴⁶ The National Commission on Election Reform Task Force on the Federal Election System notes that, “the registration laws in force throughout the United States are among the world’s most demanding...[and are] one reason why voter turnout in the United States is near the bottom of the developed world.” National Election Commission, *Report of the Task Force on the Federal Election System*, chapter 2 “Voter Registration,” (July 2001), 3; available online at www.tcf.org/Publications/ElectionReform/NCFER/hansen_chap2_voter.pdf.

information on two voter registration cards for people who did not live in her district. Those people voted to help the councilwoman win re-election by a slim margin.⁵³

Federal Prosecutions of Voter Registration Fraud 2002 – 2005

VOTER REGISTRATION	DISPOSITION				
	Dismissed	Acquitted	Pleaded Guilty	Convicted	Total
False claim of eligibility*					
Non-citizen	4	1	3	13	21
Felon	4	1	3	2	10
False statements to grand jury about (1) voter registration forgeries			1		1
Conspiracy to submit false information on (2) voter registration applications			1		1
TOTAL	8	2	8	15	33

* All but two of those charged with making false claims about their eligibility to register (two non-citizens who were convicted) were also charged with casting a false or fraudulent ballot, as reported above.

Source: U. S. Department of Justice, Criminal Division, Public Integrity Section, *Election Fraud Prosecutions & Convictions, Ballot Access & Voting Integrity Initiative, October 2002 – September 2005* (n.d).

Registration drives in recent years have been more effective in registering low income voters than the agency-based requirements of the NVRA. Successful voter drives hold the potential for adding significant new numbers of voters to the rolls and threatening the balance of power between the two parties. Their effectiveness has made them a target for fraud allegations. Their own sporadic failings in the production of duplicate or improperly filled out registration cards, sloppy oversight, poor quality control, and occasional fraud have only fueled the allegations. Such problems are inevitable as long as voter registration is not mandated or universal.

⁵³ Press Release, "St. Martinsville Woman Sentenced in Federal Court for Voter Fraud Charges," U.S. Attorney's Office, Western District of Louisiana (January 18, 2006); available online at: www.usdoj.gov/usao/la/news/wd120060118c.html.

2004 ballot. When Stuart was fired for suspicion of his involvement in an illegal check cashing scheme a few months later, he filed a Florida whistle blower lawsuit against ACORN claiming the organization engaged in a variety of illegal practices. He was represented by partisan attorneys at Rothstein, Rosenfeldt, Adler, a Fort Lauderdale law firm, and spoke secretly with an official at the Florida Chamber of Commerce which was in the midst of opposing ACORN's efforts to raise the state's minimum wage. Stuart provided his attorneys with 179 applications, many of them for Republican registrants, he claimed had been collected and withheld by ACORN.⁵⁵

In the course of petitioning for signatures, ACORN workers conducted voter registration activities to ascertain whether signatories were registered to vote. Stuart's lawsuit claimed that petitioners were paid an additional \$2.00 for each completed registration card they collected; that ACORN illegally copied the voter registration cards its workers collected and sold its lists for a profit; that ACORN committed fraud by failing to deliver registration cards for people who designated "Republican" as their party affiliation, and otherwise collected cards from ineligible individuals such as convicted felons. Stuart maintained that in July 2004, he refused to participate in these illegal activities and was fired in retaliation under the pretext that he had attempted to cash another person's check.⁵⁶

His lawyers filed a second suit against ACORN on behalf of 11 people whose names were among the allegedly withheld voter registration applications Stuart had provided.⁵⁷ Rothstein, Rosenfeldt, Adler attorneys claimed ACORN had deprived their clients of their constitutional right to vote and committed fraud against them.

After Stuart was fired, he held a news conference and contacted television and print news reporters claiming that "[t]here was a lot of fraud committed" by ACORN, asserting the organization knowingly submitted thousands of invalid registration cards while storing away cards for people designating their party affiliation as Republican. Stuart's allegations were immediately picked up by news organizations such as the *Washington Times*, the *Florida Times-Union*, and other Florida newspapers, and began to spread on rightwing Internet blogs. The Florida Department of Law Enforcement took the unusual step of announcing an investigation into ACORN.⁵⁸ In fact, for a while, Stuart's assertions were taken as fact and repeatedly reported as evidence that ACORN routinely engaged in fraud to promote its "radical political agenda."⁵⁹ That is, until the real facts about Stuart came to light and his case collapsed in court.

Fraud charges collapse but the damage continues

ACORN denied, and Stuart failed to prove, that canvassers were paid by the card to collect voter registration applications. ACORN's copying of voter registration applications was an element of their quality control program and well within the bounds of Florida law.⁶⁰ Finally, ACORN denied, and Stuart failed to produce evidence, that the organization prejudiced Republican voter registration applicants or misleadingly solicited registration cards from ineligible applicants. ACORN countersued Stuart for defamation and libel. On December 6, 2005, the matter of

⁵⁵ Brittany Wallman and Alva James-Johnson, "Filled-In Voter Forms Surface," *South Florida Sun-Sentinel* (October 27, 2004); Jeremy Milarsky, "Ex-Worker Sues Activist Group," *South Florida Sun-Sentinel* (October 21, 2004).

⁵⁶ *Mac Stuart v. ACORN*, U.S. District Court, Southern District of Florida, Miami Division, Case No. 04-2276-civ (2004).

⁵⁷ *Charles Rousseau, et al. v. ACORN*, U.S. District Court, Southern District of Florida, Miami Division, Case No. 04-61636-civ (2004).

⁵⁸ News Release, "FDLE Investigates Statewide Voter Fraud," Florida Department of Law Enforcement (October 21, 2004).

⁵⁹ Quoting Mike Flynn, Director of Legislative Affairs for the Employment Policies Institute; see Press Release, "ACORN's Voter Fraud in Ohio is Part of Larger Pattern," Employment Policies Institute (August 11, 2006). See, also, Meghan Clyne, "ACORN and the Money Tree," *National Review Online* (October 31, 2004); and American Center for Voting Rights, "Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election," ACVR Legislative Fund Report (August 2, 2005), 41-44; available online at www.ac4vr.com/reports/072005/080205report.pdf.

⁶⁰ Nothing in Florida's election code prohibits private, third-party voter registration organizations from photocopying the voter registration applications they collect before submitting them to local elections officials.

The Perils of List Matching

A common source of fraud claims is a list matching exercise gone wrong. The ready availability of high powered computing capacity and an ever expanding range of public records databases, have created a cottage industry of software programs and list management consultants ready to match lists for hire.

When databases contain errors or compile data differently, matching them against one another can cause a high degree of what statisticians call "false positive" errors or matches that are not really matches. A prime example is the infamous felon purge list compiled by a private firm for the Florida Secretary of State's office in 2000. That list joined data on convicted felons with the voter registration rolls using rules that matched only the first four letters of the first name, 90 percent of the last name and an approximate date of birth.⁶⁷ The result was a highly inaccurate list of people whom the Secretary of State wanted to prevent from voting.⁶⁸

Voting in Connecticut and beyond

In October 2002, the Republican National Committee (RNC) claimed that in the course of "updating" its voter files, it discovered over 722,000 people nationwide were registered to vote in more than one state, and that at least 600 of these had voted more than once in a single election. In Connecticut, the Secretary of State was alarmed. The RNC released a report that said 7,700 registered voters in Connecticut were also on the rolls in other states and that 54 of them had voted more than once in the 2000 election. Secretary Susan Bysiewicz, a Democrat, asked the RNC for the names of the duplicate registrants and voters. "I am surprised by the numbers," she said, "it sounds like a lot. We have two million (registered) voters, so I suppose it's possible; but in four years we haven't prosecuted one instance of voter fraud."⁶⁹

At first the RNC refused to release the names and criticized Bysiewicz for not finding the problem first. When they finally turned over the names of the 54 alleged double voters, Bysiewicz found their claims baseless. Her office conducted a week long investigation of every suspect voter produced by the RNC and found that 29 had never voted in Connecticut, but did vote in another state; 18 voted in Connecticut, but not in the other state named in the report; four names had different birth dates than those on the RNC list, and three were turned over to criminal investigators because out-of-state data could not be obtained for verification.⁷⁰

Dismiss," Case No. 06-21265-CIV (August 28, 2006).

⁶⁷ Greg Palast, "Florida's 'Disappeared Voters': Disenfranchised by the GOP," *The Nation*, (February 5, 2001); and Palast, *The Best Democracy Money Can Buy* (Sterling, Virginia: Pluto Press, 2002), 6-43.

⁶⁸ The U.S. Civil Rights Commission conducted an investigation into the 2000 election in Florida and concluded, "Many people appear on the [felon purge] list incorrectly." One in seven people on the felon purge list supplied to the supervisor of the Miami-Dade election office was erroneously listed and therefore put at risk of disenfranchisement. These people were disproportionately African American. See, U.S. Civil Rights Commission, *Voting Irregularities in Florida During the 2000 Presidential Election* (2001), chapter 1. See also a disclaimer for the inaccuracy of the felon purge list posted on ChoicePoint's website ("ChoicePoint's Mythical Role in Elections Past and Present," posted August 7, 2006; available online at www.choicepoint.com/news/statement_08072006.html). ChoicePoint is the parent company of Database Technologies (DBT), the firm hired for the period 1998 to 2000 by the Florida Division of Elections to create its voter exception list. ChoicePoint claims, "DBT Online was not required to provide a list of exact name matches. Rather, the matching logic only required a 90 percent name match, which produced "false positives" or partial matches of the data. Moreover, the Division of Elections required that DBT Online perform 'nickname matches' for first names and to 'make it go both ways.' Thus, the name Deborah Ann would also match the name Ann Deborah. At a meeting in early 1999, the supervisors of elections expressed a preference for exact matches on the list as opposed to a 'fairly broad and encompassing' collection of names. DBT Online advised the Division of Elections that it could produce a list with exact matches. Despite this, the Division of Elections nevertheless opted to cast a wide net for the exclusion lists."

⁶⁹ "Thousands Registered to Vote in Two or More States," *The Associated Press State and Local Wire* (October 9, 2002).

⁷⁰ Press release, "Voter Fraud Claims by Republican Party Unfounded," Office of the Secretary of State Susan Bysiewicz (October 22, 2002); see also, "Bysiewicz: Double Voting Report Wrong," *The Associated Press State and Local Wire* (October 22, 2002).

votes were cast by 132 dead people; Detroit's voting records are riddled with inaccuracies, casting doubt on elections' integrity."⁷⁴ The allegations of voting from the grave in Detroit, a poor and majority black city, are repeatedly cited by conservative bloggers in their litany of purported evidence that voter fraud is rampant in America.

But a full reading of the article itself indicates that the *News* did not attribute these irregularities to voter fraud. Instead, they suggested the irregularities were more likely due to clerical errors.⁷⁵ Influential Republican political operative, Mark F. (Thor) Hearne, paid counsel to the Bush-Cheney 2004 re-election campaign and a member of the U.S. Elections Assistance Committee's Voter Fraud – Voter Intimidation Working Group, as well as Missouri's HAVA Advisory Commission, nevertheless repeated the misleading allegations of dead people voting in Detroit when he testified before a U.S. Senate panel in July 2006.⁷⁶ Versions of his testimony have appeared as a feature article in the magazine of the Bar Association of Metropolitan St. Louis,⁷⁷ and again as testimony given to the U.S. Elections Assistance Commission in December 2006.⁷⁸

This time the list matching was not performed by an elected official and presidential campaign co-chair, as it was in Florida, or a political party, as it was in the Connecticut and New Jersey examples. It was done by a newspaper which presented no assurances that it had the kind of expertise in computer programming, statistics, or records management required to make an accurate evaluation.⁷⁹

On March 5, 2006, the *News* printed a letter from Kelly Chesney, the Communications Director for the Michigan's Republican Secretary of State, which challenged the implication that dead people were voting in Michigan. Chesney reported that an analysis of the 132 alleged deceased voters found that this was the number of absentee ballots mailed out to voters who subsequently died in the weeks before Election Day. Of the 132 absentee ballots, she said "97 were never returned, and 27 were voted and returned prior to the voters' deaths."⁸⁰ This substantial correction to the implications of voter fraud in Michigan has been roundly ignored by activists who continue to cite what is now an out-dated news item reporting erroneous information.

⁷⁴ Lisa M. Collins, "In Mich. Even Dead Vote," *The Detroit News* (February 6, 2006).

⁷⁵ "Clerical errors [in the Michigan voter file are] so pervasive that it is difficult to determine in many instances who actually voted," and citing Mark Grebner, the list vendor and political consultant upon whose research the *News* relied. "...Grebner says he's never found evidence of organized fraud in Detroit." See, Collins (2006).

⁷⁶ Testimony of Mark F. (Thor) Hearne, II, Before the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Property Rights, "Regarding the Continuing Need for Federal Examiners and Observers to Ensure Electoral Integrity," July 10, 2006.

⁷⁷ Mark F. (Thor) Hearne, II, "The Missouri Voter's Protection Act: Real Election Reform for All Missouri Voters," *St. Louis Lawyer*, June, 2006; available online at www.bamsl.org/members/stlawyer/archive/06/june06.html#feature.

⁷⁸ Testimony of Mark F. (Thor) Hearne, II, Before the U.S. Elections Assistance Commission, "Assessing the Conduct of the 2006 Mid-term Elections," December 7, 2006.

⁷⁹ In fact, the *News* admitted in the article that they "did not review every vote cast, but instead targeted voter records based on several factors, such as the voter's birth year or voting history. Though limited and somewhat random searches were done, each search found voting records in error or highlighted names of voters who in fact could not have voted." This is hardly an adequate methodology.

⁸⁰ Editorial and Opinions, Special Letter, "Claims That the 'Dead' Voted Were Wrong," *Detroit News* (March 5, 2006)

Between 1994 and 2000, the Board conducted a series of mail canvasses of its voter registration rolls, none of which complied with the requirements of the NVRA.⁸⁷ Based on these improper canvasses, the Board removed more than 50,000 names of voters who had been on the rolls in 1996, and "made no effort to notify inactive voters that their registration status had changed, that their names would not appear on the voter registration lists provided to election judges in each voting precinct, or that they would face additional administrative steps on election day before they would be permitted to vote."⁸⁸ This number represented roughly 40 percent of the total number of votes cast in St. Louis in the 1996 election, and was about twice the national and state averages for the proportion of inactive voters on the rolls.⁸⁹ Moreover, for all elections it conducted after 1994, the Board failed to provide precinct election judges a list of any of the voters it had designated as "inactive." This failure created mass confusion at polling sites when many legitimate voters showed up to vote and were told they were no longer registered.⁹⁰

In the days leading to the November 7, 2000, election, the unprecedented administrative reclassification of thousands of active voter registration records in the overwhelmingly Democratic city was seen by Democrats, including national party officials with the Gore-Lieberman campaign, as an illegitimate Republican party-sponsored effort to restrict Democratic voting. When he spoke at a Gore-Lieberman campaign event, Democratic Congressional hopeful William Lacy Clay, Jr., told supporters not to "let anyone turn you away from the polls," and warned, "If it requires leaving the polls open a little longer, we're going to get a court order to do it."⁹¹

The showdown

In fact, this is exactly what happened. Voters stood in line for hours. First, they had to check in with precinct workers, then, for those whose names were no longer on the precinct voter registration lists, they stood in another line to plead their case before their precinct's election judge.⁹² When many of these officials were unable to confirm their registration status with headquarters because they couldn't get through to elections officials at the Board, they sent voters down to the Board's office to try to resolve the problems on their own. According to news reports, "It made for a wild hour at Board's downtown office,

where hundreds of voters turned away from the polls because they were not registered or had problems voting filled the lobby throughout the day. By early evening, the lobby was shoulder to shoulder with people who wanted to vote."⁹³

In the afternoon, the Democrats and the Gore-Lieberman campaign filed suit in a state circuit court requesting the polls remain open for an additional three hours to accommodate voters victimized by the inaccessible and inaccurate inactive list.

⁸⁶ 26, 2004), 10; (herein cited as 'Mo. State Auditor's Report').

⁸⁷ Section 8(d)(2) of 42 U.S.C. 1973gg-6(d). See, St. Louis Election Board Consent Order, 3.

⁸⁸ St. Louis Election Board Consent Order, 4.

⁸⁹ In 1996, 122,003 votes were cast in the general election in the City of St. Louis. In 2002, according to records from the Federal Election Commission, both nationwide and for the state of Missouri, 12 percent of all voters on the rolls were classified as "inactive," compared to 22 percent in the City of St. Louis. See, Mo. State Auditor's Report, 15.

⁹⁰ St. Louis Election Board Consent Order, 4.

⁹¹ David Scott, "Ashcroft, Talent Decide Against Pursuing St. Louis Voter Fraud Claims," *Associated Press* (November 8, 2000).

⁹² The State Auditor found that the St. Louis Election Board frequently failed to secure the minimum number of precinct-level election judges as required by state law. Section 115.081, RSMo 2000, mandates four election judges, two from each major political party, for each polling place at each primary and general election, or about 1,600 election judges per major election. The Auditor found that the Board has not been able to attract more than 1,200 such judges in recent elections. See, Mo. State Auditor's Report, 24.

⁹³ Scott (2000); see also, Ahmed (2000).

St. Louis Board of Elections forced into federal consent decree

After an F.B.I. investigation that involved subpoenaing *all* of the registration and voting records from the St. Louis Elections Board for the months before the election, the Justice Department made a surprise announcement. They told the Board they were planning to sue them for violating the NVRA and threatening the voting rights of thousands of eligible voters in St. Louis by erroneously purging their records from the active voter file. The Board was forced into a consent decree that stipulated how they would change their procedures for maintaining accurate registration records, complying with federal requirements for notifying voters of their status on the list, and with handling voters whose names are not on the active voter list on election day.

Four years after the St. Louis Elections Board signed the consent decree acknowledging these failures, Mark (Thor) Hearne, the St. Louis lawyer and influential Republican activist, submitted Senate testimony that included citations to materials he produced after 2002 that ignored the Board's culpability and repeated misleading allegations of voter fraud in St. Louis.⁹⁸

Four years after the St. Louis Elections Board signed the consent decree acknowledging these failures, Mark (Thor) Hearne, the St. Louis lawyer and influential Republican activist, submitted Senate testimony that included citations to materials he produced after 2002 that ignored the Board's culpability and repeated misleading allegations of voter fraud in St. Louis.

⁹⁸ Hearne (June 2006), (July 10, 2006), and (December 2006).

How many ballots for Milwaukee?

As stories of potential voter registration fraud circulated in the press, a political fight erupted in Milwaukee. In October the chief elections official in Milwaukee asked the county elections board for 260,000 extra ballots in anticipation of record turnout. Under Wisconsin law counties print and pay for all ballots for their localities. Milwaukee county elections officials rejected the request, with County Executive Scott Walker writing in support of the county board's decision to give Milwaukee roughly the same number of ballots it had received in the previous presidential election. In 2000, the number of ballots on hand exceeded the eligible voting population in Milwaukee by at least 200,000. But in planning for the number of ballots needed, local officials must compensate for the fact that in order to scan and count the ballots after they are cast, a bar code is assigned that prevents ballots from being counted outside the ward in which they are issued. In other words, unused ballots can't be moved around from ward to ward to cover shortfalls. Estimating probable turnout involves estimating turnout in each ward rather than citywide. This could have the effect of inflating the overall estimated number of ballots needed citywide. In 2004 Milwaukee requested 938,000 ballots for a voting population of about 424,000. The county board agreed to give the city 679,000 ballots, and a firestorm of protest erupted when County Executive Walker defended the decision by suggesting that he was concerned about potential voter fraud and didn't want people to be able to "grab" extra ballots at the polling site.¹⁰²

Milwaukee Mayor Tom Barrett accused Walker of trying to foment chaos at the polls and suppress the central city vote. Barrett is a Democrat and served as a state co-chair of John Kerry's campaign, while Walker is a Republican and served as state co-chair of George W. Bush's campaign. In press reports, the dispute was repeatedly referred to as "ugly," generating partisan recrimination on both sides. On the morning of October 14, about a hundred protesters, including students, elected officials and union activists, stormed Walker's office while he was meeting with municipal election clerks, chanting, "Let the people have their voice!" and demanding that Walker issue the extra ballots to Milwaukee. Wisconsin Governor Jim Doyle intervened by asking the state elections board to help resolve the dispute and offered state aid to pay for the extra ballots. The next day Walker and Barrett held a joint press conference on the steps of Milwaukee city hall to announce a compromise between the city and county: the county would supply the extra ballots, giving the city the 938,000 ballots it originally requested, the city would split the cost, estimated at about \$40,000, and promise to return all unused ballots to the county election commission to ensure that all ballots were accounted for.¹⁰³ Approximately 665,000 unused ballots were later returned to the county board of elections.¹⁰⁴

Inaccurate lists of "potentially fraudulent voters"

At 4:57 p.m. on Wednesday, October 27, 2004, three minutes before the legal deadline for filing a complaint with the city elections commission, the state Republican Party challenged the validity of 5,619 names on the city voter rolls. State GOP chairman Rick Graber said, "This is a black eye on the city of Milwaukee and the state of Wisconsin. These 5,600 addresses could be used to allow fraudulent voting. Whether it's deliberate or not, something's wrong when you have people

¹⁰² Dave Umhoefer and Greg J. Borowski, "City, County Spar Over Ballot Supply; Walker Cites Fraud Concerns; Barrett Cries Foul," *Milwaukee Journal-Sentinel* (October 13, 2004), A1; Greg J. Borowski and Dave Umhoefer, "Walker-Barrett Ballot Dispute Heats Up More: County, City Accuse the Other of Trying to Make Election Day Controversy," *Milwaukee Journal-Sentinel* (October 14, 2004), B1.

¹⁰³ Associated Press, "Governor Sends Election Board Into Milwaukee Ballot Fray," *Capital Times* (October 15, 2004), 4A; Dave Umhoefer and Steve Schultze, "Doyle Joins Rift Over Ballot Supply; Governor Seeks State Inquiry; After Protest, Walker Agrees to Review City's Request," *Milwaukee Journal-Sentinel* (October 15, 2004), A1.

¹⁰⁴ Greg J. Borowski, "665,000 Unused Ballots Returned; Review Finds City's Original Allotment Would Have Been Sufficient," *Milwaukee Journal-Sentinel* (November 25, 2004), B1.

The newspaper opined on its own investigation and reporting:

Republicans are quick to jump on the discrepancies, real or imagined, in voting data in Milwaukee as proof of widespread fraud in the big city. In their minds, the *Journal Sentinel's* findings fit that pattern. A more plausible explanation, however, is that the findings reflect the unfortunate tendency of voting systems throughout America to err.¹¹²

By the end of January, the Mayor had appointed an internal task force to review the city's electoral procedures, and federal and county law enforcement agencies began a joint investigation into whether breakdowns in procedure, poor record-keeping, human error or fraud explained the discrepancies. On February 10, the bipartisan Joint Legislative Audit Committee of the state legislature voted unanimously to direct auditors to review voter registration and address verification procedures. All of these investigations produced clear evidence that Milwaukee's Board of Elections was overwhelmed by its own incompetence and under-staffing on election day, resulting in massive record-keeping problems. Poll workers failed to follow procedures; the number of votes cast in Milwaukee failed to match the number of people recorded as voting; same day registration cards were not filled out properly and follow up was not performed when post-registration address verification efforts identified address discrepancies; some voters were allowed to register to vote in the wrong ward.

The dénouement

The scrutiny from federal, state and local law enforcement and elections officials produced several reports, an intensive review of voter registration practices in a number of Wisconsin cities, many recommendations for improving election administration and voter registration procedures, several later-vetoed photo ID bills in the state legislature, a variety of other legislative proposals, and very little conclusive evidence of voter fraud.

Widespread ignorance among the public and elections officials alike of Wisconsin's seldom enforced felony disenfranchisement laws account for the hundreds of ineligible felons post-election audits have found voted since 2000. Alleged illegal felon voting constitutes nearly all of the "voter fraud" reported on by the media in Wisconsin over the last six years, and represents most of the handful of cases prosecuted by the federal government. Wisconsin election crime laws require the establishment of a willful effort to defraud. Most of those identified as ineligible have not been prosecuted because they were never informed that they lost their voting rights until they completed their entire sentence. Until recently, Wisconsin's voter registration application form did not clearly indicate that felons on probation or parole were ineligible to vote. One of the federal cases against the dozen or so people charged with illegal (felon) voting in the 2004 election was dropped when it was revealed that the defendant had registered to vote on election day in Milwaukee using his state offender ID card.¹¹³

¹¹² Staff, "Widen Election Day Focus," *Milwaukee Journal-Sentinel* (January 26, 2005), A14.

¹¹³ Gina Barton, "A Felon But Not A Fraud: No Charges For Voter With Prison I.D.," *Milwaukee Journal-Sentinel* (March 17, 2006). See, *United States of America v. Derek G. Little*, "Motion to Dismiss Indictment," United States District Court, Eastern District of Wisconsin, Case No. 05-CR-172 (LSA) (March 14, 2006).

APPENDIX: HOW TO IDENTIFY VOTER FRAUD

Elections are instruments of democracy. They are the mechanisms for choosing representatives of the people's will, and they are widely regulated by law. Many different actors participate in the electoral process. Legislators and administrators make and implement the rules, candidates organize campaigns to run for office, voters cast their ballots, administrators count the ballots and elected officials certify the results.

The voters' role is simple -- to make choices about candidates by casting legal ballots. Voters don't set deadlines for registering to vote, nor do they make the rules about how ballots are designed, displayed, or marked. They don't decide where the polls are located, when they are open, or what voting technology will be used. Voters have nothing to do with receiving completed ballots, determining valid ballots, counting or recounting ballots, tallying election results, or ensuring that the vote totals are accurate.

Voters, like all other actors or groups in the electoral process, can only corrupt that part to which they have access.

Voters, like all other actors or groups in the electoral process, can only corrupt that part to which they have access. They can do this directly, for example, by providing false information about their identity and/or eligibility in order to vote illegally, or indirectly through participation in a conspiracy, usually with others who have more authority and access to the marking and counting of ballots than the voters themselves possess.

If the alleged fraud does not involve voters it should not be considered voter fraud.

The first step in confronting any allegation of voter fraud is to identify who is alleged to have committed the fraud and to figure out if any voters are involved. If the alleged fraud does not involve voters it should not be considered voter fraud.

The second step is to identify which part of the electoral process was corrupted by fraud. Given their limited access, voters can only corrupt the registration and voting phases. They can't corrupt the vote tallying and counting phases where most election fraud has occurred in the past because they lack access to votes after they've cast them.¹¹⁴ A fraudulent ballot

¹¹⁴ The most thorough analysis of election fraud in the early twentieth century is the landmark 1929 study of voter registration procedures for the Brookings Institution by the inventor of the punch card voting machine, Joseph P. Harris. See, Joseph P. Harris, *The Registration of Voters in the U.S.* (Baltimore: The Lord Baltimore Press, 1929). Harris was a public administration reformer who promoted government modernization and the use of scientific administrative practices to remove politics from the business of governing. He concluded that elections were more badly managed than just about any other area of public administration and that political machines were responsible for much of the fraud he analyzed. The case studies of election fraud in Chicago, Philadelphia and Louisville, Kentucky, Harris presents all involved large scale conspiracies orchestrated by politicians and political machines which Harris thought rigged elections through ballot box stuffing and the manipulation of the count. His conclusion that most fraud occurred during the vote counting stage spurred him to invent the Votomatic Vote Recorder (the first punch card voting machine) which Harris hoped would reduce opportunities for election fraud by removing the ballot counting function from precinct workers. See, Joseph P. Harris, *Oral History*, interview by Harriet Nathan, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, California, 1980, available from <http://bancroft.berkeley.edu/ROHO/Vote/>.

for example, the ballot of an otherwise eligible and qualified voter with a felony conviction who is no longer under state supervision. If that citizen lived in Maine and registered to vote by or on Election Day, his or her vote would count as a legal ballot. If that citizen lived and voted in Florida where a felony conviction eliminates the right to vote until clemency is granted, he or she could be prosecuted for casting an illegal ballot.

In fact, states make lots of rules for qualifying voters. The most important is the requirement that all eligible voters register. All states except North Dakota require eligible voters to register before casting a ballot.¹¹⁷ Thus, all states except North Dakota qualify eligible voters by requiring them to meet certain conditions in order to register their names on the rolls of legitimate or valid voters. Voter registration, therefore, is a means of voter qualification, and in nearly all states, otherwise eligible voters must be registered properly or the vote they cast is illegal.¹¹⁸ In addition, ineligible voters, such as those disqualified by state law for a felony conviction or because they do not possess U.S. citizenship,¹¹⁹ could register to vote either mistakenly or by deceit, thus appearing on the voter rolls as 'qualified' voters despite their ineligibility. Their votes would be treated as legal votes when in fact they would be illegal.

There are a few known cases of ineligible persons such as non-citizens making it on to the voter registration rolls due to a misunderstanding about who has the right to vote in American elections, or to mistakes made by elections officials who misinformed such applicants or failed to note their lack of citizenship. One involves the case of Mohsin Ali, a long-time legal permanent resident living in Florida at the time of his arrest for "alien voting." He pleaded guilty but claimed a clerk in the Department of Motor Vehicles issued a voter registration application to him when he renewed his license. In a letter begging the judge to intercede with immigration authorities considering Ali's deportation back to Pakistan, Ali claimed he told the clerk he was a Florida resident but not a U.S. citizen.¹²⁰ He states that the clerk told him as the husband of an American citizen he was eligible to vote. When Ali received a voter registration card in the mail he assumed he was qualified to vote and voted in the 2000 presidential election.¹²¹

Voters have limited access to the electoral process, but where they do interact with it they confront an array of rules that can trip them up and change depending on where they live. The more rules and restrictions, the more stumbling blocks voters face when trying to cast legal ballots. For example, in Pennsylvania where a voter must qualify with an excuse when applying for an absentee ballot, it is illegal to vote that ballot if the voter's plans change and he or she remains physically present at home (barring a disability that prohibits the voter from visiting the polling place). A voter must apply for an absentee ballot a full week before Election Day. What happens if plans change or the business trip gets canceled and the voter is present on Election Day, after all? If that voter then mails in the ballot instead of striking out for the line at the polling place, that voter is breaking the law in Pennsylvania. Who knew? Who wouldn't make

¹¹⁷ North Dakota repealed its voter registration law in 1951. To vote in North Dakota eligible voters must have proper identification showing their name and current address. If they lack identification, they may still vote by filing a voter's affidavit attesting to their identity and address, or if a poll worker knows them and can vouch for them. Poll workers use lists of previous voters to track voting on Election Day.

¹¹⁸ The courts have dealt with the question of whether voter registration is an unconstitutional burden on the vote by using a balancing test, weighing the alleged burden on rights against a state's legitimate interest in ensuring electoral integrity. State laws mandating voter registration have been upheld repeatedly by the Supreme Court as reasonable administrative burdens on the right to vote ("a person does not have a federal constitutional right to walk up to a voting place on election day and demand a ballot," *Morson v. Lewis*, 410 U.S. 679, 680. (1973)).

¹¹⁹ Federal law does not require persons be U.S. citizens to vote, but all states do, as it is their constitutional prerogative to set citizenship as a condition for voter eligibility and qualification.

¹²⁰ Letter from Mohsin Ali to the Honorable William C. Sherrill, Jr., Chief U.S. Magistrate Judge, U.S. District Court, Tallahassee, Florida, dated November 3, 2006. The judge denied Ali's request.

¹²¹ *U.S. v. Mohsin Ali*, U.S. District Court, Northern District of Florida, Tallahassee Division, Case No. 4:05cr47-WCS.

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THE TRUTH
ABOUT
VOTER FRAUD

Justin Levitt

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THE TRUTH ABOUT VOTER FRAUD

I. INTRODUCTION

Allegations of election-related fraud make for enticing press. Many Americans remember vivid stories of voting improprieties in Chicagoland, or the suspiciously sudden appearance of LBJ's alphabetized ballot box in Texas, or Governor Earl Long's quip: "When I die, I want to be buried in Louisiana, so I can stay active in politics." Voter fraud, in particular, has the feel of a bank heist caper: roundly condemned but technically fascinating, and sufficiently lurid to grab and hold headlines.

Perhaps because these stories are dramatic, voter fraud makes a popular scapegoat. In the aftermath of a close election, losing candidates are often quick to blame voter fraud for the results. Legislators cite voter fraud as justification for various new restrictions on the exercise of the franchise. And pundits trot out the same few anecdotes time and again as proof that a wave of fraud is imminent.

Allegations of widespread voter fraud, however, often prove greatly exaggerated. It is easy to grab headlines with a lurid claim ("Tens of thousands may be voting illegally!"); the follow-up — when any exists — is not usually deemed newsworthy. Yet on closer examination, many of the claims of voter fraud amount to a great deal of smoke without much fire. The allegations simply do not pan out.

These inflated claims are not harmless. Crying "wolf" when the allegations are unsubstantiated distracts attention from real problems that need real solutions. If we can move beyond the fixation on voter fraud, we will be able to focus on the real changes our elections need, from universal registration all the way down to sufficient parking at the poll site.

Moreover, these claims of voter fraud are frequently used to justify policies that do not solve the alleged wrongs, but that could well disenfranchise legitimate voters. Overly restrictive identification requirements for voters at the polls — which address a sort of voter fraud more rare than death by lightning — is only the most prominent example.

The Brennan Center for Justice at NYU School of Law carefully examines allegations of fraud to get at the truth behind the claims. The Brennan Center has analyzed purported fraud cited by state and federal courts; multipartisan and bipartisan federal commissions; political party entities; state and local election officials; and authors, journalists, and bloggers. Usually, only a tiny portion of the claimed illegality is substantiated — and most of the remainder is either nothing more than speculation or has been conclusively debunked.

This paper seeks to distill our findings: the truth about voter fraud. It first offers a straightforward definition to avoid the common trap of discussing election irregularities that involve neither voters nor fraud as if they showed voter fraud. It then discusses different alternative reasons more credible than voter fraud to explain many of the recurring allegations. The paper then analyzes, scenario by scenario, some of the more common types of alleged voter fraud and their more likely causes and policy solutions. Finally, the paper presents individual case studies of notorious instances of alleged voter fraud, and finds those allegations to be grossly inflated. For more information, analysis, and opinion about voter fraud, by the Brennan Center and others, please see www.truthaboutfraud.org.

III. THE RESEARCH LANDSCAPE

It is easy to find opinion pieces and legislative statements claiming that voter fraud is a substantial concern. But aside from a trickle of news stories of low-grade fraud in a few isolated elections, there are surprisingly few sources recounting specific incidents of alleged voter fraud.

The most notorious such sources are documents prepared by the American Center for Voting Rights (“ACVR”), a controversial organization established in early 2005 and apparently defunct just over two years later.⁵ The ACVR produced two reports — one compiling allegations of fraud in Ohio in 2004, and another compiling allegations of fraud in 2004 nationwide.⁶ The ACVR has also repeated these and other allegations in *amicus* briefs filed in litigation related to voter identification provisions.⁷

Former *Wall Street Journal* editorial board member and weekly columnist John Fund has also recounted several specific allegations of voter fraud in his 2004 book *Stealing Elections*;⁸ two other books by academics, *Dirty Little Secrets* and *Deliver the Vote*, address allegations of fraud from a historical perspective.⁹ Hans von Spakovsky, a commissioner on the Federal Election Commission and a former Counsel to the Assistant Attorney General for Civil Rights in the Department of Justice, has similarly recounted allegations of voter fraud in several policy papers and presentations.¹⁰

Finally, there are a few newspaper articles that seem repeatedly cited in discussions of voter fraud — for example, a 2000 article in the *Atlanta Journal-Constitution* and a 2004 article in the *New York Daily News*.¹¹ These articles review attempts to match voter rolls to other large lists in an effort to find allegedly ineligible voters; the limitations of such studies are discussed later in this paper.

Similarly, there are surprisingly few sources of information specifically analyzing the allegations of alleged voter fraud to determine the extent to which they show reliable evidence of fraud. In two studies, both focusing more heavily on the political and legal context of voter fraud allegations, Professor Lorraine Minnite has reviewed several incidents.¹² Professor Spencer Overton, a former commissioner on the 2005 Commission on Federal Election Reform, has also reviewed several incidents of alleged fraud in his book *Stealing Democracy*.¹³ After careful analysis, both authors find the claims largely overblown.

Among its other work on the subject,¹⁴ the Brennan Center for Justice has developed a methodology for reviewing allegations of voter fraud,¹⁵ and continues to collect analyses of noted allegations at www.truthabout-fraud.org. This paper distills the results of that work, compiling for the first time the recurring methodological flaws that continue to spawn allegations of widespread voter fraud where it does not exist.

V. THE TRUTH ABOUT VOTER FRAUD

There have been a handful of substantiated cases of individual ineligible voters attempting to defraud the election system. But by any measure, voter fraud is extraordinarily rare.

In part, this is because fraud by individual voters is a singularly foolish and ineffective way to attempt to win an election. Each act of voter fraud in connection with a federal election risks five years in prison and a \$10,000 fine, in addition to any state penalties.¹⁸ In return, it yields at most one incremental vote. That single extra vote is simply not worth the price.

Instead, much evidence that purports to reveal voter fraud can be traced to causes far more logical than fraud by voters. Below, this paper reviews the more common ways in which more benign errors or inconsistencies may be mistaken for voter fraud.

CLERICAL OR TYPOGRAPHICAL ERRORS

In the course of millions of recorded votes and voters, it is virtually certain that there will be clerical errors. Often, what appears to be voter fraud—a person attempting to vote under a false name, for example — can be traced back to a typo.

Errors in the poll books. In a jurisdiction of any significant size, it is unfortunately easy to make an entry in the poll book next to the wrong voter's name. For example, despite having died in 1997, Alan J. Mandel was alleged to have voted in 1998; upon further investigation, Alan J. Mandell (two "l"s), who was very much alive and voting at the time, explained that local election workers simply checked the wrong name off of the list.¹⁹ The same problem may occur when information from a poll book is entered incorrectly into a county's computer system, as in Milwaukee in 2004.²⁰ Or voters — legitimate voters — may make a mistake: a 1994 investigation of fraud allegations in California, for example, revealed that voters accidentally signed the poll books on the wrong lines, next to the names of deceased voters.²¹

Errors in registration records. Simple typos may also infect voter records, changing a name or an identifying number or an address in a way that interferes with attempts to validate the voter's information against some other source. For example, in Washington State in 2006, Marina Petrienko tried to register to vote for the first time, but a county official mis-typed the year of her birth, entering "1976" into the database, instead of the year on her form: "1975."²² First-time Illinois voters Mike and Sung Kim "had been mistakenly registered with Kim as their first names" in 2004.²³ And in Milwaukee, Victor Moy was listed on the rolls as living at 8183 W. Thurston Avenue, but actually resides at number 8153.²⁴ Because such typos may prevent registrations from being externally validated by information in other sources, officials and observers may believe that registrations are fraudulent when they are, in reality, entirely legitimate.

JUMPING TO CONCLUSIONS

Those searching for fraud — politicians, pundits, and even occasionally prosecutors — sometimes jump to unwarranted conclusions with a limited amount of information. The “birthdate problem” above — mistaking two different people with the same name and birthdate — is one example. But there are many other circumstances in which observers draw illicit conclusions from data that in fact have a benign explanation.

Dual registration. Registering twice — or mistakenly leaving an old registration on the rolls — is not meaningful evidence of an intent to commit fraud by voting twice. There is no requirement that citizens inform their local election officials before they move, and with approximately 14% of Americans moving each year,³³ it is not surprising to find that many voters are registered under multiple addresses — but vote only once. In New Hampshire in 2004, for example, local officials found 67 individuals on the rolls in both Dover and Durham; each of the 67 had moved from one town to the other, and each voted only once.³⁴

It may seem significantly more suspicious to register twice on the same day — but even then, two registrations do not necessarily yield two votes. In 2004, for example,

FRAUD BY INDIVIDUAL VOTERS IS A SINGULARLY
FOOLISH WAY TO ATTEMPT TO WIN AN ELECTION.

federal prosecutors charged Wisconsinite Cynthia Alicea with double-voting. Wisconsin allows residents to register on Election Day, which Alicea did. Poll workers found an error on the form, and asked Alicea to fill out another, which she also did — but the first form was never discarded. Although Alicea completed two registration forms, following poll worker instructions, she voted only once. Her innocence was eventually proven, but not before prosecutors forced the 23-year-old through an unwarranted trial.³⁵

Death records. Voting from the grave offers salacious headlines, and investigators often attempt to match death records to voter rolls in an attempt to produce purported evidence of fraud. Yet in addition to the problems with inaccurate matching identified above, a simple match of death records to voter rolls may conceal citizens who voted before dying, in quite ordinary fashion. In Maryland in 1995, for example, an exhaustive investigation revealed that of 89 alleged deceased voters, none were actually dead at the time the ballot was cast. The federal agent in charge of the investigation said that the nearest they came was when they “found one person who had voted then died a week after the election.”³⁶ Similarly, in New Hampshire, postcards were sent to the addresses of citizens who voted in the 2004 general election; one card was returned as undeliverable because the voter died after Election Day, but before the postcard arrived at her home.³⁷

Criminal records. Reports of votes by persons with convictions have often fed claims of voter fraud. Yet without more information, such reports may be deceptive. Many, if not most, convictions are misdemeanors, which in most states do not affect the defendant’s voting rights. Wallace McDonald, for example, was purged from the Florida voter rolls in 2000 because of a conviction. Yet Mr. McDonald’s crime was not a felony, for which many Floridians forfeit voting rights forever — but merely a misdemeanor, which should not affect voting rights at all. Indeed, Mr. McDonald had been convicted only of falling asleep on a bench.³⁸ Similarly, in Washington’s 2004 gubernatorial election, hundreds of citizens were alleged to have voted illegally because of convictions that were actually juvenile dispositions — which do not disqualify voters.³⁹

Records compiled for a different purpose. In St. Louis in 2000, officials compared the voter rolls to city property records and alleged that some voters fraudulently registered from vacant lots.⁵³ The property records, however, were originally compiled for a purpose other than individual identification; an address with multiple plots of land was apparently deemed entirely “vacant” if only one of the plots had no building. Further investigation by local reporters revealed that the supposedly vacant lots where voters were registered in fact contained valid residences.⁵⁴

VOTER MISTAKES

Even after accounting for the false conclusions above, investigations reveal that ineligible voters do sometimes cast votes. It is important, however, to distinguish those cases in which voters know they are ineligible but vote anyway — real voter fraud — from cases in which ineligible voters mistakenly believe themselves to be eligible. Both scenarios are unquestionably of concern. But it is likely to be more productive to address mistakes with remedies different from those often proposed for fraud.

Of the relatively small number of ineligible voters who mistakenly cast ballots, most are citizens rendered ineligible by criminal conviction. The laws concerning eligibility vary from state to state and can be confusing: different voters are disenfranchised for different convictions for different lengths of time.⁵⁵ Moreover, the process of restoring a citizen’s right to vote varies as well, from automatic restoration upon release from prison in states like Pennsylvania, Indiana, Ohio, Illinois, and Michigan,⁵⁶ to the excruciatingly burdensome application process in Kentucky — which requires all would-be voters to submit a written application accompanied by three character references, an essay explaining why they should be eligible to vote, and a filing fee.⁵⁷

These rules are not merely difficult for voters to navigate: election officials with special training in the rules and regulations governing eligibility routinely get the law wrong. A 2004 survey, for example, found that 43% of New Jersey’s county election offices did not follow state law in restoring citizens’ right to vote.⁵⁸ In New York, a much-publicized 2003 survey found that more than half of the local election officials did not follow state law; when the survey was repeated just two years later, 38% of the local boards of elections still got the law wrong.⁵⁹

It is difficult to expect disenfranchised voters to navigate the election laws successfully when so many election officials with expertise do not. Indeed, in Milwaukee, one voter asked to present identification at the polls showed his Department of Corrections ID card, with “OFFENDER” printed in bold letters across the face — but he was not informed by any poll worker that he might be ineligible to cast a ballot.⁶⁰ Such cases show confusion ... but not voter fraud.

Sometimes, merely following a poll worker's accurate instructions can land legitimate voters in unwarranted hot water. In 2004, for example, federal prosecutors were especially attuned to claims of voter fraud, and fixed the weight of the federal government on 23-year-old Cynthia Alicea. Alicea, an eligible resident of Wisconsin, registered on Election Day, as permitted under Wisconsin law. Poll workers found an error on the form, and asked Alicea to fill out another, which she also did. The poll workers, however, never discarded the first form. Alicea voted only once, but based on the two registration forms, prosecutors took the young woman to trial. Though she eventually won her case, because of the ordeal, "she's inclined not to vote ever again."⁷⁰

Exaggerated or unfounded allegations of fraud through double voting include the following:

- In Missouri in 2000 and 2002, hundreds of voters were alleged to have voted twice, either within the state or once in Kansas and once in Missouri. The same analysis acknowledged that the "computer files contain many errors that show people voting who did not actually vote."⁷¹ Of 18 Kansas City cases that reporters followed up, 13 were affirmatively shown to result from clerical errors.⁷² We are aware of public sources substantiating only four cases (amounting to six votes within the state), yielding an overall documented fraud rate of 0.0003%.⁷³
- In New Hampshire in 2004, citizens were alleged to have voted twice. In fact, on further investigation, many of the voters who were allegedly listed multiple times on the rolls actually represented different people with identical names; others were listed with multiple registrations, but voted only once. We are not aware of any public materials substantiating the claims of double voting.⁷⁴
- In New Jersey in 2004, 4,397 voters were alleged to have voted twice within the state, and 6,572 voters were alleged to have voted once in New Jersey and once elsewhere.⁷⁵ Many of these alleged double votes were actually flawed matches of names and/or birthdates on voter rolls.⁷⁶ Only eight cases were actually documented through signatures on poll books; at least five signatures appear to match.⁷⁷ Even if all eight proved to reveal fraud, however, that would amount to an overall double voting rate of 0.0002%.⁷⁸
- In New York in 2002 and 2004, between 400 and 1,000 voters were alleged to have voted once in New York and once in Florida. These allegations were also prompted by a flawed attempt to match names and birthdates.⁷⁹ We are aware of public sources substantiating only two cases, yielding an overall documented fraud rate of 0.000009%.⁸⁰
- In Wisconsin in 2004, dozens of voters were alleged to have voted twice. After further investigation, the vast majority were affirmatively cleared, with some attributed to clerical errors and confusion caused by flawed attempts to match names and birthdates. There were 14 alleged reports of voters casting ballots both absentee and in person; at least 12 were caught, and the absentee ballot was not counted. There were no substantiated reports of any intentional double voting of which we are aware.⁸¹

were voted before the voter passed away.⁹⁴ Even if the remaining eight cases all revealed substantiated fraud, that would amount to a rate of at most 0.0027%.⁹⁵

- In New Jersey in 2004, 4,755 deceased voters were alleged to have cast a ballot. The allegations were premised on a flawed match of voter rolls to death lists. No follow-up investigation publicly documented any substantiated cases of fraud of which we are aware, and there were no reports that any of these allegedly deceased voters voted in 2005.⁹⁶
- In New York in 2002 and 2004, 2,600 deceased voters were alleged to have cast a ballot, again based on a match of voter rolls to death lists. Journalists following up on seven cases found clerical errors and mistakes but no fraud, and no other evidence of fraud was reported.⁹⁷

ALLEGATIONS OF FRAUDULENT ADDRESSES

Those claiming voter fraud also point to allegations that voters have been registered at fraudulent addresses such as vacant lots, storage units, or government buildings. As with the allegations above, there are a few cases in which charges that votes have been improperly cast from illegitimate addresses have been substantiated.⁹⁸

More often, however, the allegations are either unsupported or further investigation reveals that the allegedly flawed addresses turn out to be legitimate.

These sorts of claims are often based on postcards that are returned undelivered or undeliverable — but the postcards are an unreliable indicator. Typos during the registration process, like the one listing Victor Moy at 8183 W. Thurston Avenue in Milwaukee instead of 8153,⁹⁹ may cause mail to be misdirected. Or, like the post office box used by Raven Shaffer in Ohio, individuals may receive mail at an address different from the legal residence they list as their registration address.¹⁰⁰

Other unsupported claims are based on attempts to screen registration addresses against lists of vacant lots, or against zoning regulations to find locations dedicated to non-residential use. Here, too, typos may cause legitimate addresses to be flagged as suspicious.¹⁰¹ Or the underlying lists may be flawed: in Missouri in 2000, lots that were supposedly vacant actually held houses.¹⁰² Sometimes the lists are simply overly broad, and capture voters who list less traditional — but entirely legitimate — residences. Barbara Taylor, for example, was among hundreds of Washington voters challenged in 2005 for this reason. While it is true that the address on her registration was the address of a public storage facility, Taylor — a manager for the storage company — “has lived in an apartment on the site for 12 years.”¹⁰³ Though her address appeared superficially questionable, her address was in fact entirely legitimate.

Finally, a variant of the above claims concern allegations that large numbers of votes are all tied to one address. There is, however, nothing inherently suspect about multiple votes from one address if multiple eligible voters live there, whether the address is a college dormitory or nursing home or any other group housing arrangement. In New Hampshire, for example, a citizen apparently became concerned because 88 individuals had registered with residences on property owned by Daniel Webster College; on further investigation, the 88 registrations were revealed to be from students at the college — and unsurprisingly, entirely legitimate.¹⁰⁴

double-checked against lists of convictions to find ineligible voters, it seems unlikely that ineligible citizens would take the substantial risk of a return to prison for just one incremental vote. On the rare occasions when citizens rendered ineligible by conviction do vote, it is far more sensible to believe that they do so by mistake than that they do so with intent to deceive.

The few examples above concern actual votes — intentional or unintentional — cast by people who are ineligible because of a conviction. More common are allegations of such activity that prove unfounded. Such reports are often based on comparisons of voter rolls with lists of people who have been convicted. Yet these “matches” are subject to the same errors mentioned repeatedly above: typos, clerical errors, individuals who superficially appear to be the same person but are actually different. The notorious 2000 purge of purported felons in Florida is a good example: a system that found roughly similar names and birthdates on voter rolls and conviction records ended up disqualifying thousands of voters who were perfectly eligible to vote, but who were deemed ineligible by the “match.”¹¹⁶ For example, because of the inaccurate matching protocol, eligible citizen Matt Frost was prevented from voting because state officials incorrectly linked him with a similar alias of ineligible voter Shawn Chadwick.¹¹⁷

Even when the matching system is not to blame, allegations of ineligible voting may be inflated. As with at least some names on the 2000 Florida purge list, convictions may be mislabeled as disenfranchising felonies when in fact a voter has been convicted only of a misdemeanor.¹¹⁸ As in Washington in 2004, citizens may be accused of ineligible voting due to juvenile dispositions — which do not affect their voting rights.¹¹⁹ Or as with at least seven cases in Waukesha, Wisconsin, in 2004, accusations may fail to account for voters who are convicted *after* casting a legitimate vote.¹²⁰

Moreover, even when the individual in question has actually been convicted of an offense that renders him ineligible, few such voters are ineligible to vote indefinitely. Some, like Reverend Willie Dixon of Florida, have been pardoned, and their voting rights restored.¹²¹ Other convictions may be overturned on appeal. Still others, depending on the state, regain the franchise automatically or upon petition, after release from incarceration, probation, or parole. Allegations of fraud that look to convictions without accounting for the restoration of voting rights often miss the mark.¹²²

Exaggerated or unfounded allegations of fraud by persons rendered ineligible by conviction include the following:

- In Florida in 2000, a large-scale purge became justifiably notorious for its inaccurate, even haphazard, discarding of the rights of eligible citizens. Despite recognizing the flawed nature of the purge lists, however, reporters used similar lists to claim that 5,643 ineligible persons with convictions actually voted in 2000. These reports used slightly more rigorous match criteria than were used to create the purge lists, but still acknowledged that the underlying data included eligible citizens with misdemeanors, citizens with convictions *after* their valid vote, and convicted persons with names and birthdates that matched eligible citizen voters. It is true that some votes were cast by ineligible citizens, some of whom were told by election officials that they were eligible. We are not aware of any reports of citizens voting despite knowing that they were ineligible.¹²³

Exaggerated or unfounded allegations of fraud by noncitizens include the following:

- In Washington in 2005, an individual asked county offices to investigate the citizenship status of 1,668 registered voters based on their “foreign-sounding names.” There are no reports of which we are aware that any individual on the submitted list was actually a noncitizen.¹³³
- In Washington in 2004, documentation appears to show that two votes were cast in King County by noncitizens. There are no reports of which we are aware that either of these noncitizens knowingly voted illegally, although one did ask to rescind his vote shortly after the election. Given these votes, the rate of documented noncitizen votes — without proof of fraud — in King County was 0.0002%.¹³⁴
- In Milwaukee in 2001, journalists analyzed 370,000 voting records from 1992 to 2000, and found four instances in which voters’ names matched a list of naturalized city residents, but appeared to have voted before their naturalization dates; there is no indication of which we are aware that any of these four knowingly voted illegally. Even if all four of the matched records accurately represented noncitizen votes, the rate of noncitizen voting among the city records examined would have been 0.001%.¹³⁵
- In Hawaii in 2000, 553 apparent noncitizens were alleged to have registered to vote. On further investigation, 144 documented that they had become citizens. At least 61 individuals affirmatively asked to cancel their registration; the others were stopped at the polls and specifically asked about their citizenship before voting. There are no reports of which we are aware that any noncitizen actually voted. To the extent that noncitizens were actually represented on the rolls, officials attributed the registrations to mistake rather than fraud.¹³⁶
- In Hawaii in 1998, four years after an INS investigation into more than 10,000 names identified fewer than twelve noncitizens whose names matched those on the voter rolls, the INS again investigated claims of extensive noncitizen voting. The agency examined 1,200 noncitizens suspected of voting, but found no evidence that any had voted. A separate proceeding uncovered three noncitizens who had indeed voted in 1998, and three others who were reported to be under further investigation. There are no reports of which we are aware that any noncitizens voted knowing that they were ineligible. But even if all six had voted, the overall noncitizen voting rate would have been 0.001%.¹³⁷
- In California in 1996, 924 noncitizens allegedly voted in Orange and Los Angeles Counties, including 624 allegedly ineligible voters identified by the Task Force of the U.S. House of Representatives investigating the Dornan/Sanchez election. The allegations were based largely on attempts to match immigration lists to voter rolls, but only 71 voters matched name, date of birth, and signature; other matches were less reliable. Most of the identified voters were processed by one nonprofit group registering individuals proceeding through the naturalization process; many were registered immediately after passing an INS citizenship interview, and after receiving a letter indicating that they had become naturalized. At least 372 of the voters were apparently officially sworn in before Election Day. There are no reports of which we are aware that any noncitizens registered or voted knowing that they were ineligible. Even assuming there were no matching errors, and

rare and most often committed by partisan actors. Most states criminalize the intentional destruction of registration forms or fraudulent submission of forms. Like the allegations of fraud by election officials, these incidents do not concern allegations of fraud by individual voters, and we do not address them in detail here.

Exaggerated or unfounded allegations of voter fraud due to fraudulent registration forms include the following:

- In Florida in 2005, a registration drive was alleged to be submitting thousands of fraudulent registration forms and withholding valid ones, with a box of 179 complete but unsubmitted forms produced as evidence. The charges later proved groundless, and the disgruntled former worker who produced the box was found to have defamed the drive. There are no reports of which we are aware that any votes were cast using any fraudulent registration connected to the drive.¹⁵¹
- In Georgia in 2004, 3,000 allegedly fraudulent registration forms — with the same handwriting and with numerous errors — were submitted by a registration drive. Procedures apparently meant to protect the forms from interference seemed to interfere with the group's ability to perform quality control on the forms that were submitted. There are no reports of which we are aware that any votes were improperly cast using the name of any fraudulent registration form.¹⁵²
- In Missouri, in a departure from clear Department of Justice policy, four individuals were federally indicted on the eve of the 2006 election for alleged registration fraud in Kansas City. At least 1,492 other allegedly questionable voter registration forms were submitted to St. Louis, prompting the Board of Elections for the City of St. Louis to send misleading notices to a wide swath of voters who had registered through the same group.¹⁵³ Yet the wrongdoers were an isolated few registration workers, and despite the skepticism of some that registration fraud occurs only to let ineligible people vote fraudulently, there are no reports of which we are aware that any votes were cast using any fraudulent registration connected to the drive.¹⁵⁴

ALLEGATIONS OF VOTER FRAUD BY DOGS

Popular media seem especially drawn to allegations that dogs are voting. These stories have a compelling “news of the bizarre” feel, and offer particular pleasure to punsters: “Prank Lands Voter in the Doghouse,”¹⁵⁵ “Woman Registers Her Dog to Vote; Prosecutors Growl.”¹⁵⁶ The fact, however, is that the voter rolls have not been overrun by canines. We are aware of only nine specific reports of dogs found on the voter rolls, including the registration card of “Ritzy Mekler” made infamous by Senator Kit Bond of Missouri.¹⁵⁷

At least six of the nine canine registrants were placed on the rolls by individuals trying to make a point about the fact that it is possible, if one risks prosecution, to place a dog on the voter rolls.¹⁵⁸ Which is to say, if people no longer registered dogs to show that dogs are on the rolls, dogs would no longer be on the rolls.

We are aware of only two cases — ever — involving ballots actually submitted in the name of a dog: the ballots cast by “Duncan MacDonald” in 2006 and 2007 (but labeled “VOID” and signed with a paw print),¹⁵⁹ and the ballot cast by “Raku Bowman” in 2003 in the Grass Roots Venice Neighborhood Council elections in Venice, California.¹⁶⁰ Only Bowman's vote — in a local election run by volunteers, rather than state or

VII. APPENDIX

SELECTED CASE STUDIES

Allegations of widespread fraud by malevolent voters are easy to make, but often prove to be inaccurate. The Brennan Center has analyzed public materials in some of the areas branded as notorious election fraud “hot spots,” finding that various election irregularities led to inflated claims of widespread fraud.

In many of these cases, proposals to require restrictive identification documents of voters at the polls were under debate at the time of the election — or were proposed as a result. The cries of “voter fraud” were often used to support the call for restrictive ID.

We examined each of the allegations of fraud by voters to uncover the truth behind the assertions. Further case studies are available at our website devoted to the topic, www.truthaboutfraud.org.

Missouri	In some ways, the recent hunt for voter fraud began in Missouri in the 2000 election, the crucible that proved formative for Attorney General John Ashcroft and Senator Kit Bond, among others. Yet despite all the frenzy, the allegations yielded only six substantiated cases of Missouri votes cast by ineligible voters, knowingly or unknowingly, except for those votes permitted by court order. The six cases were double votes by four voters—two across state lines and two within Missouri—amounting to an overall rate of 0.0003%. None of these problems could have been resolved by requiring photo ID at the polls.
New Jersey	Just before the 2005 election, partisan actors attempted to probe the accuracy of New Jersey’s voter rolls by comparing election records for 2004 with death records and with the rolls of other states. The allegations yielded only eight substantiated cases of individuals knowingly casting invalid votes that counted—eight voters who voted twice. Given the number of votes cast in these elections, this amounts to a rate of 0.0004%. None of these problems could have been resolved by requiring photo ID at the polls.
Wisconsin	The 2004 election was hotly contested in Wisconsin, and various irregularities led to inflated claims of widespread fraud. The allegations yielded only seven substantiated cases of individuals knowingly casting invalid votes that counted—all persons with felony convictions. This amounts to a rate of 0.0025% within Milwaukee and 0.0002% within the state as a whole. None of these problems could have been resolved by requiring photo ID at the polls.

- **Dead voters:** 14 votes in St. Louis City and County were cast in the names of allegedly dead people, based on a computer match of names, dates of birth, and Social Security numbers on the voting rolls against information in Department of Health records.¹⁷² It is not clear whether any of these individuals died after the election. We are not aware of any public reported analysis of poll records to determine whether individuals listed as voting actually voted and were not listed as voting due to a clerical error.¹⁷³

ADDITIONAL ALLEGATIONS OF IRREGULARITIES UNCONNECTED TO INDIVIDUAL VOTER FRAUD:

- **“Inactive” purge:** In St. Louis, approximately 49,589 eligible voters were removed from the active voter rolls and placed on an “inactive list” after postcards allegedly sent to them were returned as undeliverable. At many polling places, the “inactive lists” were not made available, and these voters were allegedly unlawfully instructed that they could not vote at their regular precinct, but instead had to travel to the central city office to wait on lengthy lines to affirm their registered status, and then return to their original polling places to vote. Some voters were still on line at the central office when the polls closed, and were not able to return to their polling places to vote.¹⁷⁴
- **Polling place time:** In St. Louis, the polls were kept open by court order until 7:45pm, 45 minutes past the original closing time. The lead plaintiff requesting this order was allegedly deceased, although later review showed that the plaintiff’s name had been typed with an incorrect middle initial; the legal filings also stated that this plaintiff had been unable to vote when he had in fact voted. The effort to keep the polls open was alleged to have been conceived before Election Day. The delayed closing time allowed at least 100 voters to vote who otherwise would have arrived at the polls too late to cast a vote.¹⁷⁵
- **Court order:** At least 342 voters in St. Louis City and 891 voters in St. Louis County were allegedly improperly granted a court order allowing them to vote. The effort to seek court orders was also alleged to have been conceived before Election Day. Most of these voters allegedly gave insufficient reasons for obtaining a court order, although the report arriving at this conclusion stated an inaccurately high threshold for obtaining a court order.¹⁷⁶ 143 of these voters allegedly had not been registered by the voter registration deadline; it is not clear if any of the other voters were ineligible to vote.¹⁷⁷
- **Improper election judges:** 45 election judges in St. Louis City allegedly not registered to vote were later found to be validly registered; all were thought invalid because of typographical errors.¹⁷⁸
- **Inflated voter rolls:** St. Louis City had more names registered on the voting rolls than the voting-age population of the city, and 24,000 names were also listed as registered elsewhere in Missouri.¹⁷⁹
- **Chain of custody:** Ballot boxes were allegedly left unattended at 29 precincts.¹⁸⁰

NEW JERSEY

Just before the 2005 elections, partisan actors attempted to probe the accuracy of New Jersey's voter rolls by comparing them with death records and with the rolls of other states. The reports led to inflated claims of widespread fraud in the 2004 election, of the sort commonly used to support restrictive identification requirements for voters at the polls. We examined each of the allegations of fraud by individual voters—the only sort that ID could possibly address—to uncover the truth behind the assertions.

THE ALLEGATIONS:

- **Dead voters:** 4,755 votes were alleged to have been cast in the names of dead voters in 2004, based on an attempt to match the first and last name and date of birth from voting records to death records.¹⁸³ No follow-up investigation appears to have been published on the number of votes actually cast in the names of dead voters in 2004, if any. None of the allegedly dead voters actually voted in 2005.¹⁸⁴
- **Double voters:** 4,397 individuals allegedly voted twice in New Jersey, and 6,572 individuals allegedly voted both in New Jersey and in either New York, Pennsylvania, Florida, North Carolina, or South Carolina, based on an attempt to match the first and last name and date of birth from one set of voting records to another.¹⁸⁵ Analysis of the list of alleged double voters within New Jersey showed that 2,305 of the entries had different middle names or suffixes, or an error in the date of birth.¹⁸⁶ Data errors in Middlesex county, and the statistical likelihood of finding two different individuals with the same name and birthdate, call into question much of the remainder of the list.¹⁸⁷ Ultimately, the existence of eight double voters was substantiated through original signatures on poll book materials.¹⁸⁸

THE RATE OF SUBSTANTIATED VOTER FRAUD:

- The allegations of fraud related to the 2004 general election, in which 3,611,691 votes were cast in New Jersey.¹⁸⁹
- There were eight substantiated cases of individuals knowingly casting invalid votes—eight voters voting twice. This amounts to a rate of **0.0004%**. **None** of these problems could have been resolved by requiring photo ID at the polls.
- Even given allegations that were unsubstantiated, the rate of possible fraud remains low. The analysis above lays out the allegations, reasons to question each, and the facts that we know. But assuming that **all** 13,419 of the remaining cases in fact involved voter fraud—which is highly unlikely, given the methodological errors revealed in the study of double-voting—that would amount to a rate of 0.61%.

WISCONSIN

The 2004 election was hotly contested in Wisconsin, and various irregularities led to inflated claims of widespread fraud. At the same time, Wisconsin citizens were debating a proposal to require restrictive identification of each voter at the polls, and the fraud claims were used to support the call for ID. We examined each of the allegations of fraud by individual voters—the only sort that ID could possibly address—to uncover the truth behind the assertions.

THE ALLEGATIONS:

- **Invalid addresses:** Based on an attempt to match voter roll entries to the U.S. Postal Service's database of street addresses, 37,180 people in Milwaukee were alleged to have registered from invalid addresses. Of these, 31,500 listed accurate street addresses, but had problems with an apartment number. Further review of the remaining allegedly invalid addresses revealed cases in which the list was corrupted; digits were dropped on some entries, making otherwise valid addresses appear fictitious. This review also showed typos turning valid addresses into invalid ones. Though reporters following up on the story could not locate 68 listed addresses, at least 400 addresses were affirmatively proven to be valid. The bipartisan Milwaukee Election Commission ultimately threw out a challenge lodged to 5,619 of the entries, citing insufficient evidence that the registrations were invalid. Still, poll workers were specifically instructed to ask challenged voters for proof of residency, so every voter on the list of 5,619 should have been asked for proof of proper residency.¹⁹⁰

1,242 Milwaukee votes were cast from allegedly invalid addresses, based on another computerized match; this match paired voter rolls with U.S. Postal Service and City of Milwaukee property lists, with spot checks of 40 specific addresses.¹⁹¹ A sample of 300 of the entries showed that about 20% of the invalid addresses were attributed to data entry errors (e.g., "3130 S. 15th Place" became "3130 S. 15th St.," and "S. 68th St." became "S. 63rd St."). At least two other addresses ostensibly deemed business locations were found to be valid residences after an individual spot-check. Furthermore, 75% of these votes were from Election Day registrants, who were required to show proof of residence at the polls.¹⁹²

- **Faulty registration cards:** In Milwaukee, 10,921 voter registration cards from Election Day voters were allegedly unable to be processed. This allegation turned out to be an error; in fact, 1,305 Election Day registration cards from Milwaukee could not be processed. 548 of these listed no address, and 48 cards listed no name, but voters had to show both proof of name and proof of residence to register on Election Day. 236 cards had missing or incomplete dates of birth, 28 had no signature, 141 listed addresses outside of the city limits, and 23 were deemed illegible. 155 cards were not processed because they had not been given a voter number by the city. It is unclear why the remaining 126 cards could not be processed.¹⁹³

3,600 address verification cards mailed using information entered from these Election Day registrations were returned as allegedly undeliverable.¹⁹⁴ We are not aware of any further public investigation of these cards.¹⁹⁵

2,200 address verification cards from outside of Milwaukee, mailed using information entered from Election Day registrations, were also returned as allegedly undeliverable.¹⁹⁶ 313 of these were from Racine; 207 were returned because the voter moved after the election, and at least 24 addresses were entered incorrectly by election workers.¹⁹⁷ Of the 1,887 returned address verifications of Election Day registrations from elsewhere around the state, 1,198 were returned because the voter moved after the election or was temporarily absent

- **Impersonation:** 1 vote was allegedly cast in the name of an individual who did not vote.²¹⁰ Further investigation of the alleged vote cast in the name of another was determined to be a clerical error by a poll worker.²¹¹
- **Fictitious voters:** 2 votes were allegedly cast in the name of an individual who could not be verified as an actual individual.²¹² These votes were cast in the name of Marquis E. Murff, who could not be verified by a reporter as an actual individual. We are not aware of any further public investigation.²¹³
- **Underage voter:** One ballot was cast by a 17-year-old voter, using his real birthdate.²¹⁴
- **Noncitizen:** One columnist reported that a ballot was allegedly cast by a Canadian legal permanent resident. We are not aware of any further public investigation.²¹⁵
- **Faulty registration:** Four individuals allegedly submitted false voter registration applications.²¹⁶ 2 Milwaukee residents were convicted for submitting false voter registration applications; 1 person alleged to have supervised two others who turned in false forms was also convicted, but that conviction was overturned. The trial of one other individual accused of submitting false registration applications is still pending. No votes were alleged to have been cast under these registrations.²¹⁷

ADDITIONAL ALLEGATIONS OF IRREGULARITIES UNCONNECTED TO INDIVIDUAL VOTER FRAUD:

- **“Extra” ballots:** In Milwaukee, there were allegedly 8,300 more ballots cast than individuals processed as voting; the gap was later narrowed to 4,609. The discrepancy was later attributed to administrative error in reconciling poll book logs with ballots, and at least one typographical error in reporting results.²¹⁸
- **Election Day interference:** In Milwaukee, tires on 20 get-out-the-vote vans were allegedly slashed.²¹⁹
- **Uncounted ballots:** 238 valid absentee ballots from Milwaukee were counted late.²²⁰
- **Uncounted votes:** 600 valid votes were allegedly not counted in Medford due to a computer error.²²¹
- **Unprocessed registration cards:** Eight boxes of valid registration cards were allegedly not processed in order to put voters on the rolls by the time individuals arrived at the polls.²²²

THE RATE OF SUBSTANTIATED VOTER FRAUD:

- The allegations of voter fraud related to the 2004 general elections, in which 277,565 votes were cast in Milwaukee, and 2,997,007 votes were cast in all of Wisconsin.²²³
- There were 7 substantiated cases of individuals knowingly casting invalid votes—all persons with felony convictions. This amounts to a rate of **0.0025%** within Milwaukee and **0.0002%** within the state as a whole. **None** of these problems could have been resolved by requiring photo ID at the polls.

ENDNOTES

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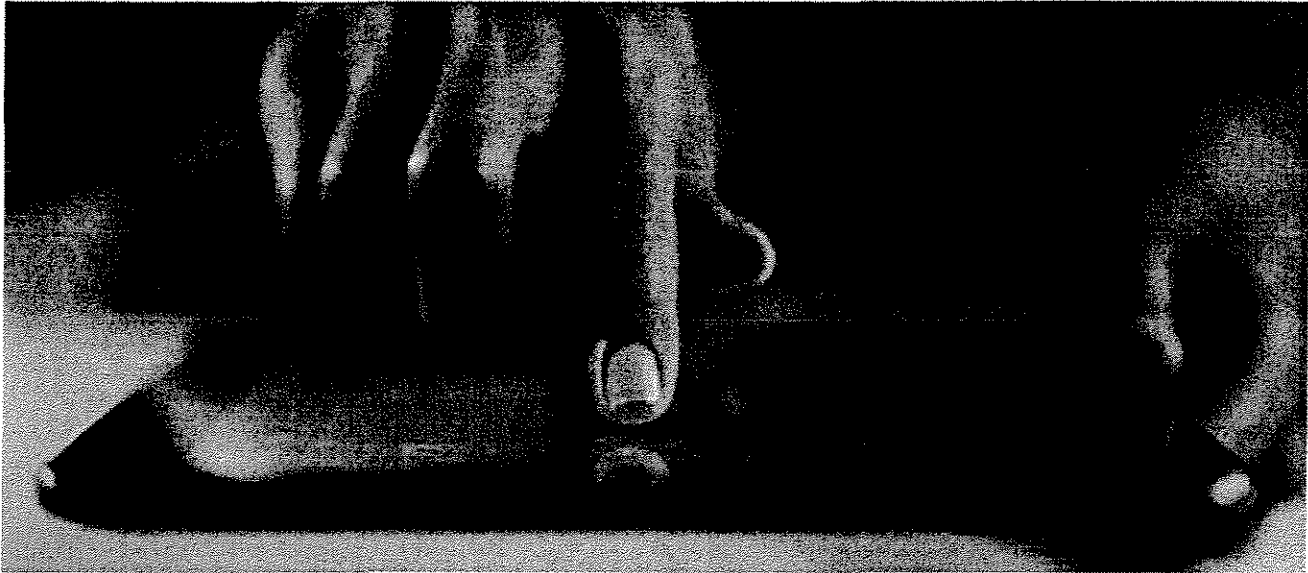
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Understanding Online Voter Registration

Overview

Online voter registration saves taxpayer dollars, increases the accuracy of voter rolls, and provides a convenient option for Americans who wish to register or update their information.¹ Online voter registration was first offered in Arizona in 2002. Six years passed before the next state, Washington, implemented an Internet-based system, but since then the pace of adoption has accelerated. As of 2013, 15 states have online voter registration, and five others are in the process of building systems.² These 20 states account for approximately 104 million eligible voters, or about 47 percent of all eligible voters in the nation.³

Despite the proven benefits and rapid expansion of online voter registration over the past five years, data on the design and operation of these systems are limited. To address this research gap, The Pew Charitable Trusts in June 2013 conducted a survey of the 13 states that had online registration at that time: Arizona, California, Colorado, Indiana, Kansas, Louisiana, Maryland, Nevada, New York,⁴ Oregon, South Carolina, Utah, and Washington.⁵

This brief provides a summary of the survey's major findings in five areas—cost, implementation, voter convenience, system management, and online security—and then examines ways in which these states would like to improve online voter registration. Overall, the responses indicate that the registration systems are cost-effective for states, convenient for voters, and secure because they reduce the potential for fraud while improving the accuracy of voter rolls.

Voter convenience

States employ a variety of tools to make online registration as convenient as possible, such as using multiple languages, optimizing systems for mobile devices, and providing confirmation after an application has been submitted.

- Eight states make online voter registration available in Spanish; Washington also provides Chinese and Vietnamese language options.
- Four states optimize their systems for use with mobile devices, and another plans to add this feature in 2014. Two additional states cite mobile optimization as a primary goal for future upgrades to their systems.
- All states conclude their online voter registration applications with confirmation that the application has been submitted. Eight states include a confirmation number that the voter can use to verify the status of the application, and six states send an email confirming that the application has been submitted.
- Voters in five states are notified in real time if they submit online registration applications but are determined to already be registered.
- Ten states give online registrants the option of providing email addresses. Seven of those states protect those addresses from public disclosure.



Online voter registration is convenient, easy, and secure. Nevada doubled its new registrations prior to the 2012 election when online voter registration became available statewide for the first time.

—Scott F. Gilles, *Nevada deputy secretary for elections*

System management

States vary in how they manage their systems, including how online applications are reviewed and approved, how information is transmitted between agencies, and how electronic applications are tracked and recorded.

Application review

- Eleven states have an election official—typically at the county or local level—review all online voter registration applications.
- In two states, an election official reviews only those applications flagged by the system as problematic.

Signature verification

- All states surveyed require a citizen to have a record and, importantly, a signature on file with the motor vehicle agency (or equivalent licensing and identification agency) in order to register to vote online.
- Twelve states have a real-time connection with the motor vehicle agency through which the applicants' identities are verified.⁹ In one state—Kansas—records are sent and verified in batches.

“ Online voter registration has saved Colorado counties millions of dollars since April 2010, and has provided our citizens with a level of customer services they would expect from a for-profit provider. As an added bonus, Coloradans don't have to give their confidential information to strangers on street corners.

—Judd Choate, *director of Elections Division, Colorado State Department*

Improving online voter registration

There is always room for improvement in the evolution of technical systems. Several states shared lessons from their implementation experiences as well as future aspirations for online voter registration.

- Four states expressed interest in optimizing their online voter registration systems for use on mobile devices.
- Two states highlighted the need to optimize their systems for a variety of Web browsers.
- Two states hope to add more language options.
- Four states experienced some challenges coordinating with their motor vehicle agencies and stressed the importance of clear communication between agencies.
- One state—Colorado—recommends building in extra prelaunch testing to an implementation timeline.

Conclusion

Eleven of 13 states surveyed reported greater voter satisfaction and reduced burdens for election officials as a result of online voter registration.¹¹ At the same time, voters' impressions of these online systems have improved. Recent polling data show 65 percent of registered voters support allowing online voter registration.¹² As more states allow online registration, Pew will continue to track and document state differences in implementing and managing the systems, and the general impressions of the election officials who use them.

Those interested in implementing or improving online voter registration systems may contact The Pew Charitable Trusts' election initiatives for more information. Visit our website at pewstates.org/elections. Follow us on Twitter using #electiondata and get the latest data dispatches, research, and news by subscribing today.

Pew is committed to working with states and other partners to achieve the highest standards of accuracy, cost-effectiveness, convenience, and security in America's system of election administration.

	AZ	CA	CO	IN	KS	LA	MD	NV	NY	OR	SC	UT	WA
Date of birth must be submitted when applying	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Driver's license or state ID number must be submitted when applying	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Last four digits of SSN must be submitted when applying		✓					✓	✓	✓				
Full SSN must be submitted when applying											✓		
Address updated at DMV when voter registration updated	✓								✓				
Registrations transmitted in real time to local election officials	✓	✓	✓			✓		✓			✓	✓	✓
Registrations transmitted to local election officials in batches				✓	✓		✓		✓	✓			
State can differentiate new vs. updated registrations	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
State can differentiate online vs. paper registrations			✓	✓	✓		✓					✓	
Run system through secure networks	✓	NR	✓	✓	✓	✓	✓	✓	NR	✓	✓	✓	✓
Use audit logs	NR	NR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Use warning screen about fraudulent activity	NR	✓	✓	✓	NR	✓	✓	✓	✓	✓	✓	NR	✓
Use encryption to protect data	✓	NR	✓	NR	✓	✓	✓	NR	✓	✓	✓	✓	NR

Note: This survey was conducted May-June 2013 using surveymonkey.com. Thirteen states were surveyed: Arizona, California, Colorado, Indiana, Kansas, Louisiana, Maryland, Nevada, New York, Oregon, South Carolina, Utah, and Washington. "NR" means no response. States did not respond to these questions.

Source: The Pew Charitable Trusts, *Survey of Online Voter Registration States*, June 2013.
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October 2012

Chicken Little in the Voting Booth
The Non-Existent Problem of Non-Citizen "Voter Fraud"

A wave of restrictive voting laws is sweeping the nation. The Brennan Center for Justice at New York University School of Law counts "at least 180 restrictive bills introduced since the beginning of 2011 in 41 states." Bills requiring voters "to show photo identification in order to vote" were signed into law in Alabama, Kansas, Rhode Island, South Carolina, Tennessee, Texas, Wisconsin, and Pennsylvania. Adding insult to injury, Alabama, Kansas, and Tennessee went a step further and required voters to present proof of U.S. citizenship in order to vote.¹ In addition, Florida, Colorado, and New Mexico embarked upon ultimately fruitless "purges" of their voter rolls for the ostensible purpose of sweeping away anyone who might be a non-U.S. citizen.²

All of these actions have been undertaken in the name of preventing voter fraud, particularly illegal voting by non-citizens. Proponents of harsh voter laws often assert, without a shred of hard evidence, that hordes of immigrants are swaying election results by wheedling their way into the voting booth. However, repeated investigations over the years have found no indication that systematic vote fraud by non-citizens is anything other than the product of overactive imaginations.

Fighting Phantoms: No Evidence of Widespread or Systematic Vote Fraud by Non-Citizens

- Election experts tend to agree that modern-day voter fraud is a very rare occurrence in the United States, primarily because it is so irrational. The potential payoff (a vote) is not worth the risk of jail time, thousands of dollars in fines, and—in the case of non-citizens—possibly deportation.
- The Brennan Center succinctly summarizes this point in a 2006 fact sheet: "Each act of voter fraud risks five years in prison and a \$10,000 fine—but yields at most one incremental vote. The single vote is simply not worth the price. Because voter fraud is essentially irrational, it is not surprising that no credible evidence suggests a voter fraud epidemic."³
- Researcher Lorraine Minnite writes in a 2010 book that "there is good evidence to support the conclusion (1) that voters rarely fraudulently register or vote; (2) that protections against voter fraud are sufficiently provided for in federal and state law; and (3) that from a cost-benefit perspective this makes it irrational for voters to cast fraudulent ballots."⁴

- The *New York Times* notes that, in 2011, “New Mexico’s wasteful investigation of 64,000 ‘suspicious’ voter registrations found only 19 cases of voters who may have been noncitizens.”¹²

Sore Losers, Mistakes, and Mischief Behind Voter Fraud Charges

- Project Vote found that “most voter fraud allegations turn out to be something other than fraud. A review of news stories over a recent two year period found that reports of voter fraud were most often limited to local races and individual acts and fell into three categories: unsubstantiated or false claims by the loser of a close race, mischief, and administrative or voter error.”¹³ The report concludes that “when we probe most allegations of voter fraud we find errors, incompetence and partisanship.”¹⁴
- Many accusations of voter fraud by non-citizens stem from database errors. The Brennan Center notes that “government citizenship records—as the government itself acknowledges—are...replete with errors or incomplete information. Naturalization documentation may find its way into the government files slowly, or not at all, leaving outdated or inaccurate information for investigators looking for fraud. And this, in turn, leads to flawed accusations that noncitizens have been voting, when the voters in question have in fact become fully naturalized American citizens.”¹⁵
- The Brennan Center concludes that “allegations of widespread voter fraud...often prove greatly exaggerated. It is easy to grab headlines with a lurid claim (‘Tens of thousands may be voting illegally!’); the follow-up—when any exists—is not usually deemed newsworthy. Yet on closer examination, many of the claims of voter fraud amount to a great deal of smoke without much fire. The allegations simply do not pan out.”¹⁶

Allegations Put Minorities, Immigrants, and the Poor in the Cross-Hairs

- According to the Brennan Center, “claims of voter fraud are frequently used to justify policies that do not solve the alleged wrongs, but that could well disenfranchise legitimate voters. Overly restrictive identification requirements for voters at the polls—which address a sort of voter fraud more rare than death by lightning—is only the most prominent example.”¹⁷
- Minnite writes that allegations of voter fraud “shrewdly veil a political strategy for winning elections by tamping down turnout among socially subordinate groups” such as racial minorities, immigrants, and the poor.¹⁸ She goes on to say that “restrictive voter identification rules that cause people to lose their votes also undermine the integrity of the electoral process. The point is there is no integrity without access. We need to simplify our electoral system, not encumber it with more tangled rules justified by myth.”¹⁹

Endnotes

¹ Brennan Center for Justice, New York University School of Law, “2012 Summary of Voting Law Changes” (New York, NY: September 7, 2012).

² *New York Times*, “Florida’s Discriminatory Voter Purge,” May 31, 2012.

THE MISLEADING MYTH OF VOTER FRAUD IN AMERICAN ELECTIONS

by Lorraine C. Minnite, Rutgers University-Camden

Are fraudulent voters undermining U.S. elections? The simple answer is no. Rather, the threat comes from the *myth* of voter fraud used to justify rules that restrict full and equal voting rights.

A concerted partisan campaign to erect more restrictive voting rules is apace in many states, with Republicans pushing new limits on access and Democrats objecting. Thousands of changes to state election codes have been proposed since the contested presidential election of 2000. Far fewer have been signed into law, but those put in place – such as rules that people have a certain kind of photo identification card available from specific government offices – are making it more difficult for many citizens to cast ballots, including longtime voters as well as new ones.

In a democracy, reducing access to the ballot is difficult to justify. Political motives and strategies to discourage voting by particular groups such as racial minorities cannot be openly announced. That's where the myth of criminal voters comes in – as proponents of new rules cite the supposed threat of votes fraudulently cast by foreigners, noncitizens, immigrants, felons, and imposters who supposedly travel around to vote in many precincts. Mythical threats that stoke social prejudices are used to make new restrictions seem reasonable.

Fraud by Individual Voters Is Almost Nonexistent

The earliest reliable studies of election fraud in the 1920s and 1930s found that individual voters almost never committed fraud on their own. Conspiracies by politicians or election officials were behind most violations. Voter registration laws were put in place to reduce such organized fraud.

Today, social scientific research on fraud is difficult because there are no officially compiled national or state statistics. Researchers must painstakingly piece together evidence from news reports, court proceedings, law enforcement agencies, election officials, and interviews with experts and other sources. After ten years of such research, I found that intentional fraud by individual voters is exceedingly rare. Other investigations have reached the same conclusion.

- Replicating my methodology, 24 journalism students at twelve universities reviewed some 2,000 public records and identified just six cases of voter impersonation between 2000 and 2012.
- Under Republican President George W. Bush, the U.S. Justice Department searched for voter fraud. But in the first three years of the program, just 26 people were convicted or pled guilty to illegal registration or voting. Out of 197,056,035 votes cast in the two federal elections held during that period, the rate of voter fraud was a miniscule 0.00000132 percent!

The myth of voter fraud

THURSDAY, 12 FEB 2015 03:00AM
BY SEN. MARY CAMACHO TORRES



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VOTING is a right, not a gift or a privilege and the threat that comes from the myth of voter fraud is often used to justify laws that restrict full and equal voting rights. Restrictive measures over voting requirements, including proof of citizenship, are commonly defended by a perceived need to prevent voter fraud and preserve the integrity of the vote. Many fear the potential for increased voter fraud is ripe when policies that relax voting requirements are introduced. Proponents of harsh voter laws often assert, without any evidence, that illegal voting by noncitizens or ineligible voters will sway election results.

However, repeated investigations and numerous studies have proven that most allegations of voter fraud are highly exaggerated and extraordinarily rare. An article by the Scholars Strategy Network points out that: "Voters acting on their own have no rational cause to vote fraudulently. The odds of casting a deciding vote are miniscule and cheaters risk criminal prosecution under state laws on the books for decades."

The Brennan Center for Justice at the New York University School of Law did an extensive study of voter fraud across the nation and concluded that modern day voter fraud is irrational and "the voter fraud phantom drives policy that disenfranchises actual legitimate voters, without a corresponding actual benefit." As the Brennan Center notes, overly restrictive identification and citizenship requirements attempt to address a voter fraud that is rarer than death by lightning.

I recently introduced a bill to allow Guam to adopt a system for online voter registration. Online voter registration is a growing national trend and studies have shown that it saves taxpayer dollars, increases the accuracy of voter rolls, and provides a convenient option for citizens who wish to register. To make online voter registration viable, Guam has to repeal its antiquated requirement for multiple forms of identification from persons registering to vote. Surveys have shown that many individuals do not have readily available documentary proof of citizenship or government-issued photo ids and certain groups – primarily the poor, the elderly and minorities – are less likely to possess these forms of identification. Not surprisingly, obstacles to registration result in fewer people who are registered to vote, leaving many voices unheard.

In our small island community where the margin of victory can be razor thin, some worry that elimination of documented proof of U.S. citizenship may result in noncitizens registering in droves to swing the results of a close race. Given that the penalty for fraud is so severe and involves criminal prosecution and possible deportation, I believe the likelihood of this occurring is far-fetched. The gain of casting one fraudulent vote certainly does not justify the risk to a noncitizen, and the risk of penalty to a political organization or candidate involved in such conspiracy is too great. Of all the studies conducted on voter fraud nationwide, the documented occurrence of voter ineligibility fraud is negligible at best.

About half of the U.S. states have already adopted online voter registration laws and recent court

challenges to restrictive voter rules have been decided in favor of lifting restrictions. We have the opportunity on Guam to modernize and streamline our voter registration requirements and process, with the intent of encouraging voter registration.

The right to vote provides the foundation that makes all other rights possible, therefore, the freedom to vote must be fiercely protected for all citizens, regardless of class or privilege. While rules on their own don't increase turnout, it's incumbent on us to improve our voting process and not succumb to the threats and myth of voter fraud. We have more to gain with online voter registration. We need to simplify our electoral system and expand voting rights and access, not encumber it with traditional rules that defend a myth.



COMMITTEE ON RULES

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Rory J. Respicio
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MAJORITY LEADER

Senator

Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Speaker

Judith T.P. Won Pat, Ed.D.
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Senator

Michael F.Q. San Nicolas
Member

Senator

Nerissa Bretania Underwood
Member

V. Anthony Ada
MINORITY LEADER

Mary C. Torres
MINORITY MEMBER

March 6, 2015

Memorandum

To: Rennae Meno
Clerk of the Legislature

From: Senator Dennis G. Rodriguez, Jr. *DR*
Acting Chairperson of the Committee on Rules

Subject: Fiscal Notes

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below.
Please note that the fiscal notes are issued on the bills as introduced.

FISCAL NOTES:

Bill No. 24-33(COR)

Bill No. 25-33(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2015 MAR - 6 AM 11:21 *W*

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 25-33 (COR)**

AN ACT TO ADD NEW SUBSECTION §101J TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION

Department/Agency Appropriation Information	
Dept./Agency Affected: Guam Election Commission	Dept./Agency Head: Maria Pangelinan, Executive Director
Department's General Fund (GF) appropriation(s) to date:	1,382,852
Department's Other Fund (Specify) appropriation(s) to date:	-
Total Department/Agency Appropriation(s) to date:	\$1,382,852

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2014 Unreserved Fund Balance		\$0	\$0
FY 2015 Adopted Revenues	\$0	\$0	\$0
FY 2015 Appro. (P.L. 32-181 thru 32-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2015 (if applicable)	FY 2016	FY 2017	FY 2018	FY 2019
General Fund	1/	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? // Yes /x/ No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A // Yes // No
If no, what is the additional amount required? \$ _____ /x/ N/A
- Does the Bill establish a new program/agency? // Yes /x/ No
If yes, will the program duplicate existing programs/agencies? // N/A // Yes /x/ No
Is there a federal mandate to establish the program/agency? // Yes /x/ No
- Will the enactment of this Bill require new physical facilities? // Yes /x/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /x/ Yes // No
// Requested agency comments not received by due date // Other:

Analyst: <u>Dina P. Rivera</u>	Date: <u>3-4-15</u>	Director: <u>Jose S. Calvo, Acting Director</u>	Date: <u>MAR 05 2015</u>
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Footnote:
1/ See attached comments.

COMMENTS TO BILL No. 25-33(COR)**AN ACT TO ADD NEW SUBSECTION §3101.3 TO CHAPTER 3, TITLE 16,
GUAM CODE ANNOTATED (GCA) RELATIVE TO ENABLING REGISTRATION
OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION**

The Bill is proposing that persons applying or renewing a Guam driver's license or a Guam Identification Card at the Department of Revenue and Taxation (R&T) may also be afforded the opportunity to register to vote. Based on information from the Guam Election Commission (GEC), the GEC will provide R&T "Affidavit of Registration (AOR)" forms. However, the bill specifically states that it "shall be the responsibility of the Department of Revenue and Taxation to print and have available at all times a sufficient number of voter registration forms..." Either way, fiscal impacts would be realized, first, for example [Reference: Comments to Bill Nos. 23-33 (COR) and 24-33(COR)], the GEC would have to order new AOR forms to include language for Sixteen (16) year olds who would be eligible to pre-register to vote. The added language for example would be: "Registrant is not eligible to vote until such time as he or she turns eighteen (18) years of age before or by election day..." The GEC also noted that it could cost between \$1,500-\$5,000 to order new "Affidavit of Registration (AOR)" forms to comply with the proposed changes to the form. GEC further explained that the cost of AOR forms may vary since it must be forms with carbon copy and the GEC orders sufficient supply of AOR forms for multiple years. In addition, the AOR forms (available on pdf format only) in GEC's website is only applicable to "Absentee" or "Homebound" voters, therefore, this pdf form must also be updated. Finally, R&T would more than likely have to increase its paper supply to print the forms. Please note that the only "local" current appropriation budgeted to R&T for "Supplies" is under its *Tax Collection Enhancement Fund*. This is in the amount of \$90,000 of which \$82,337 has already been expended/encumbered to date. In closing, using the FY15 supply expenditure/encumbrance data as well as the FY14 total expenditures for supplies of \$98,819, the Bureau is able to make an assumption that R&T will need additional appropriations to meet the added supply requirement for printing. There is no additional appropriation to R&T for supplies addressed in the bill.



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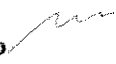
Mary C. Torres
MINORITY MEMBER

January 23, 2015

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Chairperson, Committee on Rules

Subject: **Corrected Referral of Bill No. 25-33(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 25-33(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Tres na Liheslaturan Guåhan*.

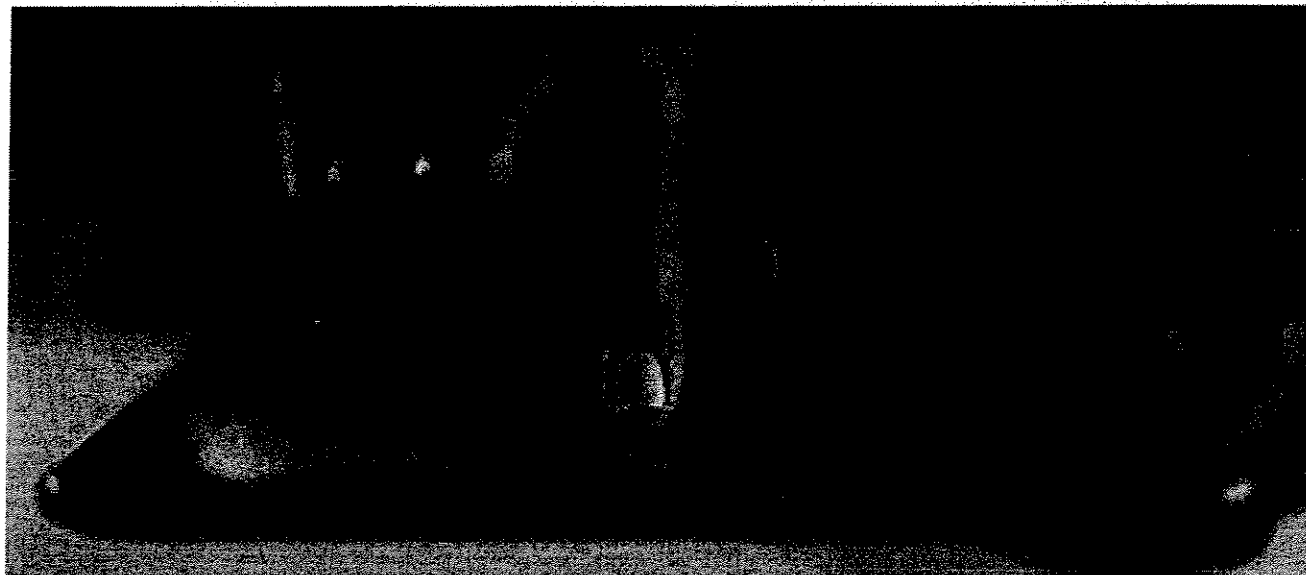
Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I Mina'Trentai Tres Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
25-33 (COR)	M.C. Torres	AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION.	01/20/15 2:12 p.m.	01/22/15	Committee on Rules, Federal, Foreign and Micronesian Affairs, Human and Natural Resources, Election Reform and Capitol District			



Understanding Online Voter Registration

Overview

Online voter registration saves taxpayer dollars, increases the accuracy of voter rolls, and provides a convenient option for Americans who wish to register or update their information.¹ Online voter registration was first offered in Arizona in 2002. Six years passed before the next state, Washington, implemented an Internet-based system, but since then the pace of adoption has accelerated. As of 2013, 15 states have online voter registration, and five others are in the process of building systems.² These 20 states account for approximately 104 million eligible voters, or about 47 percent of all eligible voters in the nation.³

Despite the proven benefits and rapid expansion of online voter registration over the past five years, data on the design and operation of these systems are limited. To address this research gap, The Pew Charitable Trusts in June 2013 conducted a survey of the 13 states that had online registration at that time: Arizona, California, Colorado, Indiana, Kansas, Louisiana, Maryland, Nevada, New York,⁴ Oregon, South Carolina, Utah, and Washington.⁵

This brief provides a summary of the survey's major findings in five areas—cost, implementation, voter convenience, system management, and online security—and then examines ways in which these states would like to improve online voter registration. Overall, the responses indicate that the registration systems are cost-effective for states, convenient for voters, and secure because they reduce the potential for fraud while improving the accuracy of voter rolls.

Cost

Although creation of an online voter registration system involves some initial expenditures, they are modest and are quickly surpassed by the savings generated. In fact, 12 of the 13 states surveyed reported that cost cutting is one of the greatest benefits of these systems.

- In 11 of the 13 states, the average cost to build a system was \$240,000. Two states were notable exceptions: Kansas reported no expense, and California estimated its cost at \$1.8 million.
- California's online system launched slightly more than a month before the registration deadline for the 2012 general election. During that short time, nearly 900,000 Californians conducted online registration transactions and the secretary of state's office estimated savings of \$2.34 per online registration—or about \$2 million—compared with paper processing costs. In addition, state printing and postage costs fell approximately \$500,000 due to fewer registration-related mailings. These total savings of \$2.5 million exceed the \$1.8 million cost of implementing the system, and the state expects similar outcomes in 2014.⁶
- Maricopa County, AZ (home to Phoenix), reported almost \$1.4 million in savings from online voter registration during the four-year period from 2008 to 2012.⁷



Election officials can process online registrations in a matter of seconds, saving taxpayers tens of thousands of dollars each election cycle, while reducing errors and cleaning up the voter registration database. Having an online voter registration system is a no-brainer—users love it, election officials love it, and taxpayers love it.

—Mark J. Thomas, *Utah chief deputy and director of elections*

Implementation

A majority of the states surveyed sought legislative approval before implementing online voter registration, and most built their systems internally.

- Ten states passed legislation before building online registration systems.⁸
- Seven states had their information technology staffs design and build their systems, three used outside vendors, and three used a combination.
- In nine states, online registration systems are housed with the chief state election official (typically the secretary of state or lieutenant governor). In the remaining four states, two systems are based in motor vehicle agencies, one operates from the Department of Information Technology, and one is managed by the chief election official but housed with a vendor.



It fits with the expectations of the modern voting public, especially young voters, that they should be able to conduct government transactions online.

—Brad Bryant, *Kansas state election director*

Voter convenience

States employ a variety of tools to make online registration as convenient as possible, such as using multiple languages, optimizing systems for mobile devices, and providing confirmation after an application has been submitted.

- Eight states make online voter registration available in Spanish; Washington also provides Chinese and Vietnamese language options.
- Four states optimize their systems for use with mobile devices, and another plans to add this feature in 2014. Two additional states cite mobile optimization as a primary goal for future upgrades to their systems.
- All states conclude their online voter registration applications with confirmation that the application has been submitted. Eight states include a confirmation number that the voter can use to verify the status of the application, and six states send an email confirming that the application has been submitted.
- Voters in five states are notified in real time if they submit online registration applications but are determined to already be registered.
- Ten states give online registrants the option of providing email addresses. Seven of those states protect those addresses from public disclosure.



Online voter registration is convenient, easy, and secure. Nevada doubled its new registrations prior to the 2012 election when online voter registration became available statewide for the first time.

—Scott F. Gilles, Nevada deputy secretary for elections

System management

States vary in how they manage their systems, including how online applications are reviewed and approved, how information is transmitted between agencies, and how electronic applications are tracked and recorded.

Application review

- Eleven states have an election official—typically at the county or local level—review all online voter registration applications.
- In two states, an election official reviews only those applications flagged by the system as problematic.

Signature verification

- All states surveyed require a citizen to have a record and, importantly, a signature on file with the motor vehicle agency (or equivalent licensing and identification agency) in order to register to vote online.
- Twelve states have a real-time connection with the motor vehicle agency through which the applicants' identities are verified.⁹ In one state—Kansas—records are sent and verified in batches.

Unique identifiers

- All states surveyed require citizens to submit unique identifiers linking the applicant to his or her motor vehicles record in order to access the online registration system.
- All states require a voter to submit a date of birth and driver's license or state ID number.
- Four states also require the last four digits of the registrants' Social Security numbers, and one requires a full Social Security number.
- Two states require the issue date of the license or state ID card.

Information verification

- In two states, Arizona and New York, if a voter's address does not match the address on file with the motor vehicle agency, the applicant can submit a current address through the online voter registration system, which will automatically update the motor vehicle agency record.

Linking online voter registration to local jurisdictions

- Eight states transmit online registrations electronically to local election officials in real time.
- Five states send the information periodically in batches. Four do this electronically, and one—New York—sends paper forms.

Data tracking

- Five states can differentiate between new and updated registrations in online transactions.
- Twelve states can break down total registration activity between online and paper applications.



Online voter registration has been a terrific improvement for Washington state voters. It improves access to and accuracy of the voter rolls, saves precious time for our elections administrators, and saves money.

—Lori Augino, Washington state director of elections

Online security

All states have security procedures and protocols in place, including data encryption and tracking, while limiting those who have access to their system internally. No state has reported a security breach, including Arizona, where voters have been registering online for more than a decade.¹⁰

- Seven states highlighted reduced opportunities for fraud as a major benefit of online voter registration.
- Eleven states confirmed that they run their online registration systems through secure networks.
- Eleven states confirmed that they use audit logs to track and record any activity in the system.
- Ten states confirmed that they warn online applicants that fraudulent registration is a criminal act.
- Nine states confirmed that they employ encryption and/or anonymization tools to protect data transmitted electronically.



Online voter registration has saved Colorado counties millions of dollars since April 2010, and has provided our citizens with a level of customer services they would expect from a for-profit provider. As an added bonus, Coloradans don't have to give their confidential information to strangers on street corners.

—Judd Choate, *director of Elections Division, Colorado State Department*

Improving online voter registration

There is always room for improvement in the evolution of technical systems. Several states shared lessons from their implementation experiences as well as future aspirations for online voter registration.

- Four states expressed interest in optimizing their online voter registration systems for use on mobile devices.
- Two states highlighted the need to optimize their systems for a variety of Web browsers.
- Two states hope to add more language options.
- Four states experienced some challenges coordinating with their motor vehicle agencies and stressed the importance of clear communication between agencies.
- One state—Colorado—recommends building in extra prelaunch testing to an implementation timeline.

Conclusion

Eleven of 13 states surveyed reported greater voter satisfaction and reduced burdens for election officials as a result of online voter registration.¹¹ At the same time, voters' impressions of these online systems have improved. Recent polling data show 65 percent of registered voters support allowing online voter registration.¹² As more states allow online registration, Pew will continue to track and document state differences in implementing and managing the systems, and the general impressions of the election officials who use them.

Those interested in implementing or improving online voter registration systems may contact The Pew Charitable Trusts' election initiatives for more information. Visit our website at pewstates.org/elections. Follow us on Twitter using #electiondata and get the latest data dispatches, research, and news by subscribing today.

Pew is committed to working with states and other partners to achieve the highest standards of accuracy, cost-effectiveness, convenience, and security in America's system of election administration.

Appendix
 Survey Summary: State Online Voter Registration Systems

State	Legislation passed	Built by state IT staff	Built by vendor	Built both by state IT staff and by vendor	Resides with chief election official	Resides with motor vehicle agency	Resides with state Dept. of Information Technology	Managed by chief state election official but resides with vendor	Available in language other than English	Optimized for mobile device	Confirmation screen when application is complete	Confirmation number provided when application is complete	Email confirmation sent when application is complete	Applicant notified in real time when already registered	Option to provide email	Email remains confidential	Official reviews all applications	System flags applications for review	Real-time connection with DMV
AZ	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CA	✓	✓		✓	✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CO	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
IN	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
KS	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LA	✓	✓		✓	✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
MD	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NV	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NY	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
OR	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
SC	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
UT	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WA	✓	✓			✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

	AZ	CA	CO	IN	KS	LA	MD	NV	NY	OR	SC	UT	WA
Date of birth must be submitted when applying	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Driver's license or state ID number must be submitted when applying	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Last four digits of SSN must be submitted when applying		✓					✓	✓	✓				
Full SSN must be submitted when applying										✓			
Address updated at DMV when voter registration updated	✓								✓				
Registrations transmitted in real time to local election officials	✓	✓	✓			✓		✓			✓	✓	✓
Registrations transmitted to local election officials in batches				✓	✓		✓		✓	✓			
State can differentiate new vs. updated registrations	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
State can differentiate online vs. paper registrations			✓	✓	✓		✓					✓	
Run system through secure networks	✓	NR	✓	✓	✓	✓	✓	✓	NR	✓	✓	✓	✓
Use audit logs	NR	NR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Use warning screen about fraudulent activity	NR	✓	✓	✓	NR	✓	✓	✓	✓	✓	✓	NR	✓
Use encryption to protect data	✓	NR	✓	NR	✓	✓	✓	NR	✓	✓	✓	✓	NR

Note: This survey was conducted May-June 2013 using surveymonkey.com. Thirteen states were surveyed: Arizona, California, Colorado, Indiana, Kansas, Louisiana, Maryland, Nevada, New York, Oregon, South Carolina, Utah, and Washington. "NR" means no response. States did not respond to these questions.

Source: The Pew Charitable Trusts, Survey of Online Voter Registration States, June 2013.
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Endnotes

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- 10 Several states chose not to respond to certain security questions in the survey: New York did not respond to the question regarding secure networks; Arizona did not respond to the question on audit logs; and Indiana, Nevada, and Washington did not respond to the question on the use of encryption and anonymization tools. California officials did not respond to any of these questions and stated they preferred to not discuss security in a public survey. Additionally, Arizona, Indiana, and Utah did not respond to the question about warning online applicants that fraudulent registration is a criminal act.
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For further information, please visit:

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October 2012

Chicken Little in the Voting Booth
The Non-Existent Problem of Non-Citizen "Voter Fraud"

A wave of restrictive voting laws is sweeping the nation. The Brennan Center for Justice at New York University School of Law counts "at least 180 restrictive bills introduced since the beginning of 2011 in 41 states." Bills requiring voters "to show photo identification in order to vote" were signed into law in Alabama, Kansas, Rhode Island, South Carolina, Tennessee, Texas, Wisconsin, and Pennsylvania. Adding insult to injury, Alabama, Kansas, and Tennessee went a step further and required voters to present proof of U.S. citizenship in order to vote.¹ In addition, Florida, Colorado, and New Mexico embarked upon ultimately fruitless "purges" of their voter rolls for the ostensible purpose of sweeping away anyone who might be a non-U.S. citizen.²

All of these actions have been undertaken in the name of preventing voter fraud, particularly illegal voting by non-citizens. Proponents of harsh voter laws often assert, without a shred of hard evidence, that hordes of immigrants are swaying election results by wheedling their way into the voting booth. However, repeated investigations over the years have found no indication that systematic vote fraud by non-citizens is anything other than the product of overactive imaginations.

Fighting Phantoms: No Evidence of Widespread or Systematic Vote Fraud by Non-Citizens

- Election experts tend to agree that modern-day voter fraud is a very rare occurrence in the United States, primarily because it is so irrational. The potential payoff (a vote) is not worth the risk of jail time, thousands of dollars in fines, and—in the case of non-citizens—possibly deportation.
- The Brennan Center succinctly summarizes this point in a 2006 fact sheet: "Each act of voter fraud risks five years in prison and a \$10,000 fine—but yields at most one incremental vote. The single vote is simply not worth the price. Because voter fraud is essentially irrational, it is not surprising that no credible evidence suggests a voter fraud epidemic."³
- Researcher Lorraine Minnite writes in a 2010 book that "there is good evidence to support the conclusion (1) that voters rarely fraudulently register or vote; (2) that protections against voter fraud are sufficiently provided for in federal and state law; and (3) that from a cost-benefit perspective this makes it irrational for voters to cast fraudulent ballots."⁴

- In 2012, News21 analyzed 2,068 alleged election-fraud cases since 2000 and found “that while fraud has occurred, the rate is infinitesimal, and in-person voter impersonation on Election Day, which prompted 37 state legislatures to enact or consider tough voter ID laws, is virtually non-existent.” Specifically, News21 “turned up 10 cases of voter impersonation. With 146 million registered voters in the United States during that time, those 10 cases represent one out of about every 15 million prospective voters.”⁵
- An October 18, 2010, story in the *National Journal* points out that “a five-year investigation by the Bush Justice Department...turned up virtually no evidence of widespread voter fraud.”⁶ Nevertheless, anti-immigrant activists are fond of pretending that fraudulent voting by non-citizens is a national epidemic.⁷
- According to a 2007 report written by Minnrite for Project Vote, “government records show that only 24 people were convicted of or pleaded guilty to illegal voting between 2002 and 2005, an average of eight people a year. This includes 19 people who were ineligible to vote, five because they were still under state supervision for felony convictions, and 14 who were not U.S. citizens; and five people who voted twice in the same election, once in Kansas and again in Missouri.”⁸
- Similarly, a 2005 report by the Coalition on Homelessness and Housing in Ohio and the League of Women Voters of Ohio found that a grand total of four votes cast in the state’s 2002 and 2004 general elections were in some way “fraudulent,” amounting to .00000044% of all votes cast.⁹
- As the Brennan Center notes, one is more likely to be struck by lightning than to come across an actual case of voter fraud.¹⁰

Instances of Noncitizens Registering to Vote are Also Exceedingly Rare

- There is no evidence that significant numbers of noncitizens are registering to vote. Nevertheless, in recent months several states have asked the federal government for access to immigration data in order to determine whether non-citizens are on the voter registration rolls. Specifically, the states have sought access to the Systematic Alien Verification for Entitlements (SAVE) program, which is designed to verify eligibility for benefits or services at the time an application is initially filed. SAVE is not a comprehensive, up-to-date list of who is a citizen and who is not. Not surprisingly, these attempts by states to use SAVE to find noncitizens on the voter rolls have produced few results.
- The Associated Press reported in September 2012 that efforts by state election officials in Colorado and Florida to turn up cases of noncitizens illegally registered to vote have yielded very few results. In Colorado, an initial list of 11,805 suspected noncitizens on the voter rolls has shrunk to 141, which amounts to .004 percent of the state’s 3.5 million voters. Likewise, in Florida, a list of 180,000 suspected noncitizens on the rolls has shrunk to 207, which accounts for .001 percent of the state’s 11.4 million registered voters. It turns out that some of the individuals in question did not even know they were registered to vote, or were actually U.S. citizens legally entitled to vote.¹¹

- The *New York Times* notes that, in 2011, “New Mexico’s wasteful investigation of 64,000 ‘suspicious’ voter registrations found only 19 cases of voters who may have been noncitizens.”¹²

Sore Losers, Mistakes, and Mischief Behind Voter Fraud Charges

- Project Vote found that “most voter fraud allegations turn out to be something other than fraud. A review of news stories over a recent two year period found that reports of voter fraud were most often limited to local races and individual acts and fell into three categories: unsubstantiated or false claims by the loser of a close race, mischief, and administrative or voter error.”¹³ The report concludes that “when we probe most allegations of voter fraud we find errors, incompetence and partisanship.”¹⁴
- Many accusations of voter fraud by non-citizens stem from database errors. The Brennan Center notes that “government citizenship records—as the government itself acknowledges—are...replete with errors or incomplete information. Naturalization documentation may find its way into the government files slowly, or not at all, leaving outdated or inaccurate information for investigators looking for fraud. And this, in turn, leads to flawed accusations that noncitizens have been voting, when the voters in question have in fact become fully naturalized American citizens.”¹⁵
- The Brennan Center concludes that “allegations of widespread voter fraud...often prove greatly exaggerated. It is easy to grab headlines with a lurid claim (‘Tens of thousands may be voting illegally!’); the follow-up—when any exists—is not usually deemed newsworthy. Yet on closer examination, many of the claims of voter fraud amount to a great deal of smoke without much fire. The allegations simply do not pan out.”¹⁶

Allegations Put Minorities, Immigrants, and the Poor in the Cross-Hairs

- According to the Brennan Center, “claims of voter fraud are frequently used to justify policies that do not solve the alleged wrongs, but that could well disenfranchise legitimate voters. Overly restrictive identification requirements for voters at the polls—which address a sort of voter fraud more rare than death by lightning—is only the most prominent example.”¹⁷
- Minnite writes that allegations of voter fraud “shrewdly veil a political strategy for winning elections by tamping down turnout among socially subordinate groups” such as racial minorities, immigrants, and the poor.¹⁸ She goes on to say that “restrictive voter identification rules that cause people to lose their votes also undermine the integrity of the electoral process. The point is there is no integrity without access. We need to simplify our electoral system, not encumber it with more tangled rules justified by myth.”¹⁹

Endnotes

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KEY FINDINGS

THE MISLEADING MYTH OF VOTER FRAUD IN AMERICAN ELECTIONS

by Lorraine C. Minnite, Rutgers University-Camden

Are fraudulent voters undermining U.S. elections? The simple answer is no. Rather, the threat comes from the *myth* of voter fraud used to justify rules that restrict full and equal voting rights.

A concerted partisan campaign to erect more restrictive voting rules is apace in many states, with Republicans pushing new limits on access and Democrats objecting. Thousands of changes to state election codes have been proposed since the contested presidential election of 2000. Far fewer have been signed into law, but those put in place – such as rules that people have a certain kind of photo identification card available from specific government offices – are making it more difficult for many citizens to cast ballots, including longtime voters as well as new ones.

In a democracy, reducing access to the ballot is difficult to justify. Political motives and strategies to discourage voting by particular groups such as racial minorities cannot be openly announced. That's where the myth of criminal voters comes in – as proponents of new rules cite the supposed threat of votes fraudulently cast by foreigners, noncitizens, immigrants, felons, and imposters who supposedly travel around to vote in many precincts. Mythical threats that stoke social prejudices are used to make new restrictions seem reasonable.

Fraud by Individual Voters is Almost Nonexistent

The earliest reliable studies of election fraud in the 1920s and 1930s found that individual voters almost never committed fraud on their own. Conspiracies by politicians or election officials were behind most violations. Voter registration laws were put in place to reduce such organized fraud.

Today, social scientific research on fraud is difficult because there are no officially compiled national or state statistics. Researchers must painstakingly piece together evidence from news reports, court proceedings, law enforcement agencies, election officials, and interviews with experts and other sources. After ten years of such research, I found that intentional fraud by individual voters is exceedingly rare. Other investigations have reached the same conclusion.

- Replicating my methodology, 24 journalism students at twelve universities reviewed some 2,000 public records and identified just six cases of voter impersonation between 2000 and 2012.
- Under Republican President George W. Bush, the U.S. Justice Department searched for voter fraud. But in the first three years of the program, just 26 people were convicted or pled guilty to illegal registration or voting. Out of 197,056,035 votes cast in the two federal elections held during that period, the rate of voter fraud was a miniscule 0.00000132 percent!

- No state considering or passing restrictive voter identification laws has documented an actual problem with voter fraud. In litigation over the new voter identification laws in Wisconsin, Indiana, Georgia and Pennsylvania, election officials testified they have never seen cases of voter impersonation at the polls. Indiana and Pennsylvania stipulated in court that they had experienced zero instances of voter fraud.
- When federal authorities challenged voter identification laws in South Carolina and Texas, neither state provided any evidence of voter impersonation or any other type of fraud that could be deterred by requiring voters to present photo identification at the polls.

Mistakes in a Confusing System are the Real Issue

When voter fraud accusations are tracked down to their specifics, irregularities almost always turn out to be simple mistakes by election officials or voters.

- In the contested 2004 Washington state gubernatorial election, a Superior Court judge ruled invalid just 25 ballots, constituting 0.0009 percent of the 2,812,675 cast. Many were absentee ballots mailed as double votes or in the names of deceased people, but the judge did not find all were fraudulently cast. When King County prosecutors charged seven defendants, the lawyer for one 83-year old woman said his client “simply did not know what to do with the absentee ballot after her husband of 63 years, Earl, passed away” just before the election, so she signed his name and mailed the ballot.
- A leaked report from the Milwaukee Police Department found that data entry errors, typographical errors, procedural missteps, misapplication of the rules, and the like accounted for almost all reported problems during the 2004 presidential election.
- When the South Carolina State Election Commission investigated a list of 207 allegedly fraudulent votes in the 2010 election, it found simple human errors in 95 percent of the cases the state’s highest law enforcement official had reported as fraud.
- A study by the Northeast Ohio Media Group of 625 reported voting irregularities in Ohio during the 2012 election found that nearly all cases forwarded to county prosecutors were caused by voter confusion or errors by poll workers.

The Reforms We Really Need

Voters acting on their own have no rational cause to vote fraudulently. The odds of casting a deciding vote are miniscule and cheaters risk criminal prosecution under state laws on the books for decades. The costs of fraudulent voting are steep and the benefits practically non-existent. Spurious, politically-motivated allegations of voter fraud are a distraction from the real problems in U.S. elections. Overly complicated rules need to be simplified and election administration professionalized. Nonpartisan officials and poll workers must be well-trained and supported in their efforts to help people cast ballots that are accurately counted. In every major election, millions of eligible Americans do not participate, in large part because of unnecessary hurdles to registration and voting. The United States needs a reinvigorated movement to expand voting rights and access. To build confidence in our democracy, we should look for ways to fix actual election problems – and recognize that individual voter fraud is not one of them.

Read more in Lorraine C. Minnite, *The Myth of Voter Fraud* (Cornell University Press, 2010).

The myth of voter fraud

THURSDAY, 12 FEB 2015 03:00AM
BY SEN. MARY CAMACHO TORRES



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VOTING is a right, not a gift or a privilege and the threat that comes from the myth of voter fraud is often used to justify laws that restrict full and equal voting rights. Restrictive measures over voting requirements, including proof of citizenship, are commonly defended by a perceived need to prevent voter fraud and preserve the integrity of the vote. Many fear the potential for increased voter fraud is ripe when policies that relax voting requirements are introduced. Proponents of harsh voter laws often assert, without any evidence, that illegal voting by noncitizens or ineligible voters will sway election results.

However, repeated investigations and numerous studies have proven that most allegations of voter fraud are highly exaggerated and extraordinarily rare. An article by the Scholars Strategy Network points out that: "Voters acting on their own have no rational cause to vote fraudulently. The odds of casting a deciding vote are miniscule and cheaters risk criminal prosecution under state laws on the books for decades."

The Brennan Center for Justice at the New York University School of Law did an extensive study of voter fraud across the nation and concluded that modern day voter fraud is irrational and "the voter fraud phantom drives policy that disenfranchises actual legitimate voters, without a corresponding actual benefit." As the Brennan Center notes, overly restrictive identification and citizenship requirements attempt to address a voter fraud that is rarer than death by lightning.

I recently introduced a bill to allow Guam to adopt a system for online voter registration. Online voter registration is a growing national trend and studies have shown that it saves taxpayer dollars, increases the accuracy of voter rolls, and provides a convenient option for citizens who wish to register. To make online voter registration viable, Guam has to repeal its antiquated requirement for multiple forms of identification from persons registering to vote. Surveys have shown that many individuals do not have readily available documentary proof of citizenship or government-issued photo ids and certain groups – primarily the poor, the elderly and minorities – are less likely to possess these forms of identification. Not surprisingly, obstacles to registration result in fewer people who are registered to vote, leaving many voices unheard.

In our small island community where the margin of victory can be razor thin, some worry that elimination of documented proof of U.S. citizenship may result in noncitizens registering in droves to swing the results of a close race. Given that the penalty for fraud is so severe and involves criminal prosecution and possible deportation, I believe the likelihood of this occurring is far-fetched. The gain of casting one fraudulent vote certainly does not justify the risk to a noncitizen, and the risk of penalty to a political organization or candidate involved in such conspiracy is too great. Of all the studies conducted on voter fraud nationwide, the documented occurrence of voter ineligibility fraud is negligible at best.

About half of the U.S. states have already adopted online voter registration laws and recent court

challenges to restrictive voter rules have been decided in favor of lifting restrictions. We have the opportunity on Guam to modernize and streamline our voter registration requirements and process, with the intent of encouraging voter registration.

The right to vote provides the foundation that makes all other rights possible, therefore, the freedom to vote must be fiercely protected for all citizens, regardless of class or privilege. While rules on their own don't increase turnout, it's incumbent on us to improve our voting process and not succumb to the threats and myth of voter fraud. We have more to gain with online voter registration. We need to simplify our electoral system and expand voting rights and access, not encumber it with traditional rules that defend a myth.

BRENNAN
CENTER
FOR JUSTICE

THE TRUTH
ABOUT
VOTER FRAUD

Justin Levitt

ABOUT THE BRENNAN CENTER FOR JUSTICE

The Brennan Center for Justice at New York University School of Law is a non-partisan public policy and law institute that focuses on fundamental issues of democracy and justice. Our work ranges from voting rights to redistricting reform, from access to the courts to presidential power in the fight against terrorism. A singular institution—part think tank, part public interest law firm, part advocacy group—the Brennan Center combines scholarship, legislative and legal advocacy, and communications to win meaningful, measurable change in the public sector.

ABOUT THE BRENNAN CENTER'S VOTING RIGHTS AND ELECTIONS PROJECT

The Voting Rights and Elections Project works to expand the franchise, to make it as simple as possible for every eligible American to vote, and to ensure that every vote cast is accurately recorded and counted. The Center's staff provides top-flight legal and policy assistance on a broad range of election administration issues, including voter registration systems, voting technology, voter identification, statewide voter registration list maintenance, and provisional ballots.

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THE TRUTH ABOUT VOTER FRAUD

I. INTRODUCTION

Allegations of election-related fraud make for enticing press. Many Americans remember vivid stories of voting improprieties in Chicagoland, or the suspiciously sudden appearance of LBJ's alphabetized ballot box in Texas, or Governor Earl Long's quip: "When I die, I want to be buried in Louisiana, so I can stay active in politics." Voter fraud, in particular, has the feel of a bank heist caper: roundly condemned but technically fascinating, and sufficiently lurid to grab and hold headlines.

Perhaps because these stories are dramatic, voter fraud makes a popular scapegoat. In the aftermath of a close election, losing candidates are often quick to blame voter fraud for the results. Legislators cite voter fraud as justification for various new restrictions on the exercise of the franchise. And pundits trot out the same few anecdotes time and again as proof that a wave of fraud is imminent.

Allegations of widespread voter fraud, however, often prove greatly exaggerated. It is easy to grab headlines with a lurid claim ("Tens of thousands may be voting illegally!"); the follow-up — when any exists — is not usually deemed newsworthy. Yet on closer examination, many of the claims of voter fraud amount to a great deal of smoke without much fire. The allegations simply do not pan out.

These inflated claims are not harmless. Crying "wolf" when the allegations are unsubstantiated distracts attention from real problems that need real solutions. If we can move beyond the fixation on voter fraud, we will be able to focus on the real changes our elections need, from universal registration all the way down to sufficient parking at the poll site.

Moreover, these claims of voter fraud are frequently used to justify policies that do not solve the alleged wrongs, but that could well disenfranchise legitimate voters. Overly restrictive identification requirements for voters at the polls — which address a sort of voter fraud more rare than death by lightning — is only the most prominent example.

The Brennan Center for Justice at NYU School of Law carefully examines allegations of fraud to get at the truth behind the claims. The Brennan Center has analyzed purported fraud cited by state and federal courts; bipartisan and bipartisan federal commissions; political party entities; state and local election officials; and authors, journalists, and bloggers. Usually, only a tiny portion of the claimed illegality is substantiated — and most of the remainder is either nothing more than speculation or has been conclusively debunked.

This paper seeks to distill our findings: the truth about voter fraud. It first offers a straightforward definition to avoid the common trap of discussing election irregularities that involve neither voters nor fraud as if they showed voter fraud. It then discusses different alternative reasons more credible than voter fraud to explain many of the recurring allegations. The paper then analyzes, scenario by scenario, some of the more common types of alleged voter fraud and their more likely causes and policy solutions. Finally, the paper presents individual case studies of notorious instances of alleged voter fraud, and finds those allegations to be grossly inflated. For more information, analysis, and opinion about voter fraud, by the Brennan Center and others, please see www.truthaboutfraud.org.

II. WHAT IS VOTER FRAUD?

“Voter fraud” is fraud by voters.

More precisely, “voter fraud” occurs when individuals cast ballots despite knowing that they are ineligible to vote, in an attempt to defraud the election system.¹

This sounds straightforward. And yet, voter fraud is often conflated, intentionally or unintentionally, with other forms of election misconduct or irregularities.

There are many such problems that are improperly lumped under the umbrella of “voter fraud.” Some result from technological glitches, whether sinister or benign: for example, voting machines may record inaccurate tallies due to fraud, user error, or technical malfunction.² Some result from honest mistakes by elec-

IT IS MORE LIKELY THAT AN INDIVIDUAL WILL
BE STRUCK BY LIGHTNING THAN THAT HE WILL
IMPERSONATE ANOTHER VOTER AT THE POLLS.

tion officials or voters: for example, a person with a conviction may honestly believe herself eligible to vote when the conviction renders her temporarily ineligible,³ or an election official may believe that certain identification documents are required

to vote when no such requirement exists.⁴ And some irregularities involve fraud or intentional misconduct perpetrated by actors other than individual voters: for example, flyers may spread misinformation about the proper locations or procedures for voting; thugs may be dispatched to intimidate voters at the polls; missing ballot boxes may mysteriously reappear. These are all problems with the election administration system ... but they are not “voter fraud.”

Conflating these concerns is not merely a semantic issue. First, the rhetorical sloppiness fosters the misperception that fraud by voters is prevalent. That is, when every problem with an election is attributed to “voter fraud,” it appears that fraud by voters is much more common than is actually the case.

This, in turn, promotes inappropriate policy. By inflating the perceived prevalence of fraud by voters, policy-makers find it easier to justify restrictions on those voters that are not warranted by the real facts.

Moreover, mislabeling problems as “voter fraud” distracts attention from the real election issues that need to be resolved. It draws attention away from problems best addressed, for example, by resource allocation or poll worker education or implementation of longstanding statutory mandates, and instead improperly focuses on the voter as the source of the problem.

III. THE RESEARCH LANDSCAPE

It is easy to find opinion pieces and legislative statements claiming that voter fraud is a substantial concern. But aside from a trickle of news stories of low-grade fraud in a few isolated elections, there are surprisingly few sources recounting specific incidents of alleged voter fraud.

The most notorious such sources are documents prepared by the American Center for Voting Rights (“ACVR”), a controversial organization established in early 2005 and apparently defunct just over two years later.⁵ The ACVR produced two reports — one compiling allegations of fraud in Ohio in 2004, and another compiling allegations of fraud in 2004 nationwide.⁶ The ACVR has also repeated these and other allegations in *amicus* briefs filed in litigation related to voter identification provisions.⁷

Former *Wall Street Journal* editorial board member and weekly columnist John Fund has also recounted several specific allegations of voter fraud in his 2004 book *Stealing Elections*;⁸ two other books by academics, *Dirty Little Secrets* and *Deliver the Vote*, address allegations of fraud from a historical perspective.⁹ Hans von Spakovsky, a commissioner on the Federal Election Commission and a former Counsel to the Assistant Attorney General for Civil Rights in the Department of Justice, has similarly recounted allegations of voter fraud in several policy papers and presentations.¹⁰

Finally, there are a few newspaper articles that seem repeatedly cited in discussions of voter fraud — for example, a 2000 article in the *Atlanta Journal-Constitution* and a 2004 article in the *New York Daily News*.¹¹ These articles review attempts to match voter rolls to other large lists in an effort to find allegedly ineligible voters; the limitations of such studies are discussed later in this paper.

Similarly, there are surprisingly few sources of information specifically analyzing the allegations of alleged voter fraud to determine the extent to which they show reliable evidence of fraud. In two studies, both focusing more heavily on the political and legal context of voter fraud allegations, Professor Lorraine Minnite has reviewed several incidents.¹² Professor Spencer Overton, a former commissioner on the 2005 Commission on Federal Election Reform, has also reviewed several incidents of alleged fraud in his book *Stealing Democracy*.¹³ After careful analysis, both authors find the claims largely overblown.

Among its other work on the subject,¹⁴ the Brennan Center for Justice has developed a methodology for reviewing allegations of voter fraud,¹⁵ and continues to collect analyses of noted allegations at www.truthabout-fraud.org. This paper distills the results of that work, compiling for the first time the recurring methodological flaws that continue to spawn allegations of widespread voter fraud where it does not exist.

IV. VOTER FRAUD AND THE PRESS FOR PHOTO ID

The most common example of the harm wrought by imprecise and inflated claims of “voter fraud” is the call for in-person photo identification requirements. Such photo ID laws are effective *only* in preventing individuals from impersonating other voters at the polls — an occurrence more rare than getting struck by lightning.¹⁶

By throwing all sorts of election anomalies under the “voter fraud” umbrella, however, advocates for such laws artificially inflate the apparent need for these restrictions and undermine the urgency of other reforms.

Moreover, as with all restrictions on voters, photo identification requirements have a predictable detrimental impact on eligible citizens. Such laws are only potentially worthwhile if they clearly prevent more problems than they create. If policymakers distinguished real voter fraud from the more common election irregularities

erroneously labeled as voter fraud, it would become apparent that the limited benefits of laws like photo ID requirements are simply not worth the cost.

THE VOTER FRAUD PHANTOM DRIVES POLICY THAT DISENFRANCHISES ACTUAL LEGITIMATE VOTERS, WITHOUT A CORRESPONDING ACTUAL BENEFIT.

Royal Masset, the former political director for the Republican Party of

Texas, concisely tied all of these strands together in a 2007 *Houston Chronicle* article concerning a highly controversial battle over photo identification legislation in Texas. Masset connected the inflated furor over voter fraud to photo identification laws and their expected impact on legitimate voters:

Among Republicans it is an “article of religious faith that voter fraud is causing us to lose elections,” Masset said. He doesn’t agree with that, but does believe that requiring photo IDs could cause enough of a dropoff in legitimate Democratic voting to add 3 percent to the Republican vote.¹⁷

This remarkably candid observation underscores why it is so critical to get the facts straight on voter fraud. The voter fraud phantom drives policy that disenfranchises actual *legitimate* voters, without a corresponding actual benefit. Virtuous public policy should stand on more reliable supports.

V. THE TRUTH ABOUT VOTER FRAUD

There have been a handful of substantiated cases of individual ineligible voters attempting to defraud the election system. But by any measure, voter fraud is extraordinarily rare.

In part, this is because fraud by individual voters is a singularly foolish and ineffective way to attempt to win an election. Each act of voter fraud in connection with a federal election risks five years in prison and a \$10,000 fine, in addition to any state penalties.¹⁸ In return, it yields at most one incremental vote. That single extra vote is simply not worth the price.

Instead, much evidence that purports to reveal voter fraud can be traced to causes far more logical than fraud by voters. Below, this paper reviews the more common ways in which more benign errors or inconsistencies may be mistaken for voter fraud.

CLERICAL OR TYPOGRAPHICAL ERRORS

In the course of millions of recorded votes and voters, it is virtually certain that there will be clerical errors. Often, what appears to be voter fraud—a person attempting to vote under a false name, for example — can be traced back to a typo.

Errors in the poll books. In a jurisdiction of any significant size, it is unfortunately easy to make an entry in the poll book next to the wrong voter's name. For example, despite having died in 1997, Alan J. Mandel was alleged to have voted in 1998; upon further investigation, Alan J. Mandell (two "l"s), who was very much alive and voting at the time, explained that local election workers simply checked the wrong name off of the list.¹⁹ The same problem may occur when information from a poll book is entered incorrectly into a county's computer system, as in Milwaukee in 2004.²⁰ Or voters — legitimate voters — may make a mistake: a 1994 investigation of fraud allegations in California, for example, revealed that voters accidentally signed the poll books on the wrong lines, next to the names of deceased voters.²¹

Errors in registration records. Simple typos may also infect voter records, changing a name or an identifying number or an address in a way that interferes with attempts to validate the voter's information against some other source. For example, in Washington State in 2006, Marina Petrienko tried to register to vote for the first time, but a county official mis-typed the year of her birth, entering "1976" into the database, instead of the year on her form: "1975."²² First-time Illinois voters Mike and Sung Kim "had been mistakenly registered with Kim as their first names" in 2004.²³ And in Milwaukee, Victor Moy was listed on the rolls as living at 8183 W. Thurston Avenue, but actually resides at number 8153.²⁴ Because such typos may prevent registrations from being externally validated by information in other sources, officials and observers may believe that registrations are fraudulent when they are, in reality, entirely legitimate.

BAD "MATCHING"

The most common source of superficial claims of voter fraud, and the most common source of error, probably involves matching voter rolls against each other or against some other source to find alleged double voters, dead voters, or otherwise ineligible voters.

Errors in the underlying data. Some such matches fail to account for errors or default entries in the underlying data. In New Jersey in 2005, for example, examiners alleged fraud by individuals on the voter rolls in two different places whose first and last names and birthdates matched, including a woman named Mary Johnson.²⁵ Closer examination, however, showed that some of the matching birthdates in question were January 1, 1880, which was simply a system default for missing information.²⁶ In reality, the examiners had found only two different women named "Mary Johnson," with no relevant birthdate information at all.

Partial matches. Other matches neglect middle names or suffixes: in the same New Jersey procedure described above, for example, James A. Smith and James G. Smith were presumed to be the same person, as were J. T. Kearns and J. T. Kearns, Jr.²⁷ Similarly, in New Hampshire, 22 pairs of people who shared the same first and last names were flagged for possible double-voting; in fact, all of the flagged voters had different middle names.²⁸ And in one of the more infamous examples of inappropriate matching, a vendor preparing a set of voters to be purged in Florida in 2000 found "matches" in the first name if the first four letters were the same on two different lists, and "matches" in the last name if 80% of the letters were the same.²⁹ The final set of voters to be purged, of course, contained the names of many individuals whose records had been falsely matched.³⁰

The "birthdate" problem. Even given an exact match, however, two entries with the same name and birthdate may not represent the same individual. Statistics students are often surprised to discover that in a group of 23 people, it is more likely than not that two will share the same month and day of birth; in a group of 180, two will probably share the same birthdate. In any group of significant size, statistics teaches that there will be many with the same first and last names — and it is likely that at least two such voters will be born on the same day.³¹ It should not therefore be surprising, for example, that "Kathleen Sullivan" was most likely listed twice on the rolls of 2004 New Jersey voters not because one woman drove the length of the state to cast a second ballot, but because two women named Kathleen Sullivan happen to share the same birthdate.³²

JUMPING TO CONCLUSIONS

Those searching for fraud — politicians, pundits, and even occasionally prosecutors — sometimes jump to unwarranted conclusions with a limited amount of information. The “birthdate problem” above — mistaking two different people with the same name and birthdate — is one example. But there are many other circumstances in which observers draw illicit conclusions from data that in fact have a benign explanation.

Dual registration. Registering twice — or mistakenly leaving an old registration on the rolls — is not meaningful evidence of an intent to commit fraud by voting twice. There is no requirement that citizens inform their local election officials before they move, and with approximately 14% of Americans moving each year,³³ it is not surprising to find that many voters are registered under multiple addresses — but vote only once. In New Hampshire in 2004, for example, local officials found 67 individuals on the rolls in both Dover and Durham; each of the 67 had moved from one town to the other, and each voted only once.³⁴

It may seem significantly more suspicious to register twice on the same day — but even then, two registrations do not necessarily yield two votes. In 2004, for example,

FRAUD BY INDIVIDUAL VOTERS IS A SINGULARLY
FOOLISH WAY TO ATTEMPT TO WIN AN ELECTION.

federal prosecutors charged Wisconsinite Cynthia Alicea with double-voting. Wisconsin allows residents to register on Election Day, which Alicea did. Poll workers found an error on the form, and asked Alicea to fill out another, which she also did — but the first form was never discarded. Although Alicea completed two registration forms, following poll worker instructions, she voted only once. Her innocence was eventually proven, but not before prosecutors forced the 23-year-old through an unwarranted trial.³⁵

Death records. Voting from the grave offers salacious headlines, and investigators often attempt to match death records to voter rolls in an attempt to produce purported evidence of fraud. Yet in addition to the problems with inaccurate matching identified above, a simple match of death records to voter rolls may conceal citizens who voted before dying, in quite ordinary fashion. In Maryland in 1995, for example, an exhaustive investigation revealed that of 89 alleged deceased voters, none were actually dead at the time the ballot was cast. The federal agent in charge of the investigation said that the nearest they came was when they “found one person who had voted then died a week after the election.”³⁶ Similarly, in New Hampshire, postcards were sent to the addresses of citizens who voted in the 2004 general election; one card was returned as undeliverable because the voter died after Election Day, but before the postcard arrived at her home.³⁷

Criminal records. Reports of votes by persons with convictions have often fed claims of voter fraud. Yet without more information, such reports may be deceptive. Many, if not most, convictions are misdemeanors, which in most states do not affect the defendant’s voting rights. Wallace McDonald, for example, was purged from the Florida voter rolls in 2000 because of a conviction. Yet Mr. McDonald’s crime was not a felony, for which many Floridians forfeit voting rights forever — but merely a misdemeanor, which should not affect voting rights at all. Indeed, Mr. McDonald had been convicted only of falling asleep on a bench.³⁸ Similarly, in Washington’s 2004 gubernatorial election, hundreds of citizens were alleged to have voted illegally because of convictions that were actually juvenile dispositions — which do not disqualify voters.³⁹

Other claims of fraud rely solely on the fact that someone was convicted but never look to see whether the accused person had his voting rights restored. Even in Florida, where, until 2007, most persons with felony convictions lost their voting rights permanently, not every person convicted of a felony was ineligible to vote. Reverend Willie Dixon, 70, was purged from the Florida voter rolls in 2000 because of a felony conviction — but Reverend Dixon had already been pardoned for his crime and his voting rights had been restored.⁴⁰ In most other states, persons with convictions regain the franchise after release from either incarceration, probation, or parole. Allegations of fraud that rely on a past criminal conviction but fail to investigate whether voting rights were restored will likely prove unfounded.

Returned mail. Voter “caging” is a tactic involving a mass mailing to registered voters to sniff out mailings that are returned undelivered; these undelivered mailings are then used to compile a list of voters allegedly enrolled under invalid addresses. But for many reasons, undelivered mail need not be an indication that a person registered at the given address is not entitled to vote there.⁴¹ A voter may be away from home for work, like a Louisiana Congresswoman challenged because she received her mail in Washington;⁴² or for military service, like an Ohio servicewoman challenged because she received her mail where she was stationed, in North Carolina;⁴³ or for an extended vacation, like an Oregon woman rendered inactive because she was out of the country for a few months.⁴⁴ A voter may live with others but be unlisted on the mailbox. Or, like Ohio resident Raven Shaffer, he may receive mail at a post office box or other mail service, and not at his registered residence.⁴⁵ Moreover, some mail is simply not delivered, through no fault of the voter: in the 1990 census, for example, *The New York Times* reported that “[a]lthough at least 4.8 million [census] forms were found to be undeliverable by the Postal Service, 1.8 million of those were later delivered by hand.”⁴⁶ And recent reports found that government records used by Chicago postal workers to deliver mail contained more than 84,000 errors.⁴⁷

Mail sent to a listed registration address may also be returned as undeliverable because the voter has moved — even though the citizen remains wholly eligible to vote without re-registration. Each state has different rules determining when a voter who has moved must inform election officials of her new address. At a minimum, however, federal law provides that if a voter has moved within the same area covered by a given polling place — if, for example, a voter moves from one apartment to another within the same apartment complex, as a 2000 Oregon voter did⁴⁸ — she may legitimately vote at that polling place even if she has not yet notified a registrar of her move.⁴⁹ Similarly, a voter who has moved within the same registrar’s jurisdiction and Congressional district may return to vote at her former polling place without re-registering.⁵⁰ Especially in urban areas where there is high mobility within a particular neighborhood, undeliverable mail may simply reflect the recent move of a voter who remains fully eligible to vote.

Unusual addresses. In most states, voters must register at a residential address; those looking for fraud may therefore flag addresses zoned for business use as an indication of fraudulent activity. Broad zoning restrictions, however, do not account for many less traditional — but legitimate — residences. Barbara Taylor was among hundreds of Washington voters challenged in 2005 for this reason. While it is true that the address on her registration was the address of a public storage facility, Taylor explained that she is “a manager for the company and has lived in an apartment on the site for 12 years.”⁵¹ In other cases, transient or homeless individuals have registered — as they are legally entitled to do — at shelters or government buildings.⁵²

Records compiled for a different purpose. In St. Louis in 2000, officials compared the voter rolls to city property records and alleged that some voters fraudulently registered from vacant lots.⁵³ The property records, however, were originally compiled for a purpose other than individual identification; an address with multiple plots of land was apparently deemed entirely “vacant” if only one of the plots had no building. Further investigation by local reporters revealed that the supposedly vacant lots where voters were registered in fact contained valid residences.⁵⁴

VOTER MISTAKES

Even after accounting for the false conclusions above, investigations reveal that ineligible voters do sometimes cast votes. It is important, however, to distinguish those cases in which voters know they are ineligible but vote anyway — real voter fraud — from cases in which ineligible voters mistakenly believe themselves to be eligible. Both scenarios are unquestionably of concern. But it is likely to be more productive to address mistakes with remedies different from those often proposed for fraud.

Of the relatively small number of ineligible voters who mistakenly cast ballots, most are citizens rendered ineligible by criminal conviction. The laws concerning eligibility vary from state to state and can be confusing: different voters are disenfranchised for different convictions for different lengths of time.⁵⁵ Moreover, the process of restoring a citizen’s right to vote varies as well, from automatic restoration upon release from prison in states like Pennsylvania, Indiana, Ohio, Illinois, and Michigan,⁵⁶ to the excruciatingly burdensome application process in Kentucky — which requires all would-be voters to submit a written application accompanied by three character references, an essay explaining why they should be eligible to vote, and a filing fee.⁵⁷

These rules are not merely difficult for voters to navigate: election officials with special training in the rules and regulations governing eligibility routinely get the law wrong. A 2004 survey, for example, found that 43% of New Jersey’s county election offices did not follow state law in restoring citizens’ right to vote.⁵⁸ In New York, a much-publicized 2003 survey found that more than half of the local election officials did not follow state law; when the survey was repeated just two years later, 38% of the local boards of elections still got the law wrong.⁵⁹

It is difficult to expect disenfranchised voters to navigate the election laws successfully when so many election officials with expertise do not. Indeed, in Milwaukee, one voter asked to present identification at the polls showed his Department of Corrections ID card, with “OFFENDER” printed in bold letters across the face — but he was not informed by any poll worker that he might be ineligible to cast a ballot.⁶⁰ Such cases show confusion ... but not voter fraud.

VI. TYPES OF "VOTER FRAUD"

Allegations of "voter fraud" seem to fall into one of several recurring categories. Some would represent actual fraud if the allegations proved true, though the allegations are often unsupported. Some would not actually represent fraud even if they were true. This paper reviews some of the more common assertions of "fraud" below, to substitute more careful analysis for overeager and salacious headlines.

ALLEGATIONS OF DOUBLE VOTING

Allegations of double voting are among the most common assertions of voter fraud. Consider one set of agitated headlines: "More Double Voting Tied to '04 Election,"⁶¹ "Double Voting Being Investigated,"⁶² "Double Voting Fear Rises,"⁶³ "Hundreds Might Have Double-Voted,"⁶⁴ "Exposed: Scandal of Double Voters."⁶⁵ Most of these reports are hypothetical — hundreds "might" have double voted — and further research shows reason to question the conclusion that widespread double voting occurred. Other reports appear more certain but are actually more incorrect.

There are a handful of known cases in which admissions, poll book entries, absentee ballots, provisional ballot stubs, or other documentation indicate that one individual has actually voted twice.⁶⁶ These cases are extremely rare — not because such documentation is hard to come by (many states require that such documents be retained), but because actual double voting is itself extremely rare. Moreover, the scarcity is expected, given the severity of the penalty (criminal prosecution), and the meager nature of the payoff (one incremental vote).

ALICEA VOTED ONLY ONCE, BUT BASED ON TWO REGISTRATION FORMS, PROSECUTORS TOOK HER TO TRIAL. SHE EVENTUALLY WON HER CASE BUT, BECAUSE OF THE ORDEAL, "SHE'S INCLINED NOT TO VOTE EVER AGAIN".

Instead, it is far more common to see allegations of epidemic double voting that are unfounded. Such claims are usually premised on matching lists of voters from one place to another; upon closer inspection, the match process shows error. Sometimes the interpretation is flawed:

two list entries under the same name — even the same name and birthdate — indicate different individuals, as with two Kathleen Sullivans confused for each other in New Jersey in 2004.⁶⁷ The opportunity for error increases with the size of the attempted match: when allegations of fraud in 2000 were based on a *nationwide* attempt to match names and birthdates, it is not surprising that 3,273 alleged double voters were found — and not surprising that many, like those attributed to Martha Alexander, the chair of the North Carolina legislature's panel on election laws, were based on flawed assumptions that two people with the same name and birthdate were the same individual.⁶⁸ Moreover, sometimes the lists themselves are flawed: because of the occasional clerical error by overworked and undertrained election workers, an individual is marked as voting when she did not in fact cast a ballot, as Missouri investigators discovered in 2004.⁶⁹

Sometimes, merely following a poll worker's accurate instructions can land legitimate voters in unwarranted hot water. In 2004, for example, federal prosecutors were especially attuned to claims of voter fraud, and fixed the weight of the federal government on 23-year-old Cynthia Alicea. Alicea, an eligible resident of Wisconsin, registered on Election Day, as permitted under Wisconsin law. Poll workers found an error on the form, and asked Alicea to fill out another, which she also did. The poll workers, however, never discarded the first form. Alicea voted only once, but based on the two registration forms, prosecutors took the young woman to trial. Though she eventually won her case, because of the ordeal, "she's inclined not to vote ever again."⁷⁰

Exaggerated or unfounded allegations of fraud through double voting include the following:

- In Missouri in 2000 and 2002, hundreds of voters were alleged to have voted twice, either within the state or once in Kansas and once in Missouri. The same analysis acknowledged that the "computer files contain many errors that show people voting who did not actually vote."⁷³ Of 18 Kansas City cases that reporters followed up, 13 were affirmatively shown to result from clerical errors.⁷² We are aware of public sources substantiating only four cases (amounting to six votes within the state), yielding an overall documented fraud rate of 0.0003%.⁷³
- In New Hampshire in 2004, citizens were alleged to have voted twice. In fact, on further investigation, many of the voters who were allegedly listed multiple times on the rolls actually represented different people with identical names; others were listed with multiple registrations, but voted only once. We are not aware of any public materials substantiating the claims of double voting.⁷⁴
- In New Jersey in 2004, 4,397 voters were alleged to have voted twice within the state, and 6,572 voters were alleged to have voted once in New Jersey and once elsewhere.⁷⁵ Many of these alleged double votes were actually flawed matches of names and/or birthdates on voter rolls.⁷⁶ Only eight cases were actually documented through signatures on poll books; at least five signatures appear to match.⁷⁷ Even if all eight proved to reveal fraud, however, that would amount to an overall double voting rate of 0.0002%.⁷⁸
- In New York in 2002 and 2004, between 400 and 1,000 voters were alleged to have voted once in New York and once in Florida. These allegations were also prompted by a flawed attempt to match names and birthdates.⁷⁹ We are aware of public sources substantiating only two cases, yielding an overall documented fraud rate of 0.000009%.⁸⁰
- In Wisconsin in 2004, dozens of voters were alleged to have voted twice. After further investigation, the vast majority were affirmatively cleared, with some attributed to clerical errors and confusion caused by flawed attempts to match names and birthdates. There were 14 alleged reports of voters casting ballots both absentee and in person; at least 12 were caught, and the absentee ballot was not counted. There were no substantiated reports of any intentional double voting of which we are aware.⁸¹

ALLEGATIONS OF DEAD VOTERS

Allegations of “dead voters” are also popular, not least for the entertaining pop culture references to be found in the headlines: “Among Voters in New Jersey, G.O.P. Sees Dead People,”⁸² for example, or “Dead Man Voting.”⁸³ After further investigation, however, these allegedly dead voters often turn up perfectly healthy.

There are a handful of known cases in which documentation shows that votes have been cast in the names of voters who have died before the vote was submitted.⁸⁴

It is far more common, however, to see unfounded allegations of epidemic voting from beyond the grave, with a chuckle and a reference to Gov. Earl Long’s quip (“When I die — if I die — I want to be buried in Louisiana, so I can stay active in politics.”) or Rep. Charlie Rangel’s update (same idea, but takes place in Chicago).⁸⁵

Here, too, flawed matches of lists from one place (death records) to another (voter rolls) are often responsible for misinformation. Sometimes the interpretation is flawed: two list entries under the same name indicate different individuals.⁸⁶ Sometimes the lists themselves are flawed: as Hilde Stafford discovered in 2006, individuals who are in fact quite spry are occasionally listed as deceased on the Social Security Administration’s master files.⁸⁷ And sometimes, because of clerical error by election workers or voters or both, an individual is marked as voting when she did not in fact cast a ballot, or is marked as voting under the wrong person’s name. For example, despite having died in 1997, Alan J. Mandel was alleged to have voted in 1998. On further investigation, Alan J. Mandell (two “l”s), who was very much alive and voting at the time, explained that local election workers simply checked the wrong name off of the list.⁸⁸ Indeed, a 2007 investigation of about 100 “dead voters” in Missouri revealed that every single purported case was properly attributed either to a matching error, a problem in the underlying data, or a clerical error by elections officials or voters.⁸⁹

In other circumstances, the match is accurate but reveals nothing illegal about the vote: the voter has died, yes, but *after* casting her ballot. In Maryland in 1995, for example, an exhaustive investigation revealed that of 89 alleged deceased voters, none were actually dead at the time the ballot was cast. The federal agent in charge of the investigation said that the nearest they came was when they “found one person who had voted then died a week after the election.”⁹⁰

Exaggerated or unfounded allegations of fraud by dead voters include the following:

- In Georgia in 2000, 5,412 votes were alleged to have been cast by deceased voters over the past 20 years.⁹¹ The allegations were premised on a flawed match of voter rolls to death lists. A follow-up report clarified that only one instance had been substantiated, and this single instance was later found to have been an error: the example above, in which Alan J. Mandel was confused with Alan J. Mandell.⁹² No other evidence of fraudulent votes was reported.
- In Michigan in 2005, 132 votes were alleged to have been cast by deceased voters.⁹³ The allegations were premised on a flawed match of voter rolls to death lists. A follow-up investigation by the Secretary of State revealed that these alleged dead voters were actually absentee ballots mailed to voters who died before Election Day; 97 of these ballots were never voted, and 27

were voted before the voter passed away.⁹⁴ Even if the remaining eight cases all revealed substantiated fraud, that would amount to a rate of at most 0.0027%.⁹⁵

- In New Jersey in 2004, 4,755 deceased voters were alleged to have cast a ballot. The allegations were premised on a flawed match of voter rolls to death lists. No follow-up investigation publicly documented any substantiated cases of fraud of which we are aware, and there were no reports that any of these allegedly deceased voters voted in 2005.⁹⁶
- In New York in 2002 and 2004, 2,600 deceased voters were alleged to have cast a ballot, again based on a match of voter rolls to death lists. Journalists following up on seven cases found clerical errors and mistakes but no fraud, and no other evidence of fraud was reported.⁹⁷

ALLEGATIONS OF FRAUDULENT ADDRESSES

Those claiming voter fraud also point to allegations that voters have been registered at fraudulent addresses such as vacant lots, storage units, or government buildings. As with the allegations above, there are a few cases in which charges that votes have been improperly cast from illegitimate addresses have been substantiated.⁹⁸

More often, however, the allegations are either unsupported or further investigation reveals that the allegedly flawed addresses turn out to be legitimate.

These sorts of claims are often based on postcards that are returned undelivered or undeliverable — but the postcards are an unreliable indicator. Typos during the registration process, like the one listing Victor Moy at 8183 W. Thurston Avenue in Milwaukee instead of 8153,⁹⁹ may cause mail to be misdirected. Or, like the post office box used by Raven Shaffer in Ohio, individuals may receive mail at an address different from the legal residence they list as their registration address.¹⁰⁰

Other unsupported claims are based on attempts to screen registration addresses against lists of vacant lots, or against zoning regulations to find locations dedicated to non-residential use. Here, too, typos may cause legitimate addresses to be flagged as suspicious.¹⁰¹ Or the underlying lists may be flawed: in Missouri in 2000, lots that were supposedly vacant actually held houses.¹⁰² Sometimes the lists are simply overly broad, and capture voters who list less traditional — but entirely legitimate — residences. Barbara Taylor, for example, was among hundreds of Washington voters challenged in 2005 for this reason. While it is true that the address on her registration was the address of a public storage facility, Taylor — a manager for the storage company — “has lived in an apartment on the site for 12 years.”¹⁰³ Though her address appeared superficially questionable, her address was in fact entirely legitimate.

Finally, a variant of the above claims concern allegations that large numbers of votes are all tied to one address. There is, however, nothing inherently suspect about multiple votes from one address if multiple eligible voters live there, whether the address is a college dormitory or nursing home or any other group housing arrangement. In New Hampshire, for example, a citizen apparently became concerned because 88 individuals had registered with residences on property owned by Daniel Webster College; on further investigation, the 88 registrations were revealed to be from students at the college — and unsurprisingly, entirely legitimate.¹⁰⁴

Exaggerated or unfounded allegations of fraud by voters with invalid addresses include the following:

- In Missouri in 2000, 79 voters were registered from addresses alleged to be vacant lots, but further investigation found that properties classified as vacant in fact contained legitimate residences, and that at least one of the voters was apparently the victim of a typographical error.¹⁰⁵ We are aware of no public reports substantiating claims that any votes were cast by individuals fraudulently registered at invalid addresses.
- In New Hampshire in 2004, based on undelivered postcards sent after the election, citizens were alleged to have voted from invalid addresses. Many actually lived at the addresses claimed, but received their mail elsewhere. Others moved after the election but before the postcards arrived. We are aware of only two substantiated cases (including one domestic violence victim, who voted from an old address in order to avoid disclosing her current domicile), with two more under investigation. Even if all four revealed fraud, that would amount to an overall rate of 0.0006%.¹⁰⁶
- In Wisconsin in 2004, after an attempt to match voters' addresses to a postal service list, 1,242 votes in Milwaukee were alleged to be fraudulent; many of these allegations were later traced to data entry errors or to legitimate residences that were presumed to be business addresses.¹⁰⁷ 5,800 additional Election Day registrants were sent undeliverable postcards, but many of these postcards were returned because the voters legitimately moved after the election.¹⁰⁸ We are aware of no substantiated reports of any votes cast by individuals fraudulently registered at invalid addresses.

ALLEGATIONS OF VOTER FRAUD BY PERSONS WITH FELONY CONVICTIONS

Many close elections have also featured allegations that waves of ineligible people with felony convictions have deliberately overtaken the voting system. There are, however, only a handful of known cases in which people rendered ineligible by convictions cast ballots despite knowing that they were not permitted to do so.¹⁰⁹

More frequently — though still quite rare — individuals who are ineligible because of convictions have reportedly registered or voted *without* realizing that they were ineligible. In Washington in 2004, for example, there were reports of voting by ineligible persons with convictions, in substantial part because of significant confusion about the circumstances under which civil rights were taken away or restored.¹¹⁰ At the time, citizens convicted of a felony were disenfranchised both while in prison and after they had returned to the community on parole or probation. In order to regain the right to vote, these citizens had to complete their sentence — including repayment of all restitution, fees, and fines.¹¹¹ Confusion abounded. Many citizens with convictions thought they could vote again once they were released from probation.¹¹² Some individuals rendered ineligible by conviction were allegedly told by corrections officers that they could vote; other probationers were apparently mailed ballots they thought they could (indeed, should) cast.¹¹³ At least one county elections office provided mistaken information on its website.¹¹⁴

Similar confusion was not confined to Washington. A 2004 survey in New Jersey, for example, found that 43% of election offices got the law wrong; the error rate by election officials in New York was 38%.¹¹⁵ When more than a third of trained election officials do not know the rules, it is not hard to imagine that persons with convictions are also poorly informed. Moreover, given the ease with which poll book entries can be

double-checked against lists of convictions to find ineligible voters, it seems unlikely that ineligible citizens would take the substantial risk of a return to prison for just one incremental vote. On the rare occasions when citizens rendered ineligible by conviction do vote, it is far more sensible to believe that they do so by mistake than that they do so with intent to deceive.

The few examples above concern actual votes — intentional or unintentional — cast by people who are ineligible because of a conviction. More common are allegations of such activity that prove unfounded. Such reports are often based on comparisons of voter rolls with lists of people who have been convicted. Yet these “matches” are subject to the same errors mentioned repeatedly above: typos, clerical errors, individuals who superficially appear to be the same person but are actually different. The notorious 2000 purge of purported felons in Florida is a good example: a system that found roughly similar names and birthdates on voter rolls and conviction records ended up disqualifying thousands of voters who were perfectly eligible to vote, but who were deemed ineligible by the “match.”¹¹⁶ For example, because of the inaccurate matching protocol, eligible citizen Matt Frost was prevented from voting because state officials incorrectly linked him with a similar alias of ineligible voter Shawn Chadwick.¹¹⁷

Even when the matching system is not to blame, allegations of ineligible voting may be inflated. As with at least some names on the 2000 Florida purge list, convictions may be mislabeled as disenfranchising felonies when in fact a voter has been convicted only of a misdemeanor.¹¹⁸ As in Washington in 2004, citizens may be accused of ineligible voting due to juvenile dispositions — which do not affect their voting rights.¹¹⁹ Or as with at least seven cases in Waukesha, Wisconsin, in 2004, accusations may fail to account for voters who are convicted *after* casting a legitimate vote.¹²⁰

Moreover, even when the individual in question has actually been convicted of an offense that renders him ineligible, few such voters are ineligible to vote indefinitely. Some, like Reverend Willie Dixon of Florida, have been pardoned, and their voting rights restored.¹²¹ Other convictions may be overturned on appeal. Still others, depending on the state, regain the franchise automatically or upon petition, after release from incarceration, probation, or parole. Allegations of fraud that look to convictions without accounting for the restoration of voting rights often miss the mark.¹²²

Exaggerated or unfounded allegations of fraud by persons rendered ineligible by conviction include the following:

- In Florida in 2000, a large-scale purge became justifiably notorious for its inaccurate, even haphazard, discarding of the rights of eligible citizens. Despite recognizing the flawed nature of the purge lists, however, reporters used similar lists to claim that 5,643 ineligible persons with convictions actually voted in 2000. These reports used slightly more rigorous match criteria than were used to create the purge lists, but still acknowledged that the underlying data included eligible citizens with misdemeanors, citizens with convictions *after* their valid vote, and convicted persons with names and birthdates that matched eligible citizen voters. It is true that some votes were cast by ineligible citizens, some of whom were told by election officials that they were eligible. We are not aware of any reports of citizens voting despite knowing that they were ineligible.¹²³

- In Wisconsin in 2004, after an attempt to match voters to Department of Corrections records, 376 people with allegedly disenfranchising convictions were said to have voted. A follow-up investigation revealed that several were found to be convicted only *after* they voted;¹²⁴ one was convicted of a misdemeanor,¹²⁵ and in another case, a woman's vote was improperly recorded in her ineligible husband's place.¹²⁶ Still another presented an identification card boldly labeled "OFFENDER," but was not told that he might be ineligible.¹²⁷ We are aware of sources documenting seven cases in which the voter knowingly voted while ineligible, yielding a fraud rate of 0.0002%.¹²⁸
- In Washington in 2004, evidence submitted in vigorously prosecuted election contest proceedings showed 1,401 votes by individuals rendered ineligible due to convictions. Some of these voters were apparently misinformed by official county election information or corrections officers; most were apparently sent ballots in the mail by the state. We are not aware of any reports that any of these individuals voted knowing that they were ineligible.¹²⁹

ALLEGATIONS OF VOTER FRAUD BY NONCITIZENS

We are not aware of any documented cases in which individual noncitizens have either intentionally registered to vote or voted while knowing that they were ineligible. Given that the penalty (not only criminal prosecution, but deportation)¹³⁰ is so severe, and the payoff (one incremental vote) is so minimal for any individual voter, it makes sense that extremely few noncitizens would attempt to vote, knowing that doing so is illegal.

Although there are a few recorded examples in which noncitizens have apparently registered or voted, investigators have concluded that they were likely not aware that doing so was improper. In one highly publicized case, for example, noncitizens were given voter registration forms by a group helping them through the naturalization process, immediately after successfully completing citizenship interviews with federal officials and receiving letters beginning "Congratulations, your application for citizenship has been approved."¹³¹ Though the actual swearing-in ceremonies were still up to 90 days away, these individuals most likely mistakenly thought it their obligation and privilege to complete the paperwork, and did not intentionally fabricate their citizenship status in front of federal officials who *knew* that they were noncitizens.¹³²

Far more common than these incidents of noncitizen voting are allegations of noncitizen voting that prove wholly unfounded. These claims are often premised on matching lists of voters from one place to another, but as with each of the examples above, upon closer inspection, the match process shows error. The interpretation may be flawed, as when two list entries under the same name indicate different individuals. Or the lists themselves may be flawed, with an individual marked due to a clerical error as voting when she did not in fact cast a ballot.

Government citizenship records — as the government itself acknowledges — are also replete with errors or incomplete information. Naturalization documentation may find its way into the government files slowly, or not at all, leaving outdated or inaccurate information for investigators looking for fraud. And this, in turn, leads to flawed accusations that noncitizens have been voting, when the voters in question have in fact become fully naturalized American citizens.

Exaggerated or unfounded allegations of fraud by noncitizens include the following:

- In Washington in 2005, an individual asked county offices to investigate the citizenship status of 1,668 registered voters based on their “foreign-sounding names.” There are no reports of which we are aware that any individual on the submitted list was actually a noncitizen.¹³³
- In Washington in 2004, documentation appears to show that two votes were cast in King County by noncitizens. There are no reports of which we are aware that either of these noncitizens knowingly voted illegally, although one did ask to rescind his vote shortly after the election. Given these votes, the rate of documented noncitizen votes — without proof of fraud — in King County was 0.0002%.¹³⁴
- In Milwaukee in 2001, journalists analyzed 370,000 voting records from 1992 to 2000, and found four instances in which voters’ names matched a list of naturalized city residents, but appeared to have voted before their naturalization dates; there is no indication of which we are aware that any of these four knowingly voted illegally. Even if all four of the matched records accurately represented noncitizen votes, the rate of noncitizen voting among the city records examined would have been 0.001%.¹³⁵
- In Hawaii in 2000, 553 apparent noncitizens were alleged to have registered to vote. On further investigation, 144 documented that they had become citizens. At least 61 individuals affirmatively asked to cancel their registration; the others were stopped at the polls and specifically asked about their citizenship before voting. There are no reports of which we are aware that any noncitizen actually voted. To the extent that noncitizens were actually represented on the rolls, officials attributed the registrations to mistake rather than fraud.¹³⁶
- In Hawaii in 1998, four years after an INS investigation into more than 10,000 names identified fewer than twelve noncitizens whose names matched those on the voter rolls, the INS again investigated claims of extensive noncitizen voting. The agency examined 1,200 noncitizens suspected of voting, but found no evidence that any had voted. A separate proceeding uncovered three noncitizens who had indeed voted in 1998, and three others who were reported to be under further investigation. There are no reports of which we are aware that any noncitizens voted knowing that they were ineligible. But even if all six had voted, the overall noncitizen voting rate would have been 0.001%.¹³⁷
- In California in 1996, 924 noncitizens allegedly voted in Orange and Los Angeles Counties, including 624 allegedly ineligible voters identified by the Task Force of the U.S. House of Representatives investigating the Dorman/Sanchez election. The allegations were based largely on attempts to match immigration lists to voter rolls, but only 71 voters matched name, date of birth, and signature; other matches were less reliable. Most of the identified voters were processed by one nonprofit group registering individuals proceeding through the naturalization process; many were registered immediately after passing an INS citizenship interview, and after receiving a letter indicating that they had become naturalized. At least 372 of the voters were apparently officially sworn in before Election Day. There are no reports of which we are aware that any noncitizens registered or voted knowing that they were ineligible. Even assuming there were no matching errors, and

leaving aside the critical question of intent, if all 552 remaining individuals were in fact noncitizens when they cast their votes, the overall noncitizen voting rate would have been 0.017%.¹³⁸

ALLEGATIONS OF REGISTRATION FRAUD

There have been several documented and widely publicized instances in which registration forms have been fraudulently completed and submitted. But it is extraordinarily difficult to find reported cases in which individuals have submitted registration forms in someone else's name in order to impersonate them at the polls. Furthermore, most reports of registration fraud do not actually *claim* that the fraud happens so that ineligible people can vote at the polls. Indeed, we are aware of no recent substantiated case in which registration fraud has resulted in fraudulent votes being cast.

Instead, when registration fraud is alleged, the allegations generally fall into one of four categories:

The first type of allegation concerns individuals intentionally submitting forms in the name of someone (or something) ineligible in order to have some fun or — more often — to make a point.¹³⁹ Most of the infamous stories of dogs on the rolls fall into this category, including a recent incident in Washington State.¹⁴⁰ Most of the time, these forms are discovered and investigated by local officials before they make it onto the rolls. There are no reports that we have discovered of votes actually cast in the names of such registrants.

The second type of allegation concerns “fraud” that is not actually fraud at all. This includes registration forms submitted by eligible voters, but with errors or omissions.¹⁴¹ Such mistakes are relatively common, but do not represent fraud. Similarly, there are many jurisdictions in which the registration rolls are inflated with the names of eligible voters who have moved or died or otherwise become ineligible.¹⁴² These lingering entries also do not represent fraud; furthermore, as states build and improve the statewide voter registration databases now required by federal law, it will become easier to remove ineligible voters from the rolls while maintaining safeguards for eligible registrants.

The third type of allegation concerns registration drive workers, who may be paid for their time or on the basis of how many forms they submit,¹⁴³ and who intentionally submit fraudulent forms. The allegations may involve forms submitted in the names of fictional voters, as in the case of “Jive Turkey,”¹⁴⁴ or with the names of actual voters but a false address or a forged signature.¹⁴⁵ Most of the cases of registration fraud that are prosecuted fall into this category.¹⁴⁶ If voter registration drives have enough time and are allowed by law to review the forms submitted by their workers, they can often catch these forms and draw them to the attention of local elections officials.¹⁴⁷ These forms actually defraud the voter registration drives, which compensate workers on the expectation that their time will be spent registering new and eligible citizens; the worker herself is interested not in defrauding the government, but in getting credit for work she didn't do.¹⁴⁸ When drives are able to flag these forms for elections officials, the forms are investigated, not processed, and the worker can be investigated and prosecuted. There are no reports that we have discovered of votes actually cast in the names of such registrants.

Finally, the fourth type of allegation involves individuals who change or manipulate the registration of an eligible voter to frustrate her ability to vote.¹⁴⁹ Like the deliberate destruction of forms,¹⁵⁰ these incidents are

rare and most often committed by partisan actors. Most states criminalize the intentional destruction of registration forms or fraudulent submission of forms. Like the allegations of fraud by election officials, these incidents do not concern allegations of fraud by individual voters, and we do not address them in detail here.

Exaggerated or unfounded allegations of voter fraud due to fraudulent registration forms include the following:

- In Florida in 2005, a registration drive was alleged to be submitting thousands of fraudulent registration forms and withholding valid ones, with a box of 179 complete but unsubmitted forms produced as evidence. The charges later proved groundless, and the disgruntled former worker who produced the box was found to have defamed the drive. There are no reports of which we are aware that any votes were cast using any fraudulent registration connected to the drive.¹⁵¹
- In Georgia in 2004, 3,000 allegedly fraudulent registration forms — with the same handwriting and with numerous errors — were submitted by a registration drive. Procedures apparently meant to protect the forms from interference seemed to interfere with the group's ability to perform quality control on the forms that were submitted. There are no reports of which we are aware that any votes were improperly cast using the name of any fraudulent registration form.¹⁵²
- In Missouri, in a departure from clear Department of Justice policy, four individuals were federally indicted on the eve of the 2006 election for alleged registration fraud in Kansas City. At least 1,492 other allegedly questionable voter registration forms were submitted to St. Louis, prompting the Board of Elections for the City of St. Louis to send misleading notices to a wide swath of voters who had registered through the same group.¹⁵³ Yet the wrongdoers were an isolated few registration workers, and despite the skepticism of some that registration fraud occurs only to let ineligible people vote fraudulently, there are no reports of which we are aware that any votes were cast using any fraudulent registration connected to the drive.¹⁵⁴

ALLEGATIONS OF VOTER FRAUD BY DOGS

Popular media seem especially drawn to allegations that dogs are voting. These stories have a compelling “news of the bizarre” feel, and offer particular pleasure to punsters: “Prank Lands Voter in the Doghouse,”¹⁵⁵ “Woman Registers Her Dog to Vote; Prosecutors Growl.”¹⁵⁶ The fact, however, is that the voter rolls have not been overrun by canines. We are aware of only nine specific reports of dogs found on the voter rolls, including the registration card of “Ritzky Mekler” made infamous by Senator Kit Bond of Missouri.¹⁵⁷

At least six of the nine canine registrants were placed on the rolls by individuals trying to make a point about the fact that it is possible, if one risks prosecution, to place a dog on the voter rolls.¹⁵⁸ Which is to say, if people no longer registered dogs to show that dogs are on the rolls, dogs would no longer be on the rolls.

We are aware of only two cases — ever — involving ballots actually submitted in the name of a dog: the ballots cast by “Duncan MacDonald” in 2006 and 2007 (but labeled “VOID” and signed with a paw print),¹⁵⁹ and the ballot cast by “Raku Bowman” in 2003 in the Grass Roots Venice Neighborhood Council elections in Venice, California.¹⁶⁰ Only Bowman's vote — in a local election run by volunteers, rather than state or

federal election officials — was counted. Moreover, in order to cast these votes, both owners had to go to significant lengths: swear falsely on a voter registration form, forge a signature there, forge proof of identity, swear falsely again on the absentee ballot request form, forge a signature there, swear falsely again on the absentee ballot envelope itself, and forge a signature there. In an election for federal candidates, that could subject a defendant to up to thirty years in prison on federal charges alone.

ALLEGATIONS OF VOTE-BUYING

We also briefly mention allegations of vote-buying, which are often lumped together with “voter fraud,” though they do not usually involve allegations that the voters in question are ineligible. Instead, these incidents involve illegal agreements by *eligible* citizens to buy or sell their votes.

Vote-buying schemes may involve agreements to buy or sell votes for particular candidates, or they may simply involve payments for voting — candidate unspecified — in get-out-the-vote efforts targeted at communities thought more likely to support a particular candidate.¹⁶¹ Usually, the monetary value of the reward is fairly small: a small amount of cash, for example, or cigarettes, or food. And in virtually every case, a candidate or campaign staff are directly and centrally involved in brokering the illegal deal.

We mention such schemes specifically because they *do* still occur,¹⁶² and are often used to buttress claims that widespread fraud infects the election system.¹⁶³ However, for most purposes, it is necessary to distinguish vote-buying from the voter fraud that more typically captures the attention of the public. Because the individuals involved in vote-buying schemes are almost always citizens who are eligible to vote, vote-buying cannot possibly be addressed by most of the remedies proposed to confront voter fraud: photo identification rules, restrictions on registration, and the like. In supporting the need for policies that address alleged fraud by ineligible voters, then, it is misleading to include vote-buying in the list of wrongdoing.

ALLEGATIONS OF FRAUD BY ELECTION OFFICIALS

Similarly, reporters and analysts should be wary of attempts to bootstrap fraud by election officials or other insiders into compendiums of alleged “voter fraud.” Election fraud by insiders has been an issue since Senators wore togas. Sadly, there are still occasional reports of wrongdoing by those who are employed to safeguard the process. For example, in 2004, election judge Leander Brooks was convicted of casting at least twenty ballots in others’ names in 2002 in East St. Louis, Illinois; his cousin Michael Collins, a former city councilman, had been convicted of registering acquaintances from outside his precinct to vote fraudulently from a neighbor’s address in 1995.¹⁶⁴

Like the allegations of vote-buying above, fraud by election officials should be condemned, and documented acts of such fraud should be prosecuted. But also like the allegations above, such incidents should be clearly distinguished from voter fraud. Most remedies aimed at preventing alleged fraud by ineligible voters depend on honest enforcement of the law by election officials. Conversely, if as above, election officials are willing to pervert the law, policies aimed at policing voters will not be able to stop insiders from corrupting the system.

VII. APPENDIX

SELECTED CASE STUDIES

Allegations of widespread fraud by malevolent voters are easy to make, but often prove to be inaccurate. The Brennan Center has analyzed public materials in some of the areas branded as notorious election fraud “hot spots,” finding that various election irregularities led to inflated claims of widespread fraud.

In many of these cases, proposals to require restrictive identification documents of voters at the polls were under debate at the time of the election — or were proposed as a result. The cries of “voter fraud” were often used to support the call for restrictive ID.

We examined each of the allegations of fraud by voters to uncover the truth behind the assertions. Further case studies are available at our website devoted to the topic, www.truthaboutfraud.org.

Missouri	In some ways, the recent hunt for voter fraud began in Missouri in the 2000 election, the crucible that proved formative for Attorney General John Ashcroft and Senator Kit Bond, among others. Yet despite all the frenzy, the allegations yielded only six substantiated cases of Missouri votes cast by ineligible voters, knowingly or unknowingly, except for those votes permitted by court order. The six cases were double votes by four voters—two across state lines and two within Missouri—amounting to an overall rate of 0.0003%. None of these problems could have been resolved by requiring photo ID at the polls.
New Jersey	Just before the 2005 election, partisan actors attempted to probe the accuracy of New Jersey’s voter rolls by comparing election records for 2004 with death records and with the rolls of other states. The allegations yielded only eight substantiated cases of individuals knowingly casting invalid votes that counted—eight voters who voted twice. Given the number of votes cast in these elections, this amounts to a rate of 0.0004%. None of these problems could have been resolved by requiring photo ID at the polls.
Wisconsin	The 2004 election was hotly contested in Wisconsin, and various irregularities led to inflated claims of widespread fraud. The allegations yielded only seven substantiated cases of individuals knowingly casting invalid votes that counted—all persons with felony convictions. This amounts to a rate of 0.0025% within Milwaukee and 0.0002% within the state as a whole. None of these problems could have been resolved by requiring photo ID at the polls.

MISSOURI

The 2000 election was hotly contested in Missouri, and various irregularities led to inflated claims of widespread fraud. Many of these fraud claims were later used to support the call for restrictive ID requirements. We examined each of the allegations of fraud by individual voters — the only sort that ID could possibly address — to uncover the truth behind the assertions.

THE ALLEGATIONS:

- **Invalid addresses:** 79 individuals listed as voting in St. Louis City were registered from addresses alleged to be vacant lots. Further investigation found that properties that were wrongly classified by the city assessor's office as vacant in fact contained legitimate residences. Only 14 voters were found to be listed as registered from vacant lots, at least one of whom was apparently victim of a typographical error, and three more of whom moved within St. Louis City and may not have been required to re-register with a new address before voting.¹⁶⁵

14 addresses in St. Louis City were allegedly “drop sites” where fraudulent registrations might have been processed.¹⁶⁶ The 14 alleged “drop sites” in St. Louis City were addresses that were determined to be locations other than apartment buildings, nursing homes, or recognizable group homes where more than eight people were registered at each location. Seven of these addresses were actually visited by reporters, and all seven visits revealed that more than eight people properly lived at the address noted.¹⁶⁷

- **Ineligible by conviction:** 62 individuals listed as voting in St. Louis City and County matched the name, date of birth, and Social Security number of individuals listed on federal court records of felony conviction, and 52 individuals listed as voting in St. Louis County matched the name and date of birth of individuals listed on county records of felony conviction. It is not clear whether there was any overlap between the list of 62 and the list of 52, nor is it clear whether any of the individuals had had their rights restored before the election. We are not aware of any public reported analysis of poll records to determine whether individuals listed as voting actually voted and were not listed as voting due to a clerical error or mistakenly listed instead of an eligible voter with the same name and birthdate.¹⁶⁸
- **Double voters:** 23 individuals listed as voting on the voter rolls maintained by St. Louis City and County matched the name, date of birth, and Social Security number of another individual listed as voting; 45 individuals matched the name and date of birth of another voter. We are not aware of any public reported analysis of these poll records to determine whether individuals listed as voting actually voted twice and were not listed as voting due to a clerical error or mistakenly confused with another eligible voter with the same name and birthdate.¹⁶⁹

Based on a computer match of names and dates of birth on voter rolls, 150 individuals from St. Louis — presumably including the individuals above — were listed as voting twice in 2000 or 2002, and 150 other individuals from across the rest of the state were alleged to have either voted twice within the state or once in Kansas and once in Missouri. The same analysis acknowledged that the “computer files contain many errors that show people voting who did not actually vote.”¹⁷⁰ Of 18 Kansas City cases that reporters followed up, 13 were shown to result from clerical errors, 2 were uncertain, and 3 appeared to show double voting in Missouri and Kansas — 2 in 2000 and 1 in 2002. (At least two of these were convicted in federal court.) One other case of double voting within Missouri in 2000, and one in 2002, were substantiated using poll records.¹⁷¹

- **Dead voters:** 14 votes in St. Louis City and County were cast in the names of allegedly dead people, based on a computer match of names, dates of birth, and Social Security numbers on the voting rolls against information in Department of Health records.¹⁷² It is not clear whether any of these individuals died after the election. We are not aware of any public reported analysis of poll records to determine whether individuals listed as voting actually voted and were not listed as voting due to a clerical error.¹⁷³

ADDITIONAL ALLEGATIONS OF IRREGULARITIES UNCONNECTED TO INDIVIDUAL VOTER FRAUD:

- **“Inactive” purge:** In St. Louis, approximately 49,589 eligible voters were removed from the active voter rolls and placed on an “inactive list” after postcards allegedly sent to them were returned as undeliverable. At many polling places, the “inactive lists” were not made available, and these voters were allegedly unlawfully instructed that they could not vote at their regular precinct, but instead had to travel to the central city office to wait on lengthy lines to affirm their registered status, and then return to their original polling places to vote. Some voters were still on line at the central office when the polls closed, and were not able to return to their polling places to vote.¹⁷⁴
- **Polling place time:** In St. Louis, the polls were kept open by court order until 7:45pm, 45 minutes past the original closing time. The lead plaintiff requesting this order was allegedly deceased, although later review showed that the plaintiff’s name had been typed with an incorrect middle initial; the legal filings also stated that this plaintiff had been unable to vote when he had in fact voted. The effort to keep the polls open was alleged to have been conceived before Election Day. The delayed closing time allowed at least 100 voters to vote who otherwise would have arrived at the polls too late to cast a vote.¹⁷⁵
- **Court order:** At least 342 voters in St. Louis City and 891 voters in St. Louis County were allegedly improperly granted a court order allowing them to vote. The effort to seek court orders was also alleged to have been conceived before Election Day. Most of these voters allegedly gave insufficient reasons for obtaining a court order, although the report arriving at this conclusion stated an inaccurately high threshold for obtaining a court order.¹⁷⁶ 143 of these voters allegedly had not been registered by the voter registration deadline; it is not clear if any of the other voters were ineligible to vote.¹⁷⁷
- **Improper election judges:** 45 election judges in St. Louis City allegedly not registered to vote were later found to be validly registered; all were thought invalid because of typographical errors.¹⁷⁸
- **Inflated voter rolls:** St. Louis City had more names registered on the voting rolls than the voting-age population of the city, and 24,000 names were also listed as registered elsewhere in Missouri.¹⁷⁹
- **Chain of custody:** Ballot boxes were allegedly left unattended at 29 precincts.¹⁸⁰

THE RATE OF SUBSTANTIATED VOTER FRAUD:

- The allegations of fraud related to the 2000 general election, in which 124,752 votes were cast in St. Louis City, 497,577 votes were cast in St. Louis County, and 2,361,586 votes were cast in all of Missouri.¹⁸¹
- There were 6 substantiated cases of Missouri votes cast by ineligible voters, knowingly or unknowingly, except for those votes permitted by court order. These six cases were double votes by four voters – two across state lines and two within Missouri. This amounts to a rate of **0.0003%**. **None** of these problems could have been resolved by requiring photo ID at the polls.
- Even given allegations that were unsubstantiated, the rate of possible fraud remains low. The analysis above lays out the allegations, reasons to question each, and the facts that we now know. But assuming that **all** 278 of the remaining questionable allegations—including 14 voters with allegedly invalid addresses, 114 allegedly ineligible persons with felony convictions, 68 allegedly double voters (at two votes apiece), and 14 votes in the names of allegedly deceased individuals—in fact represent ineligible votes, that would amount to a rate of **0.045%** within St. Louis City and County and **0.012%** within the state as a whole. If all 14 votes in the names of allegedly deceased individuals in fact proved fraudulent and were cast in person, these votes—0.002% within St. Louis City and County and 0.0006% within the state as a whole—might possibly have been resolved by requiring photo ID at the polls.

Note: this analysis does not include 228 unsubstantiated cases of alleged double voting across the state reported by the *Kansas City Star*, because they did not distinguish between votes cast in 2000 and 2002. In the 2002 general election, 1,877,620 votes were cast in Missouri.¹⁸²

COVERAGE BY EXISTING LAW:

- Proper implementation of the federal Help America Vote Act (HAVA), which was passed after (and to some extent, because of) the 2000 election, would have addressed most of these allegations. HAVA requires states to create statewide electronic voter registration lists with each eligible voter listed uniquely to remove duplicate registrations, and to coordinate those computerized lists with agency records on death and conviction in order to remove ineligible voters. Although the obligation to maintain these cleaned lists predated HAVA, the computerized registration rolls — if implemented with suitable controls for accuracy — offer a new and efficient means to do so statewide. Like most states, Missouri did not have a statewide computerized database up and running in 2000, but now that it does, the database should allow the state to sharply reduce even the small number of alleged invalid votes due to allegedly improper registrations.

NEW JERSEY

Just before the 2005 elections, partisan actors attempted to probe the accuracy of New Jersey's voter rolls by comparing them with death records and with the rolls of other states. The reports led to inflated claims of widespread fraud in the 2004 election, of the sort commonly used to support restrictive identification requirements for voters at the polls. We examined each of the allegations of fraud by individual voters—the only sort that ID could possibly address—to uncover the truth behind the assertions.

THE ALLEGATIONS:

- **Dead voters:** 4,755 votes were alleged to have been cast in the names of dead voters in 2004, based on an attempt to match the first and last name and date of birth from voting records to death records.¹⁸³ No follow-up investigation appears to have been published on the number of votes actually cast in the names of dead voters in 2004, if any. None of the allegedly dead voters actually voted in 2005.¹⁸⁴
- **Double voters:** 4,397 individuals allegedly voted twice in New Jersey, and 6,572 individuals allegedly voted both in New Jersey and in either New York, Pennsylvania, Florida, North Carolina, or South Carolina, based on an attempt to match the first and last name and date of birth from one set of voting records to another.¹⁸⁵ Analysis of the list of alleged double voters within New Jersey showed that 2,305 of the entries had different middle names or suffixes, or an error in the date of birth.¹⁸⁶ Data errors in Middlesex county, and the statistical likelihood of finding two different individuals with the same name and birthdate, call into question much of the remainder of the list.¹⁸⁷ Ultimately, the existence of eight double voters was substantiated through original signatures on poll book materials.¹⁸⁸

THE RATE OF SUBSTANTIATED VOTER FRAUD:

- The allegations of fraud related to the 2004 general election, in which 3,611,691 votes were cast in New Jersey.¹⁸⁹
- There were eight substantiated cases of individuals knowingly casting invalid votes—eight voters voting twice. This amounts to a rate of **0.0004%**. None of these problems could have been resolved by requiring photo ID at the polls.
- Even given allegations that were unsubstantiated, the rate of possible fraud remains low. The analysis above lays out the allegations, reasons to question each, and the facts that we know. But assuming that **all** 13,419 of the remaining cases in fact involved voter fraud—which is highly unlikely, given the methodological errors revealed in the study of double-voting—that would amount to a rate of 0.61%.

COVERAGE BY EXISTING LAW:

- The federal Help America Vote Act (HAVA) requires states to create statewide electronic voter registration lists, and to coordinate those computerized lists with agency records on death in order to remove ineligible voters. Although the obligation to remove deceased voters from the rolls predated HAVA, the computerized registration rolls — if implemented with suitable controls for accuracy—offer a new and efficient means to do so statewide. Like most states, New Jersey did not have a HAVA-ready statewide database up and running in 2004, but once it does, the database should allow the state both to eliminate duplicate registrations within the state and to cut down on the number of deceased citizens who are still on the rolls.

WISCONSIN

The 2004 election was hotly contested in Wisconsin, and various irregularities led to inflated claims of widespread fraud. At the same time, Wisconsin citizens were debating a proposal to require restrictive identification of each voter at the polls, and the fraud claims were used to support the call for ID. We examined each of the allegations of fraud by individual voters—the only sort that ID could possibly address—to uncover the truth behind the assertions.

THE ALLEGATIONS:

- **Invalid addresses:** Based on an attempt to match voter roll entries to the U.S. Postal Service's database of street addresses, 37,180 people in Milwaukee were alleged to have registered from invalid addresses. Of these, 31,500 listed accurate street addresses, but had problems with an apartment number. Further review of the remaining allegedly invalid addresses revealed cases in which the list was corrupted; digits were dropped on some entries, making otherwise valid addresses appear fictitious. This review also showed typos turning valid addresses into invalid ones. Though reporters following up on the story could not locate 68 listed addresses, at least 400 addresses were affirmatively proven to be valid. The bipartisan Milwaukee Election Commission ultimately threw out a challenge lodged to 5,619 of the entries, citing insufficient evidence that the registrations were invalid. Still, poll workers were specifically instructed to ask challenged voters for proof of residency, so every voter on the list of 5,619 should have been asked for proof of proper residency.¹⁹⁰

1,242 Milwaukee votes were cast from allegedly invalid addresses, based on another computerized match; this match paired voter rolls with U.S. Postal Service and City of Milwaukee property lists, with spot checks of 40 specific addresses.¹⁹¹ A sample of 300 of the entries showed that about 20% of the invalid addresses were attributed to data entry errors (e.g., "3130 S. 15th Place" became "3130 S. 15th St.," and "S. 68th St." became "S. 63rd St."). At least two other addresses ostensibly deemed business locations were found to be valid residences after an individual spot-check. Furthermore, 75% of these votes were from Election Day registrants, who were required to show proof of residence at the polls.¹⁹²

- **Faulty registration cards:** In Milwaukee, 10,921 voter registration cards from Election Day voters were allegedly unable to be processed. This allegation turned out to be an error; in fact, 1,305 Election Day registration cards from Milwaukee could not be processed. 548 of these listed no address, and 48 cards listed no name, but voters had to show both proof of name and proof of residence to register on Election Day. 236 cards had missing or incomplete dates of birth, 28 had no signature, 141 listed addresses outside of the city limits, and 23 were deemed illegible. 155 cards were not processed because they had not been given a voter number by the city. It is unclear why the remaining 126 cards could not be processed.¹⁹³ 3,600 address verification cards mailed using information entered from these Election Day registrations were returned as allegedly undeliverable.¹⁹⁴ We are not aware of any further public investigation of these cards.¹⁹⁵

2,200 address verification cards from outside of Milwaukee, mailed using information entered from Election Day registrations, were also returned as allegedly undeliverable.¹⁹⁶ 313 of these were from Racine: 207 were returned because the voter moved after the election, and at least 24 addresses were entered incorrectly by election workers.¹⁹⁷ Of the 1,887 returned address verifications of Election Day registrations from elsewhere around the state, 1,198 were returned because the voter moved after the election or was temporarily absent

when the card arrived; 610 showed a valid address but the individual could not be found there; 36 had an incorrect street number; 2 had an incorrect street name; 9 had a missing apartment number; 9 were sent to an address with no mailbox; 2 were sent to vacant addresses; and 21 were returned for some other reason.¹⁹⁸

- **Ineligible by conviction:** The organizers of one pre-election jailhouse absentee ballot drive conducted a records check on 400 inmates who had signed up, found 18 ineligible, and alerted election officials; no votes were cast by these ineligible persons.¹⁹⁹

376 individuals allegedly rendered ineligible by felony conviction cast ballots, based on an attempt to match voter rolls and information from the Department of Corrections.²⁰⁰ 96 individuals listed as voting in Milwaukee matched name, address, and birthdate against Department of Correction records, and 182 individuals listed as voting matched only name and address. At least one appears to have been erroneously listed as voting; he is listed as voting but claims that he did not, while his wife is not listed as voting, but did cast a ballot. Another 98 people listed as voting elsewhere around the state matched name, address, and birthdate against Department of Correction records, but at least 7 were convicted after the election, and were eligible at the time they cast their ballot.²⁰¹

13 voters have been formally charged with fraudulently voting while ineligible; of these, 7 have been convicted, 1 voter was acquitted, 1 case was dismissed upon evidence that the voter was eligible when voting, 2 cases were dismissed for other reasons, and 2 cases were dismissed despite evidence that the voter was ineligible. In one of the latter cases, the voter provided his Department of Corrections identification card at the polls, which had "OFFENDER" printed in bold letters across the face, but was not told that he was ineligible to vote.²⁰²

3 others were documented as voting while ineligible but have not been charged. An additional voter documented as ineligible was found in 2006.²⁰³

- **Double voters:** A computer glitch in Milwaukee caused at least 314 voters who re-registered before or on Election Day to be listed twice on the rolls, with a notation of voting next to each listing. Each was given only a single ballot.²⁰⁴

83 people allegedly voted twice; 14 allegedly voted both absentee and in person, 9 allegedly voted in Milwaukee and other cities, 59 allegedly voted twice in Milwaukee, and 1 allegedly voted twice in Madison.²⁰⁵ Of the 59 voters alleged to have voted twice in Milwaukee, most registered twice but voted only once. 51 were cleared by investigators, 1 was acquitted at trial, 1 received no verdict at trial, and 1 was found incompetent to stand trial. Finally, another voter named Gloria Bell believes that she was confused with a woman named Gloria Bell-Piphus.²⁰⁶

Of the 9 voters alleged to have voted both in Milwaukee and in another city, all 9 were cleared of wrongdoing; clerical and scanning errors by poll workers accounted for 6 of the voters, 2 were fathers and sons alleged to be the same person, and 1 had a different middle name and birthdate from his alleged double.

Of the 14 voters alleged to have voted both absentee and in person, in at least 12 cases, after comparing absentee records to poll records, the absentee ballot was not counted.²⁰⁷

- **Dead voters:** 4 votes were cast in the names of allegedly dead people.²⁰⁸ These were all absentee ballots, cast by individuals who died within two weeks of the election; it is not clear whether the ballots were cast before the individuals died.²⁰⁹

- **Impersonation:** 1 vote was allegedly cast in the name of an individual who did not vote.²¹⁰ Further investigation of the alleged vote cast in the name of another was determined to be a clerical error by a poll worker.²¹¹
- **Fictitious voters:** 2 votes were allegedly cast in the name of an individual who could not be verified as an actual individual.²¹² These votes were cast in the name of Marquis F. Murff, who could not be verified by a reporter as an actual individual. We are not aware of any further public investigation.²¹³
- **Underage voter:** One ballot was cast by a 17-year-old voter, using his real birthdate.²¹⁴
- **Noncitizen:** One columnist reported that a ballot was allegedly cast by a Canadian legal permanent resident. We are not aware of any further public investigation.²¹⁵
- **Faulty registration:** Four individuals allegedly submitted false voter registration applications.²¹⁶ 2 Milwaukee residents were convicted for submitting false voter registration applications; 1 person alleged to have supervised two others who turned in false forms was also convicted, but that conviction was overturned. The trial of one other individual accused of submitting false registration applications is still pending. No votes were alleged to have been cast under these registrations.²¹⁷

ADDITIONAL ALLEGATIONS OF IRREGULARITIES UNCONNECTED TO INDIVIDUAL VOTER FRAUD:

- **“Extra” ballots:** In Milwaukee, there were allegedly 8,300 more ballots cast than individuals processed as voting; the gap was later narrowed to 4,609. The discrepancy was later attributed to administrative error in reconciling poll book logs with ballots, and at least one typographical error in reporting results.²¹⁸
- **Election Day interference:** In Milwaukee, tires on 20 get-out-the-vote vans were allegedly slashed.²¹⁹
- **Uncounted ballots:** 238 valid absentee ballots from Milwaukee were counted late.²²⁰
- **Uncounted votes:** 600 valid votes were allegedly not counted in Medford due to a computer error.²²¹
- **Unprocessed registration cards:** Eight boxes of valid registration cards were allegedly not processed in order to put voters on the rolls by the time individuals arrived at the polls.²²²

THE RATE OF SUBSTANTIATED VOTER FRAUD:

- The allegations of voter fraud related to the 2004 general elections, in which 277,565 votes were cast in Milwaukee, and 2,997,007 votes were cast in all of Wisconsin.²²³
- There were 7 substantiated cases of individuals knowingly casting invalid votes—all persons with felony convictions. This amounts to a rate of **0.0025%** within Milwaukee and **0.0002%** within the state as a whole. **None** of these problems could have been resolved by requiring photo ID at the polls.

- There were 11 substantiated cases of votes cast by ineligible Milwaukee voters—all persons with felony convictions. There are 8 substantiated cases of votes cast by ineligible voters from other parts of the state — 2 persons with felony convictions, 1 foreign national, 1 17-year-old voter, and 4 absentee ballots cast by deceased voters. That amounts to a rate of **0.004%** within Milwaukee and **0.0006%** in the state as a whole. **None** of these problems could have been resolved by requiring photo ID at the polls.
- Even given allegations that were unsubstantiated, the rate of possible fraud remains low. The analysis above lays out the allegations, reasons to question each, and the facts that we now know. But assuming that **all 6,877** of the remaining questionable allegations—including 1,150 voter registration cards not processed, 5,356 allegedly flawed addresses, 353 other allegedly ineligible persons with convictions, 8 allegedly double voters (for a total of 16 votes), and 2 votes from the allegedly fictitious individual—in fact represent ineligible votes, that would amount to a rate of **2.2%** within Milwaukee and **0.2%** within the state as a whole. **None** of these votes could have been resolved by requiring photo ID at the polls.

COVERAGE BY EXISTING LAW:

- The vast majority of these allegations would have been addressed by adequate implementation of existing law. Elections officials should have been able to correct incomplete or illegible registration cards on site; the requirement of proof of residence for Election Day registrants should have caught invalid addresses on Election Day. Addresses of voters registering before Election Day could have been carefully investigated before Election Day — by an investigation more thorough than a computer match, and attuned to the possibility of data entry errors. If the investigation revealed questions, as occurred here, the questioned voters could have been validly challenged by election officials, and asked to verify their residence; if an investigation revealed fraud rather than error or a valid change of residence, the case could be referred for prosecutorial follow-through. Similarly, as occurred here, absentee ballots should have been matched against poll records to determine if a duplicate had been cast.
- Proper implementation of the federal Help America Vote Act (HAVA) would have addressed most of the remaining allegations. HAVA requires states to create statewide electronic voter registration lists with each eligible voter listed uniquely to remove duplicate registrations, and to coordinate those computerized lists with agency records on death and conviction in order to remove ineligible voters. Although the obligation to maintain these cleaned lists predated HAVA, the computerized registration rolls — if implemented with suitable controls for accuracy — offer a new and efficient means to do so statewide. Like most states, Wisconsin did not have a HAVA-ready statewide database up and running in 2004, but once it does, the database should allow the state to sharply reduce even the small number of alleged invalid votes due to allegedly improper registrations.

ENDNOTES

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- 11 Jingle Davis, *Even Death Can't Stop Some Voters*, ATLANTA J.-CONST., Nov. 6, 2000; Russ Buettner, *Exposed: Scandal of Double Voters*, DAILY NEWS (N.Y.), Aug. 22, 2004.
- 12 LORI MINNITE & DAVID CALLAHAN, *SECURING THE VOTE: AN ANALYSIS OF ELECTION FRAUD* 39-43 (2003), at http://www.demos.org/pubs/EDR_-_Securing_the_Vote.pdf; MINNITE, *supra* note 1, at 22-35; see also Lorraine C. Minnite, *An Analysis of Voter Fraud in the U.S.* (2007) (adapted from *SECURING THE VOTE*, *supra*). Professor Minnite has examined the incidence of fraud specifically in states that permit Election Day Registration; this analysis confirms the lack of widespread voter fraud, but discusses few individual inflated allegations. Lorraine Minnite, *Election Day Registration: A Study of*

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THE POLITICS OF VOTER FRAUD

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KEY FINDINGS

- ***Voter fraud is the “intentional corruption of the electoral process by the voter.”*** This definition covers knowingly and willingly giving false information to establish voter eligibility, and knowingly and willingly voting illegally or participating in a conspiracy to encourage illegal voting by others. All other forms of corruption of the electoral process and corruption committed by elected or election officials, candidates, party organizations, advocacy groups or campaign workers fall under the wider definition of ***election fraud***.
- ***Voter fraud is extremely rare.*** At the federal level, records show that only 24 people were convicted of or pleaded guilty to illegal voting between 2002 and 2005, an average of eight people a year. The available state-level evidence of voter fraud, culled from interviews, reviews of newspaper coverage and court proceedings, while not definitive, is also negligible.
- ***The lack of evidence of voter fraud is not because of a failure to codify it.*** It is not as if the states have failed to detail the ways voters could corrupt elections. There are hundreds of examples drawn from state election codes and constitutions that illustrate the precision with which the states have criminalized voter and election fraud. If we use the same standards for judging voter fraud crime rates as we do for other crimes, we must conclude that the lack of evidence of arrests, indictments or convictions for any of the practices defined as voter fraud means very little fraud is being committed.
- ***Most voter fraud allegations turn out to be something other than fraud.*** A review of news stories over a recent two year period found that reports of voter fraud were most often limited to local races and individual acts and fell into three categories: unsubstantiated or false claims by the loser of a close race, mischief and administrative or voter error.
- ***The more complex are the rules regulating voter registration and voting, the more likely voter mistakes, clerical errors, and the like will be wrongly identified as “fraud.”*** Voters play a limited role in the electoral process. Where they interact with the process they confront an array of rules that can trip them up. In addition, one consequence of expanding voting opportunities, i.e. permissive absentee voting systems, is a corresponding increase in opportunities for casting unintentionally illegal ballots if administrative tracking and auditing systems are flawed.
- ***There is a long history in America of elites using voter fraud allegations to restrict and shape the electorate.*** In the late nineteenth century when newly freed black Americans were swept into electoral politics, and where blacks were the majority of the electorate, it was the Democrats who were threatened by a loss of power, and it was the Democratic party that erected new rules said to be necessary to respond to alleged fraud by black voters. Today, the success of voter registration drives among minorities and low income people in recent years threatens to expand the base of the Democratic party and tip the balance of power away from the Republicans. Consequently, the use of baseless voter fraud allegations for partisan advantage has become the exclusive domain of Republican party activists.

- ***The historically disenfranchised are often the target of voter fraud allegations.*** Fraud allegations today typically point the finger at those belonging to the same categories of voters accused of fraud in the past – the marginalized and formerly disenfranchised, urban dwellers, immigrants, blacks, and lower status voters. These populations are mostly found among those still struggling for full inclusion in American life.
- ***Better data collection and election administration will improve the public discussion of voter fraud and lead to more appropriate policies.*** We need better data, better election administration, transparency and more responsible journalism to improve public understanding of the legitimate ways in which electoral outcomes can be distorted and manipulated. This will help ensure that new laws and rules to prevent fraud are narrowly targeted to solve legitimate problems rather than used as a strategy to shape the electorate for partisan advantage.

INTRODUCTION

The claim that voter fraud threatens the integrity of American elections is itself a fraud. It is being used to persuade the public that deceitful and criminal voters are manipulating the electoral system. No available evidence suggests that voters are intentionally corrupting the electoral process, let alone in numbers that dilute and cancel out "the lawful votes of the vast majority of Americans."¹ The lack of evidence is not due to a failure to codify voter fraud as a crime, nor is it due to the inability or unwillingness of local law enforcement agencies to investigate or prosecute potential cases of voter fraud. In fact, when we probe most allegations of voter fraud we find errors, incompetence and partisanship. The exaggerated fear of voter fraud has a long history of scuttling efforts to make voting easier and more inclusive, especially for marginalized groups in American society. With renewed partisan vigor fantasies of fraud are being spun again to undo some of the progress America has made lowering barriers to the vote.

The purpose of this report is to disentangle the myth from the reality and to separate the politics of voter fraud from legitimate administrative concerns about the integrity of the electoral process. To make the argument, we present a usable definition of voter fraud, discuss the problem of evidence, and explain how and why the dynamics of electoral competition drive the use of baseless fraud claims in American politics. We present several contemporary examples to illustrate how poor election administration and voter mistakes are misleadingly labeled "fraud." Recent allegations against voter registration campaigns highlight the need for an analysis sensitive to the partisanship and race and class issues just beneath the surface of most voter fraud claims. The last section of the report makes policy recommendations for improving public understanding and removing the canard of voter fraud from the election reform debate. The appendix discusses what to look for in evaluating voter fraud allegations.

¹ U.S. Senate Republican Policy Committee, "Putting An End to Voter Fraud," (February 15, 2005); available online at http://rpc.senate.gov/_files/feb1504VoterFraudSD.pdf.

DEFINING VOTER FRAUD

Conceptual clarity is important in evaluating evidence of fraud. We begin with a discussion of what voter fraud is and what it is not. The first problem in defining voter fraud is that as a crime, it defies precise legal meaning. In fact, there is no single accepted legal definition of voter fraud. We have fifty different state electoral systems and fifty state criminal codes governing the administration of elections, plus a federal code that applies in national elections, and no uniform standards. In fact, some states do not actually criminalize 'voter fraud,' although they all criminalize acts that are commonly lumped together under the term, such as illegal voting, providing false information to register to vote, and multiple voting.² The legal incoherence contributes to popular misunderstandings.

We need a basic definition of voter fraud that cuts through the confusion without violating the way voter fraud is diversely treated in state and federal law. We can start with the U.S. Department of Justice's definition of **election fraud** and apply it to election crimes committed by **voters**. The Justice Department defines election fraud as "conduct 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."³ Voter fraud is a sub-category of election fraud, or the intentional corruption of the electoral process by voters.

Voter fraud is the intentional corruption of the electoral process by voters.

This covers **knowingly and willingly** giving false information to establish voter eligibility, and **knowingly and willingly** voting illegally or participating in a conspiracy to encourage illegal voting by others.⁴ Apparent acts of fraud that result from voter mistakes or isolated individual wrongdoing or mischief making not aimed at corrupting the voting process should not be considered fraud, though sometimes these acts are prosecuted as such.⁵ All other forms of corruption of the electoral process and corruption committed by elected or election officials, candidates, party organizations, advocacy groups or campaign workers fall under the wider definition of **election fraud**.⁶

² There are many examples of states that criminalize what we think of as voter fraud without calling it voter fraud. Georgia, for example, has no election code offense for "voter fraud," but it does provide stiff penalties for "repeat voting" and "voting by unqualified elector." See, for example O.C.G.A. § 21-2-560 et seq. In New Hampshire, the crime of voting more than once is called "wrongful voting." See, N.H.R.S. § 63-659:34. In Alaska, voter impersonation, voting more than once, and registering to vote without being entitled to register are all simply called "voter misconduct." See, Ala. Statutes § 15.56.040 et seq.

³ Craig C. Donsanto and Nancy Stewart, *Federal Prosecution of Election Offenses*, 6th Edition, U.S. Department of Justice, Criminal Division, Public Integrity Section (January 1995), 21 (herein cited as 'DOJ Manual').

⁴ Fraud is commonly defined as "deception *deliberately* practiced with a view to gaining an unlawful or unfair advantage" (*emphasis added*). See *Webster's Revised Unabridged Dictionary*, Version published 1913 by the C. & G. Merriam Co. (Springfield, Mass.), under the direction of Noah Porter, D.D., LL.D. Criminal intent is a feature of the election crime codes of most states and the federal system, although a showing of intent is not always required to obtain a conviction for some forms of voter fraud such as "alien voting" (voting by a non-citizen).

⁵ The proper venue for challenging mistakes that may have affected the outcome of an election is to follow state statutory procedures for an election challenge or contest. See, Barry H. Weinberg, *The Resolution of Election Disputes: Legal Principles That Control Election Challenges* (Washington, D.C.: IFES, 2006).

⁶ This definition of voter fraud is simpler and more coherent than others offered. See, for example, U.S. Election Assistance Commission, *Election Crimes: An Initial Review and Recommendations for Future Study* (December 2006), 13-16; available online

Allegations of "voter fraud" should be analyzed to determine 1) who is alleged to have committed the fraud, and 2) which stage of the electoral process is alleged to have been corrupted. This approach will go a long way toward clarifying whether electoral integrity is being breached and what needs to be done to secure the process (see the appendix for further discussion of how to identify fraud).

at www.eac.gov/docs/Voter%20Fraud%20&%20Intimidation%20Report%20-POSTED.pdf (herein cited as 'EAC Report'). Moreover, although it is simple, it preserves the meaning of "fraud" in the electoral context as outlined by the Justice Department. The Department's manual for training U.S. Attorneys in investigating and prosecuting election crimes divides "election frauds" into two categories, one that involves the participation of voters and another that does not. Those election fraud crimes involving the participation of voters include vote buying schemes, absentee ballot frauds, voter intimidation schemes, migratory-voting (or floating-voter) schemes, and voter 'assistance' frauds, in which the wishes of the voters are ignored or not sought. See, Donsanto and Stewart (1995), 22-24. Acts of voter intimidation which are included in the election fraud definitions offered in both the EAC Report and the DOJ Manual are excluded here. While the intimidation of voters certainly corrupts the electoral process, it is a crime that more directly involves the deprivation of rights guaranteed by law and for that reason should be treated separately from acts of deceit.

VOTER FRAUD AND THE PROBLEM OF EVIDENCE

How prevalent is voter fraud? A 2005 U.S. Senate Republican Policy Committee report claimed that "voter fraud continues to plague our nation's federal elections, diluting and canceling out the lawful votes of the *vast majority of Americans*" (emphasis added).⁷ This would be shocking if it were true. But the Committee made it without providing a single piece of evidence to support or clarify the claim. It cited no surveys, no statistics, no studies, no credible evidence whatsoever to back up its warning that election results are routinely distorted by fraud in the United States.

Evidence of voter fraud like all other crimes comes from law enforcement efforts to combat it

The Committee cited no data because there is very little to cite. Evidence of voter fraud like evidence of other forms of criminal behavior is primarily produced by law enforcement efforts to detect and prosecute it. And the available evidence here suggests that voters rarely commit voter fraud.⁸ As in the case of all other kinds of crime, it is simply unacceptable to allege law breaking without providing at least some supporting evidence.

What is that evidence? At the national level, a major new project at the U.S. Department of Justice, the Ballot Access and Voting Integrity Initiative (BAVII) has resulted in only a handful of convictions.⁹ According to the Attorney General, since the inception of the program in 2002, "we've made enforcement of election fraud and corruption offenses a top priority."¹⁰ The result? Government records show that only 24 people were convicted of or pleaded guilty to illegal voting between 2002 and 2005, an average of eight people a year. This includes 19 people who were ineligible to vote, five because they were still under state supervision for felony convictions, and 14 who were not U.S. citizens; and five people who voted twice in the same election, once in Kansas and again in Missouri.¹¹

⁷ U.S. Senate Republican Policy Committee (2005).

⁸ The idea that voter fraud is first and foremost a crime reaches substantially the federal concept of election fraud which "applies only to activity that is appropriately remedied through criminal prosecution, as distinguished from other less severe remedies such as election contest litigation or administrative relief." See, Craig C. Donsanto, "The Federal Crime of Election Fraud," prepared for the Russian election reform website, Democracy.Ru, n.d.; available online at www.democracy.ru/english/library/international/eng_1999-11.html.

⁹ On the origins of BAVII, see Jeffrey Toobin, "Annals of Law: Poll Positions," *The New Yorker* (September 20, 2004). Very little information about the program's overall scope and performance has been released by the Justice Department's Public Integrity Section; annual press releases announce the numbers of investigations and convictions obtained, and the Public Integrity Section's annual reports to Congress briefly discuss some of the cases, but efforts to acquire more information about the program have been stymied by the Criminal Division's failure to respond to a Freedom of Information Act request filed in July 2005. Nevertheless, it is difficult to imagine that the Department would withhold information about closed cases of deceitful voters, and therefore likely that the limited information it has released so far is all there is.

¹⁰ Prepared Remarks of Attorney General Alberto R. Gonzales, Ballot Access and Voting Integrity Symposium, Washington, D.C. (October 4, 2005).

¹¹ U. S. Department of Justice, Criminal Division, Public Integrity Section, *Election Fraud Prosecutions & Convictions, Ballot Access & Voting Integrity Initiative, October 2002 - September 2005* (n.d.).

Federal Prosecutions for Illegal Voting 2002 – 2005

CASTING A FALSE BALLOT	DISPOSITION				Total
	Dismissed	Acquitted	Pleaded Guilty	Convicted	
False Name/Eligibility					
Non-citizen					19
Felonies					10
Multiple voting					9
TOTAL	11	3	11	13	38

Source: U. S. Department of Justice, Criminal Division, Public Integrity Section, *Election Fraud Prosecutions & Convictions, Ballot Access & Voting Integrity Initiative, October 2002 – September 2005* (n.d.).

In addition, the BAVII uncovered several vote buying schemes that have resulted in the convictions or guilty pleas of about 30 people, though most of those convicted were party and election officials, candidates for public office and elected officials, and in one case, the commander of a local VFW post. The vote buying cases involved a handful of elections in the Appalachia regions of eastern Kentucky and West Virginia, East St. Louis, Illinois and Caldwell County, North Carolina.

The available state-level evidence of voter fraud, culled from interviews, reviews of newspaper coverage and court proceedings, while not definitive, is also negligible.¹² There are no reliable, officially compiled, national or even statewide statistics on voter fraud.¹³ Even though many criminal acts associated with "voter fraud" are classified as felonies, voter fraud fails to appear in the F.B.I.'s uniform crime reports. There are no publicly available criminal justice databases that include voter fraud as a category of crime. No states collect and publish statistics on voter fraud.¹⁴

The lack of evidence is not due to a failure to codify voter fraud as a crime

If fraud is such a persistent concern of those who run elections, government agencies responsible for election administration should collect statistics on it, as they do in other serious matters, certainly other crimes. It is not as if the states have failed to detail the ways voters could corrupt elections. There are hundreds of examples drawn from state election codes and constitutions that illustrate the precision with which the states have criminalized voter and election fraud.

If we use the same standards for judging voter fraud crime rates as we do for other crimes, which is to calculate the incidence of crime from law enforcement statistics on arrests, indictments and convictions, we must conclude that the lack of evidence of arrests, indictments or convictions for any of the practices defined as voter fraud means very little fraud is being committed relative to the millions of votes cast each year in state, local and federal elections.

¹² Lori Minnite and David Callahan, *Securing the Vote: An Analysis of Election Fraud* (New York: DEMOS: A Network for Ideas and Action, 2003). The author is engaged in a more thorough analysis of state-level voter fraud data and investigations which will be published in her forthcoming book. To-date, the findings only confirm Minnite and Callahan's earlier conclusions.

¹³ This is an urgent concern. Law professor Spencer Overton persuasively argues for a more empirical cost-benefit approach to evaluating the value and constitutionality of new restrictive photo identification voting requirements. As Overton notes, this approach is hampered by the lack of systematic data on fraud. See, Spencer Overton, "Voter Identification," *Michigan Law Review* 105(2007), 631-682.

¹⁴ The California Secretary of State's Office compiled information on electoral fraud cases referred to its office from 1994 to 2003. The data were analyzed in an unpublished conference paper (see, R. Michael Alvarez and Frederick J. Boehmke, "Contemporary Election Fraud: A Quantitative Analysis of Election Fraud Cases in California," paper prepared for Election Fraud Conference, Center for Public Policy and Administration, The University of Utah, and the Caltech/MIT Voting Technology Project, Salt Lake City, Utah, September 29-30, 2006; available online at www.vote.caltech.edu/events/2006/FraudConf/AlvBrnk-paper.pdf), but they are not publicly available.

Examples Of How States Criminalize Voter Fraud

- In Texas, a person can be convicted of a third degree felony if he or she "votes or attempts to vote in an election in which the person knows the person is not eligible to vote, knowingly votes or attempts to vote more than once in an election, or knowingly impersonates another person and votes or attempts to vote as the impersonated person."
- California's election code has dozens of provisions that prohibit illegal activity associated with elections. It prohibits fraudulent registration, including registering under a false name, registering under a false address, and registering a non-existent person. It makes it a felony for a person to vote in an election that he or she is not entitled to vote in, to vote more than once, or impersonate another voter. Moreover, it is a felony in California to "give, offer, or promise any office, place, or employment, or promise to procure or endeavor to procure any office, place, or employment to or for any voter, or to or for any other person, in order to induce that voter at any election to vote or not vote for a particular candidate."
- Pennsylvania law gives the power to monitor elections to county boards of elections, and imposes a substantial number of penalties on people engaging in election fraud. Giving or receiving money in exchange for voting a certain way in an election can bring up to seven years in prison and \$15,000 in fines. Any person convicted of perjury "regarding any material matter or thing relating to any subject being investigated, heard, determined or acted upon by any county board of elections, or member thereof, or by any court or judge thereof, judge of election, inspector of election, or overseer" can receive up to five years in prison and a \$10,000 fine. Any person voting when they are not registered to vote, or voting more than once can be punished the same.
- Nineteenth century language in the Alabama Constitution disqualifies from voting "all idiots and insane persons, and those convicted of crimes like murder, arson, and rape; but also wife battering, bigamy, sodomy, miscegenation and vagrancy. It also disqualifies from voting any person convicted of "selling or offering to sell his vote or the vote of another; or of buying or offering to buy the vote of another; or of making or offering to make a false return in any election by the people or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector."
- In Minnesota, it is a felony to submit more than one absentee ballot, assist another in submitting more than one absentee ballot, or alter another's absentee ballot in any way.

* Tex. Gov't Code Ann. § 64.012.

* Cal. Gov't Code § 18520.

* 25 Pa. Stat. Ann. Art. XVIII, generally.

* Constitution of Alabama (1901), Section 162.

* Minn. Stat. Ann. § 203B.01.

The lack of evidence of voter fraud is not due to law enforcement agencies ignoring their duties

Even if crime reports underestimate true crime rates because some crimes go unreported or undetected, or because criminal behavior is sometimes addressed by means other than prosecution, crime is still measured as a function of law enforcement efforts to address it. Under the rule of law, enforcement efforts establish the core evidence of crime. It is difficult to conceive of whole categories of criminal behavior that go almost completely undetected or ignored by law enforcement officials at all levels of government across the U.S. today. And yet, those who believe there is a lot of voter fraud despite the lack of evidence frequently fall back on this argument. When confronted they charge the paucity of evidence is due to the government's failure to undertake the investigations and prosecutions that would produce it.¹⁵ A more plausible explanation is that voters are not committing fraud, leaving little to investigate or prosecute.

The lack of evidence of voter fraud is not due to the inability of law enforcement agencies to pursue voter fraud investigations

Some argue that local officials are ill-equipped to detect voter fraud and poorly motivated to pursue investigations and prosecutions of voter fraud given their lack of expertise and resources and the public's demand for attention to more serious or violent crimes.¹⁶ If election crime, perhaps like international securities fraud or organized crime, were beyond the ken of local officials to investigate, then we might expect a dearth of prosecutions and little evidence of voter fraud. This is another explanation offered by those who argue that there is a lot of fraud despite the lack of evidence. Local officials, the argument goes, can't or won't prosecute fraud for a variety of reasons. The detection and prosecution of voter fraud, however, is not beyond the ken of local officials. In fact, as the Justice Department manual on how to investigate and prosecute election crime argues, "there are several reasons why election crime prosecutions may present an easier means of obtaining convictions than do other forms of public corruption." They are, 1) "election crimes usually occur largely in public," 2) "election crimes often involve many players," and 3) "election crimes tend to leave a paper trail."¹⁷ Without any evidence to support it, the notion that local law enforcement officials are unable or unwilling to investigate or prosecute voter fraud lacks merit. But, as the saying goes, if you repeat a rumor enough times people will start to believe it.

¹⁵ Recently, a federal appeals court judge repeated the rumor that, "...the absence of [voter fraud] prosecutions [in Indiana] is explained by the endemic under enforcement of minor criminal laws (minor as they appear to the public and prosecutors, at all events)." See, *Indiana Democratic Party v. Rokita*, U.S. Court of Appeals, 7th Circuit, Case No. 06-2218, 7. This is a contentious issue, but like most allegations of voter fraud, one that fails to rise above the level of anecdote.

¹⁶ For example, in affirming the lower court's decision upholding Indiana's new photo identification law, U.S. Court of Appeals Judge Richard Posner proposed the idea that as a crime, voter fraud is analogous to littering. See also Donsanto and Stewart, asserting, "...local law enforcement is often not equipped to prosecute election offenses" (1995, 8), and Donsanto's subsequent statement that, "Voter fraud investigations are labor intensive. Local law enforcement agencies often lack the manpower and the financial resources to take these cases on;" (Donsanto, n.d.) Here, Donsanto, the director of the Elections Crimes Branch of the Justice Department's Public Integrity Section since its inception in 1978, undermines a claim he makes earlier in a *University of Baltimore Law Review* article, that, "Most election fraud is easily recognized." If it's easily recognized, why would local law enforcement agencies lack the manpower and resources to take on investigations and prosecutions? See, Craig C. Donsanto, "Federal Jurisdiction Over Local Vote Fraud," *University of Baltimore Law Review* 13(1), 4.

¹⁷ Donsanto and Stewart (1995), 6.

"FRAUD" THAT IS NOT FRAUD

A review of hundreds of news reports on voter fraud appearing over a recent two year period found that with few exceptions, fraud allegations and cases reported in the press were limited to local electoral contests and individual acts, and fell into three basic categories:

- 1) *unsubstantiated or false allegations of voter fraud made by the losers of close elections;*¹⁸
- 2) *mischief; and,*
- 3) *claims that later turn out to be based on cases of voter error or administrative mistakes, not fraud.*

Here are some examples:

Examples of fraud alleged by election losers

- Pittsburgh City Council President Bob O'Connor lost a close primary race to incumbent Mayor Tom Murphy and charged voter fraud cost him the election. Pittsburgh election officials allowed the two campaigns to review balloting while monitoring each other. Mayor Murphy's campaign found 81 ineligible voters in a sampling of 71 of the city's 404 precincts. The *Pittsburgh Post-Gazette* reviewed Murphy's data and found only three clearly improper ballots. The O'Connor campaign claimed it found 142 votes cast by people whose voter registration cards were missing but would not share its data with the *Post-Gazette* for independent verification.¹⁹
- The Pasco County Canvassing Board of Port Richey, Florida, denied a request for a recount filed by Bob Leggiere who lost to the incumbent by nine votes. Leggiere claimed that voter fraud and 11 ballots that did not register a vote for mayor were the cause of his defeat. He charged that owners of a gambling boat operation voted illegally because their boat, which was their legal residence, was outside the city limits, suggesting that "because of their gambling boat interests, they have attempted to take control of the city elections." The canvassing board informed Leggiere that he needed to file a protest with the board or a complaint in court, which he declined to do.²⁰

Examples of fraud as mischief

- A Ventura County, California woman was arrested and charged with voter fraud when her ex-husband noticed the names of two of their underage children on a list of registered voters in the March 2000 primary and turned her in. The woman was charged with fraudulently registering her 10- and 15-year old daughters, one of her daughter's friends, her ex-husband who was already registered, and a number of fictitious people.²¹

¹⁸ For a discussion of fraud and the sore loser, see Michelle L. Robinson, "Issue in the Third Circuit: Election Fraud – Winning At All Costs," *Villanova Law Review* 40 (1995), 869+.

¹⁹ James O'Toole, "Voting Errors Suggest No Fraud," *Pittsburgh Post-Gazette* (June 17, 2001), B17.

²⁰ Chase Squires and Matthew Waite, "Fraud Alleged in Port Richey Vote," *St. Petersburg Times* (April 12, 2001), B4.

²¹ "Woman Faces Vote Fraud Charges," *The San Diego Union-Tribune* (October 29, 2000), A3.

- Prosecutors in West Palm Beach, Florida agreed not to charge a woman who registered her poodle, "Cocoa Fernandez," as a Republican on the condition that the woman stay out of trouble for a year. She averted a third-degree felony charge carrying a maximum 5-year prison term and a \$5,000 fine.²²
- A story appeared in the Marquette University student paper that 174 of 1,000 students surveyed said they voted more than once in the November 2000 presidential election. Another 170 claimed to have voted for write-in candidates, but the official canvass of the voting precincts surrounding the Marquette campus recorded only 12 write-in votes for president. One student told ABC News, the *Milwaukee Journal Sentinel* and the Marquette student paper that he voted four times. He later recanted when a list of voters from his precinct did not include his name at all. The Milwaukee County District Attorney said he had no evidence of any student voting more than once. The student who told the media he voted four times was later charged with selling other students fake Ohio drivers licenses he printed using his dorm room computer.²³

Examples of fraud as voter error

- The *Milwaukee Journal Sentinel* conducted a two-month review of 203,000 votes cast in Milwaukee and found that 361 felons still under state supervision cast votes in 2000. This was in violation of an "often misunderstood state law" that disqualifies felons on probation or parole from voting. Ninety percent of the 361 illegal votes were cast by African Americans living in central city neighborhoods, most with convictions for welfare fraud, forgery and other property offenses. The newspaper reasoned that the illegal votes probably went to Al Gore, since 92 percent of African Americans in the state voted for Gore. They estimated that if disqualified felons elsewhere in the state voted illegally at the same rate obtained in Milwaukee, as many as 1,100 illegal votes could have been cast statewide, a significant number given Gore's margin of victory was only 5,708 votes. None of the illegal voters contacted by the paper knew they were prohibited from voting, and a review of parole and probation procedures suggested they were never informed.²⁴ Charges were filed against three people but later dropped when prosecutors couldn't prove those charged knew they were breaking the law.
- A voter inadvertently filled out five ballots in a local election in Montgomery County, Texas. "It (the five ballots, sic) was just handed to me and I just put them in the box," said the culprit, 52-year old Ruben Jones, "I wasn't paying attention." An election judge allowed one of Jones' votes to count resulting in a tie at 83 votes each between two candidates who were then forced into a run-off. Fraud was charged. The city attorney acknowledged the judge's mistake but could not overturn his decision to allow one of the votes to count. There was no provision in Texas election law for overruling an election judge on such matters.²⁵

Examples of cases of administrative incompetence and mistakes leading to misplaced allegations of voter fraud in St. Louis and Milwaukee are discussed in detail below.

²² "In Brief/Florida: No Charges, But Pooch Can't Punch Ballot," *Los Angeles Times* (December 17, 2001), A23.

²³ "Marquette Student Admits He Didn't Vote Four Times," *Chicago Sun-Times* (November 16, 2000), 3; "Voter Fraud Inquiries Lead to Charges Against 3 in Milwaukee," *St. Louis Post-Dispatch* (December 21, 2000), A8.

²⁴ Dave Umhoefer and Jessica McBride, "361 Felons Voted Illegally in Milwaukee; Law is Poorly Understood, Rarely Invoked Here," *Milwaukee Journal Sentinel* (January 21, 2001), 1A.

²⁵ Harvey Rice, "Ballot Error Won't Change Deadlocked Race," *The Houston Chronicle* (May 12, 2001), 33.

THE POLITICS OF VOTER FRAUD CLAIMS

There are many reasons why electoral reform is difficult to achieve, chief among them the benefits the *status quo* bestows on politicians in charge of making the rules. Voting rights advocates working to expand the electorate and make voting easier for more citizens must also overcome recurring arguments that reform will encourage more voter fraud. Indeed, the specter of voter fraud has been manipulated by elites to restrict and shape the electorate for nearly two centuries.

The Late Nineteenth Century and the “Good Government” Defense

The electoral reforms of the Progressive era dismantled Populist voting majorities and reflected the reformers' class and anti-immigrant biases. Following the turmoil of the election of 1896 when new immigrants, struggling farmers, and wage workers flooded into the electorate, wealthy elites pressed for tighter regulation of the electoral process. They promoted personal voter registration systems that had the effect of de-mobilizing the poor and working classes.²⁶ The reformers' rhetoric fastened on fraud and the need to eliminate it in order to protect 'the Democracy.' The perception of fraud and widespread electoral corruption gave their efforts moral ballast which obscured the class conflict at the center of the struggle for the vote.

The specter of voter fraud has been manipulated by elites to restrict and shape the electorate for nearly two centuries.

For Progressive era elites, voter registration was good government and universal voting was directly associated with corruption and voter fraud.²⁷

Municipal reformers drawn from the ranks of the new middle and upper class professional strata assumed the lower classes possessed inferior moral capacities that produced unscrupulous behavior in politics. They wrestled control of government away from the older political machine organizations by imposing administrative reforms on the electoral process. These reforms deliberately privatized and personalized the social act of voting in order to undercut the machine's capacity to mobilize majorities through ethno-religious and other group-based appeals.²⁸

²⁶ Frances Fox Piven and Richard A. Cloward, *Why Americans Don't Vote and Why Politicians Want It That Way* (Boston: Beacon Press, 2000), 91-2.

²⁷ Dayna Cunningham, "Who Are To Be Electors? A Reflection on the History of Voter Registration in the U.S.," *Yale Law and Policy Review* 9(2) (1991), 383.

²⁸ After the Civil War, the electorate was demobilized in different ways in the North and South. Black disenfranchisement was pursued through the use of violence and terror, and institutionalized through the re-writing of Southern state constitutions between 1890 and 1910. Mississippi pioneered the "Southern system" of burdensome residency requirements, periodic registration, poll taxes, literacy and "understanding" requirements, and exacting disqualification provisions, all designed to strip black men of the vote without reliance on overt racial classifications (Cunningham (1991), 377). There is a large scholarly literature on this subject. See, for example, classic works by V.O. Key, *Southern Politics in State and Nation* (New York: A. A. Knopf, 1949); and J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven: Yale University Press, 1974). On efforts to reshape the electorate outside of the South during this period, see, Walter Dean Burnham, "The Appearance and Disappearance of the American Voter," in Walter Dean Burnham, *The Current Crisis in American Politics* (New York: Oxford University Press, 1983); and Paul Kleppner, *Who Voted? The Dynamics of Electoral Turnout, 1870-1980* (New York: Praeger, 1982). For a fascinating account of how nineteenth century voters behaved at the polls on Election Day, see Richard Franklin Bensel, *The American Ballot Box in the Mid-Nineteenth Century* (New York: Cambridge University Press, 2004).

Much has been written about the colorful and varied forms of political corruption in the nineteenth century.²⁹ The debate over the extent of fraud among scholars, however, has failed to settle the question of whether it accounted for the extraordinarily high levels of turnout that disappeared with the adoption of personal voter registration systems.³⁰ Nor is it certain that the new voter registration laws were responsible for reducing the election fraud they were aimed at eliminating. But, election fraud documented by the reformers usually involved organized efforts by election officials and politicians, not by the voters who were the intended target of restrictive reforms like voter registration.³¹

Nevertheless, voting rights have been won. Most of the conditions that once gave rise to what we would characterize as fraudulent practices today, such as ballots produced and distributed by the political parties, have changed. In the nineteenth century, election fraud was sometimes perpetrated by partisans acting together to steal elections. Local party organizations competed for voters and controlled votes through patronage, and the stakes were high. In those days, parties, patronage and fraud were intertwined. Today, local party organizations are weak to nonexistent, in part because their access to patronage has all but disappeared. They no longer control lucrative franchises, run police and fire departments, set utility rates or build large-scale public works. The demise of local parties and patronage over the last century has undermined the logic and eroded the means of committing voter fraud.

The demise of local parties and patronage over the last century has undermined the logic and eroded the means of committing voter fraud.

The Civil Rights Era and Beyond

With each significant effort to protect and extend the right to vote, opponents have argued that the expansion of the franchise, whether through federal protections for voting rights or through reduced structural barriers to the franchise, would lead to more voter fraud. The threat of fraud was taken up by congressional opponents of the Voting

Rights Act of 1965; it was raised in the conflict over extending the Act during the first Reagan Administration; and again, in more recent debates over the National Voter Registration Act.³² It is the very success of these reforms that explains why fraud claims have re-emerged as a principle form of voter intimidation. The victories of the civil rights movement make it no longer easy or acceptable to suppress voting through the use of terrorism or violence, or with a poll tax or a literacy test. Today the intimidation is more subtle.

The dynamics of electoral competition in a two-party plurality system also contribute to the resurrection of the specter of voter fraud. When elections are close, the logic of competition drives opponents to fierce conflict. The winner in a two-party system needs only one vote more than his or her opponent; 51 percent of the votes wins it all, 49 percent wins nothing. Competing parties in

²⁹ See, for example, Glenn C. Altschuler and Stuart M. Blumin, *Rude Republic: Americans and Their Politics In the Nineteenth Century* (Princeton: Princeton University Press, 2000); and Tracy Campbell, *Deliver the Vote: A History of Election Fraud, an American Political Tradition - 1724-2004* (New York: Carroll & Graf, 2005).

³⁰ See, Piven and Cloward (2000), 25-6, discussing the work of Walter Dean Burnham, Philip Converse, Paul Kleppner and Jerrold G. Rusk. See also, Howard W. Allen and Kay Warren Allen, "Vote Fraud and Data Validity," in Jerome M. Clubb, William H. Flanigan, and Nancy H. Zingale, eds., *Analyzing Electoral History: A Guide to the Study of American Voter Behavior* (Beverly Hills: Sage Publications, Inc., 1981), 153-194.

³¹ See Cunningham (1991), 384, citing Joseph P. Harris, *Election Administration in the United States* (Washington, D.C.: The Brookings Institution, 1934).

³² For an important account of the movement to reform voter registration laws leading to the passage of the National Voter Registration Act of 1993, see Margaret M. Groarke, *Expanding Access to the Vote: An Analysis of Voter Registration Reform in the United States, 1970-1993* (Ph.D. diss., Department of Political Science, City University of New York, 2000).

close elections fight hard to maximize their chances of winning that 51 percent³³ because the closer the election, the fewer the number of voters that are needed to shift victory to one party or the other. Tight elections produce the biggest pay-off for the smallest shifts in vote share.

Theoretically, parties or campaigns can produce a shift by expanding votes for themselves or constraining votes for their opponents, or even pursuing both practices at the same time. But expanding the vote carries higher risks for incumbents. Elected officials try to preserve the majorities that elect them and are wary of the threat new voters pose. Both parties, therefore, are wary of expansion. Since the success of the Voting Rights Act prohibits them from carving out their majorities in ways that directly violate laws protecting voting rights, they shape and manage their electorates by more subtle means, through the rules that govern the electoral process. Both parties seek to control, enforce and bend electoral rules to their advantage. As the political scientist, E.E. Schattschneider once observed,

In politics as in everything else it makes a great difference whose game we play. The rules of the game determine the requirements for success. . . . and go to the heart of political strategy.³⁴

For example, today, Republican party officials and incumbents support restrictive interpretations of the rules governing voter qualifications when they anticipate that tightening access to the vote will hurt their rivals.

They insist that the votes of legitimate, qualified voters are threatened by the votes of ineligible voters, justifying their support for restrictive identification requirements.³⁵

The Democrats resist these efforts when they think the new rules will threaten their own party base; but if the new rules aren't likely to threaten the base, the Democrats, whose elected officials share the same interest in a stable, predictable electorate as their Republican colleagues, compromise and endorse new restrictions. The Democrats' concession to the inclusion

of an identification requirement for first time voters who register to vote by mail in the Help America Vote Act of 2002 (HAVA), in the face of widespread opposition on the part of voting rights advocates, is a case in point.³⁶ New HAVA voter identification requirements apply to a diffuse category of new voters whose party loyalties were unknown and therefore in adding this rule at the national level, neither party could claim an uncontested advantage or disadvantage. In the partisan wrangling over the bill, the important questions about the extent of voter fraud and the effectiveness of new rules in combating it were lost.

Given the particular party and competitive dynamics of the current period, the use of baseless voter fraud allegations for partisan advantage has become the exclusive domain of Republican party activists.

³³ Or a plurality when the occasional third party candidate is in the race.

³⁴ E.E. Schattschneider, *The Semisovereign People: A Realist's View of Democracy in America* (New York: Holt, Rinehart and Winston, 1960), 48-49.

³⁵ U.S. Senate, Republican Policy Committee (2005).

³⁶ Emily Pierce, "Senate Standoff Over Voter Fraud Provision Threatens to Sink Election Bill," *CQ Monitor News* (February 28, 2002); Karen Foerstel with Emily Pierce, "Hopes for Quick Accord on Election Standards Bill Face Liberals' Objections," *CQ Weekly - Elections* (April 13, 2002), 957; Geoffrey Gray, "Schumer's Identity Politics: Civil Rights Advocates Fight Compromise on Election Reform," *The Village Voice* (April 3-9, 2002), 42; Gabrielle B. Ruda, "Note: Picture Perfect: A Critical Analysis of the Debate on the 2002 Help America Vote Act," *Fordham Urban Law Journal* 31 (November 2003), 235.

In a competitive electoral environment it is easier and safer for the parties to try to stabilize the base and reduce the opposition's support than it is for either to recruit new voters. Given the particular party and competitive dynamics of the current period, the use of baseless voter fraud allegations for partisan advantage has become the exclusive domain of Republican party activists.

Take the American Center for Voting Rights (ACVR). This organization established a presence on the Internet in March 2005, just six days before a Republican-controlled U.S. House Administration Committee hearing on problems in the 2004 Ohio election, and was the only "voting rights" group allowed to testify. Although ACVR claims it is nonpartisan, its founders, leadership, and staff have strong ties to the Republican party.³⁷ Its report on "Voter Fraud, Intimidation and Suppression in the 2004 Presidential Election," professes to be "the most comprehensive and authoritative review of the facts surrounding allegations of vote fraud, intimidation and suppression made during the 2004 presidential election." It is little more than a compendium of poorly scrutinized newspaper articles sensationalizing election shenanigans allegedly instigated in all but two instances by Democrats.³⁸ Despite the not so veiled partisanship and absence of credentials, ACVR has achieved remarkable influence advocating for strict, government-issued photo identification requirements and promoting the idea that American elections are riddled with voter fraud. Its leader, attorney and political operative, Mark F. (Thor) Hearne, II, is a serial expert witness before Congress and other government bodies on the need for photo ID. His testimony repeatedly relies for evidence on anecdotes and misleading news reports that grossly overstate the problem of voter fraud.³⁹

The systematic use of baseless voter fraud allegations is strategic and in this sense rational, if unethical. In the late nineteenth century when freedmen were swept into electoral politics and where blacks were the majority of the electorate, it was the Democrats who were threatened by a loss of power, and it was the Democratic party that erected new rules they claimed were necessary to respond to the alleged fraud of black voters.

Today, the success of voter registration drives among minorities and low income people in recent years threatens to expand the base of the Democratic party and tip the balance of power away from the Republicans. Therefore, it is not difficult to understand why party operatives might seek to strategically generate enough public support for new restrictions on the vote that will disproportionately hinder opposition voters.⁴⁰ These efforts are misleadingly labeled "the electoral integrity" movement because after two hundred years struggling for the vote and winning it from below, ordinary voters are not so easily discredited in the name of democracy. Efforts to do so must appeal to misplaced moral sensibilities like the idea that "integrity" trumps rights. In the end, baseless voter fraud claims are essentially political acts because the contested history of party, race and class in American politics makes them so.

³⁷ See bradblog.com (www.bradblog.com/ACVR.htm) for a collection of articles on the ACVR by Brad Friedman and his colleagues.

³⁸ Dimitri Vassilaros, "Study 'is Political Fraud,'" *Pittsburgh Tribune-Review* (August 8, 2005); available online at: www.pittsburghlive.com/x/pittsburghtrib/s_360812.html.

³⁹ Hearne is listed as an "academic advisor" to the Commission on Federal Election Reform (the Carter-Baker Commission), despite his lack of academic credentials. For Hearne's testimony before government bodies, see, Testimony of Mark F. (Thor) Hearne, II, on "Voter Fraud in Ohio in the 2004 Presidential Election," U. S. House of Representatives, Committee on House Administration, March 21, 2005; "Regarding the Continuing Need for Federal Examiners and Observers to Ensure Electoral Integrity," Testimony of Mark F. (Thor) Hearne, II, Before the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution Civil Rights and Property Rights, July 10, 2006; "Assessing the Conduct of the 2006 Mid-term Elections," Testimony of Mark F. (Thor) Hearne, II, Before the U.S. Elections Assistance Commission, December 7, 2006.

⁴⁰ There is strong empirical evidence suggesting restrictive photo identification requirements place a disproportionate burden on low income people and minorities. See, Brennan Center for Justice at NYU School of Law and Spencer Overton, "Response to the Report of the 2005 Commission on Federal Election Reform," 2005; available online at www.carterbakerdissent.com. Overton served as a commissioner on the 2005 Commission on Federal Election Reform.

Those registering through drives were more likely to be people of color and of lower income than other registered voters.

Method of Registration by Race and Income⁴⁴

Filled Out Form at Registration Drive	
White	
Black	
Hispanic	
Asian	
Other	
Total Annual Family Income	

Source: U.S. Dept. of Commerce, Bureau of the Census, Current Population Survey, November 2004: Voter Supplement File.

The number of low income drive registrants is three times the number of low income voters registering at public assistance agencies mandated by the National Voter Registration Act of 1993 (NVRA) to provide registration opportunities. Just four percent of registered voters with total annual family income below \$15,000 (approximately 470,000 people) were registered to vote through a public assistance agency. This compares to approximately 1,328,000 low income voters, or 11.6 percent of those with less than \$15,000 in annual family income, who said they were registered through a registration drive.⁴⁵ It is clear that despite the intent of NVRA to open registration opportunities to low income Americans, thousands of eligible citizens would be left out of the electoral process were it not for the third party groups who register and encourage them to vote.

Competitive or high interest elections like those of the last six years increase incentives to mobilize voters, including the recruitment of new voters – not only to the parties, but to all the other groups who believe they have a stake in the outcome. The use of thousands of volunteers and temporary workers in these drives contributes to the potential for mistakes and duplication in the registration process. This is one of the consequences of essentially “outsourcing” voter registration to the private sector rather than placing the burden of registration on the state as is done in many of the European democracies.⁴⁶ If voter registration were mandatory like paying taxes, voter registration drives would not be necessary.

⁴⁴ The table compares only those registered voters who could identify their method of registration. Data on income are limited to people living in families. Family income is the combined income of all family members over the previous year and includes money from jobs, net income from business, farm or rent, pensions, dividends, interest, Social Security payments and any other money income received by family members who are 15 years of age or older.

⁴⁵ U.S. Dept. of Commerce (2005); author's calculations. For an analysis of the recent drop off in implementation of the agency-based requirements of the NVRA, see *Ten Years Later, A Promise Unfulfilled: The National Voter Registration Act in Public Assistance Agencies, 1995-2005*, a report compiled by DEMOS, A Network for Ideas and Action; ACORN; and Project Vote (July 2005); available online at http://projectvote.org/fileadmin/ProjectVote/pdfs/Ten_Years_Later_A_Promise_Unfulfilled.pdf.

⁴⁶ The National Commission on Election Reform Task Force on the Federal Election System notes that, “the registration laws in force throughout the United States are among the world’s most demanding... [and are] one reason why voter turnout in the United States is near the bottom of the developed world.” National Election Commission, *Report of the Task Force on the Federal Election System*, chapter 2 “Voter Registration,” (July 2001), 3; available online at www.tcf.org/Publications/ElectionReform/NCFER/hansen_chap2_voter.pdf.

With the upsurge in voter registration activity has come more media attention to the handful of cases in which organizations have been accused of submitting fraudulent registration applications to local elections officials. No amount of fraud in the registration process is acceptable, but the accusations that voter fraud "is breaking out all over"⁴⁷ as a result of "a coordinated effort by members of some organizations to rig the electoral system through voter registration fraud" that put "thousands of fictional voters"⁴⁸ on the rolls are unsupported by any credible evidence anyone has been able to bring to bear. In fact, the suspicions about a vast "left-wing" or "Liberal Democrat-sponsored" conspiracy to commit voter registration fraud border on the paranoid.⁴⁹

According to available government data, between October 2002 and September 2005, the federal government prosecuted just 33 people for various misdemeanor and felony crimes related to any form of election fraud that could have involved voter registration.⁵⁰ All but two people indicted were prosecuted for falsifying information about their own eligibility to vote, including: 20 people in four states who were prosecuted for registering or voting but who were ineligible under state law because they lacked U.S. citizenship; and ten people who voted in the 2004 presidential election in Milwaukee who were prosecuted for falsely certifying that they were eligible to vote when they were still under state supervision for felony convictions.⁵¹ Ten of the 33 – five of the non-citizen cases and five of the felon cases – were either acquitted of the charges against them or had their indictments dismissed.⁵² At least 19 of the 23 people convicted were alleged to have voted illegally because they were ineligible to vote, but notably, these people registered to vote and voted using their real names, hardly acts of conspiracy or of criminals trying to get away with committing fraud. Only two people were prosecuted for crimes related to fabricated voter registration applications for other people. One pleaded guilty to making false statements to a grand jury in connection with 11 fraudulent registration forms. The other, a St. Martinsville, Louisiana city councilwoman running in a hotly contested race for re-election in 2002, pleaded guilty to conspiring to submit false address

Between October 2002 and September 2005, the federal government prosecuted just 33 people for various misdemeanor and felony crimes related to any form of election fraud that could have involved voter registration.

⁴⁷ Michelle Malkin, September 29, 2004 blog entry; available online at <http://michellemalkin.com/archives/000596.htm>.

⁴⁸ American Center for Voting Rights Legislative Fund, "Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election," ACVR Legislative Fund Report (August 2, 2005), 35; available online at www.acvr.com/reports/072005/080205report.pdf.

⁴⁹ See, for example, the postings of "Dean," on democratvote-fraud.blogspot.com (accessed in October 2006). This blog collects dozens of news articles from the 2004 election, most of which report allegations of campaign dirty tricks and voter registration fraud, and discuss protests against new "anti-fraud" measures adopted in some states like Ohio, all perpetrated by Democrats or their supporters. Under the title, "Liberal Democrat Vote Fraud," Dean explains, "We all saw the results of the 2000 American election. This time, I'm personally going to fight back in the only way that I can, with a blog that documents as many news reports about Democrat fraud as I can."

⁵⁰ U.S. Department of Justice, Criminal Division, Public Integrity Section, "Election Fraud Prosecutions and Convictions: Ballot Access and Voting Integrity Initiative, October 2002 – September 2005" (n.d.); available online at <http://cha.house.gov/media/pdfs/DOJdoc.pdf>. Several of these people technically were not charged with voter registration fraud, but with making false statements to government agencies (i.e., a driver's license bureau or the INS) regarding their citizenship status or eligibility to vote. This number includes cases of illegal voting due to ineligibility, assuming they must have involved registration fraud, even if it wasn't charged.

⁵¹ One of those convicted, Kimberly Prude, worked as an election inspector in Milwaukee. As of February 2006, Prude was appealing her conviction. See, *United States of America v. Kimberly E. Prude*, "Criminal Complaint," United States District Court, Eastern District of Wisconsin, Case No. 2:05-CR-00162-RTR (June 22, 2005).

⁵² In the ten cases of alleged illegal felon voting in Milwaukee, one defendant was acquitted at trial and four had their charges dismissed. Among the dismissals evidence was presented which suggested defendants did not knowingly commit fraud.

information on two voter registration cards for people who did not live in her district. Those people voted to help the councilwoman win re-election by a slim margin.⁵³

Federal Prosecutions of Voter Registration Fraud 2002 – 2005

VOTER REGISTRATION	DISPOSITION				
	Dismissed	Acquitted	Pleaded Guilty	Convicted	Total
False claim of citizenship					
Non-citizen	1	1	3	3	21
Felon	4	1	3	2	10
Fabricated statements to officials about voter registration status					1
Conspiracy to submit false information on (2) voter registration applications					1
TOTAL	8	2	8	15	33

* All but two of those charged with making false claims about their eligibility to register (two non-citizens who were convicted) were also charged with casting a false or fraudulent ballot, as reported above.

Source: U. S. Department of Justice, Criminal Division, Public Integrity Section, *Election Fraud Prosecutions & Convictions, Ballot Access & Voting Integrity Initiative, October 2002 – September 2005* (n.d).

Registration drives in recent years have been more effective in registering low income voters than the agency-based requirements of the NVRA. Successful voter drives hold the potential for adding significant new numbers of voters to the rolls and threatening the balance of power between the two parties. Their effectiveness has made them a target for fraud allegations. Their own sporadic failings in the production of duplicate or improperly filled out registration cards, sloppy oversight, poor quality control, and occasional fraud have only fueled the allegations. Such problems are inevitable as long as voter registration is not mandated or universal.

⁵³ Press Release, "St. Martinsville Woman Sentenced in Federal Court for Voter Fraud Charges," U.S. Attorney's Office, Western District of Louisiana (January 18, 2006); available online at: www.usdoj.gov/usao/la/news/wd020060118c.html.

CASE STUDIES

The following case studies are illustrative of the politics of voter fraud claims. They do not tell us anything about the incidence of voter fraud in American elections today. That question is central and addressed above. It has always been difficult to measure fraud or even specify it, and it is important to stress that until better evidence comes to light, we will not be able to compile comprehensive statistics on levels of cheating by voters. Researchers are hampered in studying voter fraud because government agencies fail to track it and are often unresponsive to information requests. We can, however, make educated guesses from the available evidence, and what studies there are suggest voters rarely commit fraud. It is only in the public interest that we learn from real cases of voter fraud so that we can better understand where our electoral systems are truly vulnerable. Spurious cases of fraud like those discussed here are equally instructive because they expose the shrewd and partisan manipulation that makes real election reform so difficult.

The case studies presented below demonstrate the ways these partisan interests, database and clerical errors and incompetent electoral administration are sometimes exploited to exaggerate the problem of voter fraud. The intent of the exaggeration is to intimidate the general public and even law makers into believing that American elections face a security threat from a rising tide of deceitful and criminal voters. Unfortunately, in numerous places election administration is in crisis, and in general, faces much larger challenges from changing technology, inadequate resources, poor staffing and training, and especially, partisan manipulation. These are real issues deserving of attention, good ideas, resources and a democratic spirit. They won't be adequately addressed as long as the voter fraud hoax confuses and distracts us from confronting them.

ACORN and the Mac Stuart Affair

One important example of how the politics of fraud claims are used to manipulate the public about the threat of voter fraud is the political pillorying of ACORN for alleged wide scale registration fraud in the 2004 and 2006 election cycles.

ACORN (Association of Community Organizations for Reform Now) is the largest community-based organization of low and moderate income people in the U.S. It organizes locally and has developed ballot campaigns for a range of issues such as campaign finance reform and raising the minimum wage. Opponents of ACORN's minimum wage ballot initiative program deployed allegations of voter registration fraud, which then generated official investigations, media coverage and litigation, as a strategy to undermine ACORN's ability to qualify and pass referenda in several states.⁵⁴ One of these cases involved a disgruntled former employee named Mac Stuart who for a while became a cause célèbre of ACORN's enemies and the pundits who fuel the fraud paranoia. The Mac Stuart affair is instructive because it highlights how politics construct the fraud debate.

In November 2003, Mac Stuart was hired by Florida ACORN and put to work as a petition gatherer collecting signatures supporting the placement of a Florida Minimum Wage Amendment on the

⁵⁴ "ACORN Defeats Anti-Voter Legal Attacks; Group's Voter Registration Efforts Vindicated as Baseless Lawsuits Collapse," *Common Dreams Progressive Newswire* (December 14, 2005); Joni James, "Voter Fraud Charges Collapse," *St. Petersburg Times* (December 15, 2005).

2004 ballot. When Stuart was fired for suspicion of his involvement in an illegal check cashing scheme a few months later, he filed a Florida whistle blower lawsuit against ACORN claiming the organization engaged in a variety of illegal practices. He was represented by partisan attorneys at Rothstein, Rosenfeldt, Adler, a Fort Lauderdale law firm, and spoke secretly with an official at the Florida Chamber of Commerce which was in the midst of opposing ACORN's efforts to raise the state's minimum wage. Stuart provided his attorneys with 179 applications, many of them for Republican registrants, he claimed had been collected and withheld by ACORN.⁵⁵

In the course of petitioning for signatures, ACORN workers conducted voter registration activities to ascertain whether signatories were registered to vote. Stuart's lawsuit claimed that petitioners were paid an additional \$2.00 for each completed registration card they collected; that ACORN illegally copied the voter registration cards its workers collected and sold its lists for a profit; that ACORN committed fraud by failing to deliver registration cards for people who designated "Republican" as their party affiliation, and otherwise collected cards from ineligible individuals such as convicted felons. Stuart maintained that in July 2004, he refused to participate in these illegal activities and was fired in retaliation under the pretext that he had attempted to cash another person's check.⁵⁶

His lawyers filed a second suit against ACORN on behalf of 11 people whose names were among the allegedly withheld voter registration applications Stuart had provided.⁵⁷ Rothstein, Rosenfeldt, Adler attorneys claimed ACORN had deprived their clients of their constitutional right to vote and committed fraud against them.

After Stuart was fired, he held a news conference and contacted television and print news reporters claiming that "[t]here was a lot of fraud committed" by ACORN, asserting the organization knowingly submitted thousands of invalid registration cards while storing away cards for people designating their party affiliation as Republican. Stuart's allegations were immediately picked up by news organizations such as the *Washington Times*, the *Florida Times-Union*, and other Florida newspapers, and began to spread on rightwing Internet blogs. The Florida Department of Law Enforcement took the unusual step of announcing an investigation into ACORN.⁵⁸ In fact, for a while, Stuart's assertions were taken as fact and repeatedly reported as evidence that ACORN routinely engaged in fraud to promote its "radical political agenda."⁵⁹ That is, until the real facts about Stuart came to light and his case collapsed in court.

Fraud charges collapse but the damage continues

ACORN denied, and Stuart failed to prove, that canvassers were paid by the card to collect voter registration applications. ACORN's copying of voter registration applications was an element of their quality control program and well within the bounds of Florida law.⁶⁰ Finally, ACORN denied, and Stuart failed to produce evidence, that the organization prejudiced Republican voter registration applicants or misleadingly solicited registration cards from ineligible applicants. ACORN countersued Stuart for defamation and libel. On December 6, 2005, the matter of

⁵⁵ Brittany Wallman and Alva James-Johnson, "Filled-In Voter Forms Surface," *South Florida Sun-Sentinel* (October 27, 2004); Jeremy Milarsky, "Ex-Worker Sues Activist Group," *South Florida Sun-Sentinel* (October 21, 2004).

⁵⁶ *Mac Stuart v. ACORN*, U.S. District Court, Southern District of Florida, Miami Division, Case No. 04-2276-civ (2004).

⁵⁷ *Charles Rousseau, et al. v. ACORN*, U.S. District Court, Southern District of Florida, Miami Division, Case No. 04-61636-civ (2004).

⁵⁸ News Release, "FDLE Investigates Statewide Voter Fraud," Florida Department of Law Enforcement (October 21, 2004).

⁵⁹ Quoting Mike Flynn, Director of Legislative Affairs for the Employment Policies Institute; see Press Release, "ACORN's Voter Fraud in Ohio is Part of Larger Pattern," Employment Policies Institute (August 11, 2006). See, also, Meghan Clyne, "ACORN and the Money Tree," *National Review Online* (October 31, 2004); and American Center for Voting Rights, "Vote Fraud, Intimidation and Suppression in the 2004 Presidential Election," ACVR Legislative Fund Report (August 2, 2005), 41-44; available online at www.ac4vr.com/reports/072005/080205report.pdf.

⁶⁰ Nothing in Florida's election code prohibits private, third-party voter registration organizations from photocopying the voter registration applications they collect before submitting them to local elections officials.

Mac Stuart v. ACORN was dismissed with prejudice by a federal judge, exonerating ACORN of any and all wrongdoing.⁶¹ ACORN prevailed in their counterclaims and won a judgment of defamation against Stuart.

ACORN also prevailed in the second Rothstein, Rosenfeldt, Adler suit. Shortly after it was filed, nine of the 11 plaintiffs asked to be dismissed from the case. As ACORN's lawyers deposed the remaining two plaintiffs it became clear that their lawyers had not asked them if they were qualified to vote, if they had completed the applications Stuart had given the attorneys or whether the plaintiffs were in fact Republicans. One of the two was not qualified to vote, neither remembered completing the application used as the basis for the complaint and both said that, inconsistent with their applications, they were not Republicans and never would have checked off that they were. Stuart was inconsistent in his testimony in how he obtained the applications in the first place.⁶² This case, too, was dismissed with prejudice.

The Florida Department of Law Enforcement investigation found no evidence of illegal or fraudulent activity by ACORN. A public records request by Project Vote asking all Florida counties for any documents related to voter fraud elicited just three alleged cases of illegal activity, only one of which involved temporary ACORN workers.⁶³

The problem is that the end of this story has received considerably less media attention than the unfounded claims of organized voter fraud on the part of ACORN. Opponents of ACORN continue to spread false rumors that the organization engages in voter fraud. For example, the Employment Policies Institute (EPI) issues dozens of press releases and "reports" attacking ACORN every year. EPI is a non-profit organization that in 2004 paid over \$600,000 in "management" fees to its executive director's publicity firm which lobbies on behalf of the hotel, restaurant, alcoholic beverages and tobacco industries.⁶⁴ Those industries are opposed to ACORN's efforts to raise the minimum wage in Florida and elsewhere. As late as July 2006, months after ACORN was fully vindicated in court, EPI was still claiming they engaged in a "pattern and practice" of voter fraud, citing the Mac Stuart affair as more evidence of ACORN's "widespread practice of fraud."⁶⁵

Voter fraud allegations used to restrict voter registration programs

With ACORN under a cloud, Florida passed a law that carried stiff penalties for organizations failing to turn in voter registration applications later than ten days after they were collected. The law's reporting requirements were so draconian the League of Women Voters ended 77 years of voter registration activity in the state because it feared it could not comply and would be bankrupted if there were problems with just 16 registration forms collected by its volunteers. A federal judge later blocked the implementation of the law as unconstitutional.⁶⁶

⁶¹ Joni James, "Voter Fraud Charges Collapse," *St. Petersburg Times* (December 15, 2005).

⁶² Telephone interview with Brian Mellor, Senior Counsel, Project Vote (April 13, 2006).

⁶³ Mellor interview (2006).

⁶⁴ Employment Policies Institute, "2004 Form 990, Return of Organization Exempt From Income Tax," U.S. Department of the Treasury, Internal Revenue Service, Schedule A.

⁶⁵ A "pattern and practice" of wrongdoing evokes conspiracy and as a legal term refers to the crime of racketeering. See, Employment Policies Institute, *Rotten ACORN: America's Bad Seed* (July 2006), 18-19; available online at www.rottenacorn.com/downloads/060728_badSeed.pdf. In fact, ACORN, along with America Coming Together, the NAACP Voter Fund, and the Ohio AFL-CIO were defendants in an Ohio lawsuit that alleged the groups conspired to engage in a series of "predicate" or related acts of forgery, document tampering and drug trafficking in order to produce fraudulent voter registration cards. See, *Rubick v. America Coming Together, et al.*, State of Ohio, County of Wood, Court of Common Pleas, Case No. 04-CV650 (2004). Plaintiffs' complaint argued each fraudulent card submitted represented a predicate act. Under the federal Racketeer Influenced and Corrupt Organizations Act or RICO, a person or group can be charged with racketeering by a U.S. Attorney if they commit any two of 35 crimes (27 federal crimes and eight state crimes) within a 10-year period and the prosecutor believes those charged committed the crimes with similar purpose or results.

⁶⁶ *League of Women Voters of Florida v. Cobb*, U.S. District Court, Southern District of Florida, "Order Granting in Part and Denying in Part Plaintiff's Motion for Preliminary Injunction and Granting in Part and Denying in Part Defendant's Motion to

The Perils of List Matching

A common source of fraud claims is a list matching exercise gone wrong. The ready availability of high powered computing capacity and an ever expanding range of public records databases, have created a cottage industry of software programs and list management consultants ready to match lists for hire.

When databases contain errors or compile data differently, matching them against one another can cause a high degree of what statisticians call "false positive" errors or matches that are not really matches. A prime example is the infamous felon purge list compiled by a private firm for the Florida Secretary of State's office in 2000. That list joined data on convicted felons with the voter registration rolls using rules that matched only the first four letters of the first name, 90 percent of the last name and an approximate date of birth.⁶⁷ The result was a highly inaccurate list of people whom the Secretary of State wanted to prevent from voting.⁶⁸

Voting in Connecticut and beyond

In October 2002, the Republican National Committee (RNC) claimed that in the course of "updating" its voter files, it discovered over 722,000 people nationwide were registered to vote in more than one state, and that at least 600 of these had voted more than once in a single election. In Connecticut, the Secretary of State was alarmed. The RNC released a report that said 7,700 registered voters in Connecticut were also on the rolls in other states and that 54 of them had voted more than once in the 2000 election. Secretary Susan Bysiewicz, a Democrat, asked the RNC for the names of the duplicate registrants and voters. "I am surprised by the numbers," she said, "it sounds like a lot. We have two million (registered) voters, so I suppose it's possible; but in four years we haven't prosecuted one instance of voter fraud."⁶⁹

At first the RNC refused to release the names and criticized Bysiewicz for not finding the problem first. When they finally turned over the names of the 54 alleged double voters, Bysiewicz found their claims baseless. Her office conducted a week long investigation of every suspect voter produced by the RNC and found that 29 had never voted in Connecticut, but did vote in another state; 18 voted in Connecticut, but not in the other state named in the report; four names had different birth dates than those on the RNC list, and three were turned over to criminal investigators because out-of-state data could not be obtained for verification.⁷⁰

Dismiss," Case No. 06-21265-CIV (August 28, 2006).

⁶⁷ Greg Palast, "Florida's 'Disappeared Voters': Disenfranchised by the GOP," *The Nation*, (February 5, 2001); and Palast, *The Best Democracy Money Can Buy* (Sterling, Virginia: Pluto Press, 2002), 6-43.

⁶⁸ The U.S. Civil Rights Commission conducted an investigation into the 2000 election in Florida and concluded, "Many people appear on the [felon purge] list incorrectly." One in seven people on the felon purge list supplied to the supervisor of the Miami-Dade election office was erroneously listed and therefore put at risk of disenfranchisement. These people were disproportionately African American. See, U.S. Civil Rights Commission, *Voting Irregularities in Florida During the 2000 Presidential Election* (2001), chapter 1. See also a disclaimer for the inaccuracy of the felon purge list posted on ChoicePoint's website ("Choicepoint's Mythical Role in Elections Past and Present," posted August 7, 2006; available online at www.choicepoint.com/news/statement_08072006.html). ChoicePoint is the parent company of Database Technologies (DBT), the firm hired for the period 1998 to 2000 by the Florida Division of Elections to create its voter exception list. ChoicePoint claims, "DBT Online was not required to provide a list of exact name matches. Rather, the matching logic only required a 90 percent name match, which produced "false positives" or partial matches of the data. Moreover, the Division of Elections required that DBT Online perform 'nickname matches' for first names and to 'make it go both ways.' Thus, the name Deborah Ann would also match the name Ann Deborah. At a meeting in early 1999, the supervisors of elections expressed a preference for exact matches on the list as opposed to a 'fairly broad and encompassing' collection of names. DBT Online advised the Division of Elections that it could produce a list with exact matches. Despite this, the Division of Elections nevertheless opted to cast a wide net for the exclusion lists."

⁶⁹ "Thousands Registered to Vote in Two or More States," *The Associated Press State and Local Wire* (October 9, 2002).

⁷⁰ Press release, "Voter Fraud Claims by Republican Party Unfounded," Office of the Secretary of State Susan Bysiewicz (October 22, 2002); see also, "Bysiewicz: Double Voting Report Wrong," *The Associated Press State and Local Wire* (October 22, 2002).

Double dipping in New Jersey

A few years later, in time for the next federal election cycle, the New Jersey state Republican party (RSC) claimed it had researched voter registration files in a number of states and found evidence of multiple voting. In September 2005, the state party sent a stern letter to New Jersey Attorney General Peter Harvey threatening a lawsuit for failing to enforce state election laws governing the voter registration rolls.⁷¹

The basis for the RSC claims was their own "exhaustive investigation" of voter files from New Jersey's 21 counties, matched internally county to county on first name, last name and date of birth, as well as against the voter registration files of five other states, New York, Pennsylvania, Florida, North Carolina and South Carolina. In addition, the RSC matched the New Jersey county files against lists of deceased persons from state and federal databases and other commercially available lists. Based on their analysis, the RSC said it found evidence of widespread multiple voting in the November 2004 general election – 4,397 people alleged to have voted more than once in New Jersey, and 6,572 people who "appear to have" voted in New Jersey and another state. Moreover, the RSC claimed that 4,755 dead people had voted and warned the problem could be even worse since the state's rolls contained tens of thousands of duplicate records and the names of some well known felons in the state.

There is little doubt that New Jersey's county voter registration lists contained registration records for people who moved away or died. The existence of so-called "deadwood" on voter registration records across the country is well-known. But the presence of deadwood is not in and of itself evidence of voter fraud.

A subsequent more thorough analysis of the data files the RSC supplied to the state suggests major problems with the accuracy of the RSC analysis and therefore the veracity of their claims. The Brennan Center for Justice working with Dr. Michael McDonald, an elections expert at George Mason University, concluded that "these lists simply do not prove what they purport to prove."⁷² Their report uncovered methodological errors in the RSC's list matching techniques, such as omitting middle initials and suffixes like "Jr.," which resulted in the listing of duplicate records for the same person then counted by the RSC as voting twice (from the same address). Mismatches of different people were presumed to be the same person, and again counted as voting twice. Statistical and database experts know that relying solely on non-unique identifiers such as name and date of birth to match records produces a high rate of false positives.⁷³ The Brennan Center/McDonald detailed analysis of the alleged 4,397 double votes recorded in the New Jersey county voter files accounted for them all as the likely product of false positives, errors in the data, duplicate records for the same person, and the statistical likelihood that two people will share the same name and birth date.

Voting from the grave in Detroit

Yet one more example of the damage flawed list matching efforts can inflict comes from an oft-cited news item appearing in the *Detroit News* in February 2006. The article, written by Lisa M. Collins, was headlined, "In Mich. Even Dead Vote," and continued, "From Holland to Detroit,

⁷¹ Letter from Mark D. Sheridan to Hon. Peter C. Harvey, dated September 15, 2005. Copy in author's possession. Election administration is decentralized to the county level in New Jersey, with the Attorney General serving as the state's chief elections officer.

⁷² The Brennan Center for Justice at NYU School of Law and Dr. Michael McDonald, "Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General," December 2005, 11; available online at www.brennancenter.org/dynamic/subpages/download_file_35010.pdf.

⁷³ Ted Selker and Alexandre Buer, "Voter Removal From Registration List Based on Name Matching Is Unreliable," Voting Technology Project – MIT Media Laboratory, October 28, 2004; available online at <http://72.14.209.104/search?q=cache:diE40vkjeLoJ:www.vote.caltech.edu/reports/purging-vrdb.pdf+&hl=en&gl=us&ct=clnk&cd=1>.

votes were cast by 132 dead people; Detroit's voting records are riddled with inaccuracies, casting doubt on elections' integrity."⁷⁴ The allegations of voting from the grave in Detroit, a poor and majority black city, are repeatedly cited by conservative bloggers in their litany of purported evidence that voter fraud is rampant in America.

But a full reading of the article itself indicates that the *News* did not attribute these irregularities to voter fraud. Instead, they suggested the irregularities were more likely due to clerical errors.⁷⁵ Influential Republican political operative, Mark F. (Thor) Hearne, paid counsel to the Bush-Cheney 2004 re-election campaign and a member of the U.S. Elections Assistance Committee's Voter Fraud – Voter Intimidation Working Group, as well as Missouri's HAVA Advisory Commission, nevertheless repeated the misleading allegations of dead people voting in Detroit when he testified before a U.S. Senate panel in July 2006.⁷⁶ Versions of his testimony have appeared as a feature article in the magazine of the Bar Association of Metropolitan St. Louis,⁷⁷ and again as testimony given to the U.S. Elections Assistance Commission in December 2006.⁷⁸

This time the list matching was not performed by an elected official and presidential campaign co-chair, as it was in Florida, or a political party, as it was in the Connecticut and New Jersey examples. It was done by a newspaper which presented no assurances that it had the kind of expertise in computer programming, statistics, or records management required to make an accurate evaluation.⁷⁹

On March 5, 2006, the *News* printed a letter from Kelly Chesney, the Communications Director for the Michigan's Republican Secretary of State, which challenged the implication that dead people were voting in Michigan. Chesney reported that an analysis of the 132 alleged deceased voters found that this was the number of absentee ballots mailed out to voters who subsequently died in the weeks before Election Day. Of the 132 absentee ballots, she said "97 were never returned, and 27 were voted and returned prior to the voters' deaths."⁸⁰ This substantial correction to the implications of voter fraud in Michigan has been roundly ignored by activists who continue to cite what is now an out-dated news item reporting erroneous information.

⁷⁴ Lisa M. Collins, "In Mich. Even Dead Vote." *The Detroit News* (February 6, 2006).

⁷⁵ "Clerical errors [in the Michigan voter file are] so pervasive that it is difficult to determine in many instances who actually voted;" and citing Mark Grebner, the list vendor and political consultant upon whose research the *News* relied, "...Grebner says he's never found evidence of organized fraud in Detroit." See, Collins (2006).

⁷⁶ Testimony of Mark F. (Thor) Hearne, II, Before the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Property Rights, "Regarding the Continuing Need for Federal Examiners and Observers to Ensure Electoral Integrity," July 10, 2006.

⁷⁷ Mark F. (Thor) Hearne, II, "The Missouri Voter's Protection Act: Real Election Reform for All Missouri Voters," *St. Louis Lawyer*, June, 2006; available online at www.barnsl.org/members/stlawyer/archive/06/june06.html#feature.

⁷⁸ Testimony of Mark F. (Thor) Hearne, II, Before the U.S. Elections Assistance Commission, "Assessing the Conduct of the 2006 Mid-term Elections," December 7, 2006.

⁷⁹ In fact, the *News* admitted in the article that they "did not review every vote cast, but instead targeted voter records based on several factors, such as the voter's birth year or voting history. Though limited and somewhat random searches were done, each search found voting records in error or highlighted names of voters who in fact could not have voted." This is hardly an adequate methodology.

⁸⁰ Editorial and Opinions, Special Letter, "Claims That the 'Dead' Voted Were Wrong." *Detroit News* (March 5, 2006).

St. Louis: More Bad Lists, Even Worse Election Administration

St. Louis, another majority black city with budget problems, presents a case study for how the mishandling of voter registration and elections procedures can be misperceived as fraud.

Whose mess on Election Day 2000?

There is little doubt that in the past St. Louis experienced election fraud and public corruption. St. Louis politics were long organized by political machines and fraud has a storied past which for some, at least, condemns the politics of the present.⁸¹ In 2000, the historical memory of fraudulent elections, bribery, conspiracies, ballot tampering, and voting from the grave colored the rush to judgment when administrative mismanagement and shockingly poor record-keeping combined to produce troubling election irregularities.⁸² Before the irregularities could be sorted out, they were seized upon by partisans. One of them, Missouri's senior Republican senator, Kit Bond, claimed the problems were evidence of a [Democratic party-driven] "major criminal enterprise designed to defraud voters," instead of what an extensive federal probe later determined to them to be – procedural incompetence and official failure to abide by the law.⁸³

For many voters attempting to cast ballots in the 2000 presidential election, Election Day in St. Louis was a chaotic mess. Many long-time voters were told that they were not registered to vote when they showed up at polling sites where they had cast ballots in the past. To re-establish their legitimacy, many of these rejected voters were told to go down to the St. Louis Election Board's headquarters at 300 North Tucker Boulevard and cast a ballot there since the phone lines to the Board were jammed and election judges staffing the polling sites were unable to establish whether such voters' names had been moved to an "inactive" list of registered voters.⁸⁴

The illegal "Inactive" list

It was this controversial inactive list and the failure of the St. Louis Elections Board to comply with the NVRA that later formed the basis for a federal lawsuit alleging the Board "denied or significantly impaired the voting rights" of thousands of city voters before the election.⁸⁵

Missouri law requires bi-partisan control of election administration. Local boards of election have equal representation of Democrats and Republicans as do positions staffed by the boards. The St. Louis Board has had problems maintaining accurate voter registration rolls, and leading up to the 2000 election, there were still no clear rules for specifying when a voter should be dropped from the rolls.⁸⁶

⁸¹ Secretary of State Matt Blunt, *Mandate For Reform: Election Turmoil in St. Louis, November 7, 2000* (July 24, 2001); available online at (herein cited as 'Blunt Report'), 39-46.

⁸² For an excellent example of the rush to judgement, see chapter four, 'Politically Active after Death,' in John Fund's *Stealing Elections: How Voter Fraud Threatens Our Democracy* (San Francisco: Encounter Books, 2004).

⁸³ For a tale of Depression-era ballot tampering linked to public corruption and waterfront development schemes in St. Louis, see chapter 7 "The Real Foundations of the Gateway Arch," in Tracy Campbell, *Deliver the Vote: A History of Election Fraud, An American Political Tradition, 1742-2004* (New York: Carroll & Graf Publishers, 2005). See also, Bruce Rushton, "Dead Man Voting," *Riverfront Times* (April 24, 2002). For Sen. Bond's remarks, see Carolyn Tuft, "Bond Wants Federal Investigation of Problems at City Polls; He Accuses Democrats of 'Criminal Enterprise' in Keeping Polls Open Late; Democrats Criticize Election Board," *St. Louis Post-Dispatch* (November 10, 2000), A1. According to the *Riverfront Times*, "In his letters to... two federal agencies, Bond wrote... of a 'deliberate scheme' planned in advance so unregistered voters could vote illegally: 'There is reason to believe that collusion existed to commit voter fraud and voter fraud occurred on a wide scale throughout the city of St. Louis.'" See, Saifir Ahmed, "Slimin' the City: When It Comes to Election Day Problems in St. Louis, the Politicians' Rhetoric Doesn't Match the Reality," *Riverfront Times* (November 15, 2000).

⁸⁴ *U.S. v. Board of Election Commissioners for the City of St. Louis*, U.S. District Court, Eastern District of Missouri, "Stipulation of Facts and Consent Order," Civil Action No. 4:026V001235 CE (August 14, 2002), 5; (herein cited as 'St. Louis Election Board Consent Order').

⁸⁵ Karen Branch-Briso and Doug Moore, "Board Denied Voters' Rights, U.S. Says: Election Officials Here Say They've Already Taken Steps to Correct Deficiencies From 2000," *St. Louis Post-Dispatch* (May 23, 2002), C1.

⁸⁶ Office of the State Auditor of Missouri, Board of Election Commissioners, City of St. Louis, Missouri, Report No. 2004-40 (May

Between 1994 and 2000, the Board conducted a series of mail canvasses of its voter registration rolls, none of which complied with the requirements of the NVRA.⁸⁷ Based on these improper canvasses, the Board removed more than 50,000 names of voters who had been on the rolls in 1996, and "made no effort to notify inactive voters that their registration status had changed, that their names would not appear on the voter registration lists provided to election judges in each voting precinct, or that they would face additional administrative steps on election day before they would be permitted to vote."⁸⁸ This number represented roughly 40 percent of the total number of votes cast in St. Louis in the 1996 election, and was about twice the national and state averages for the proportion of inactive voters on the rolls.⁸⁹ Moreover, for all elections it conducted after 1994, the Board failed to provide precinct election judges a list of any of the voters it had designated as "inactive." This failure created mass confusion at polling sites when many legitimate voters showed up to vote and were told they were no longer registered.⁹⁰

In the days leading to the November 7, 2000, election, the unprecedented administrative reclassification of thousands of active voter registration records in the overwhelmingly Democratic city was seen by Democrats, including national party officials with the Gore-Lieberman campaign, as an illegitimate Republican party-sponsored effort to restrict Democratic voting. When he spoke at a Gore-Lieberman campaign event, Democratic Congressional hopeful William Lacy Clay, Jr., told supporters not to "let anyone turn you away from the polls," and warned, "If it requires leaving the polls open a little longer, we're going to get a court order to do it."⁹¹

The showdown

In fact, this is exactly what happened. Voters stood in line for hours. First, they had to check in with precinct workers, then, for those whose names were no longer on the precinct voter registration lists, they stood in another line to plead their case before their precinct's election judge.⁹² When many of these officials were unable to confirm their registration status with headquarters because they couldn't get through to elections officials at the Board, they sent voters down to the Board's office to try to resolve the problems on their own. According to news reports, "It made for a wild hour at Board's downtown office,

where hundreds of voters turned away from the polls because they were not registered or had problems voting filled the lobby throughout the day. By early evening, the lobby was shoulder to shoulder with people who wanted to vote."⁹³

In the afternoon, the Democrats and the Gore-Lieberman campaign filed suit in a state circuit court requesting the polls remain open for an additional three hours to accommodate voters victimized by the inaccessible and inaccurate inactive list.

26, 2004), 10; (herein cited as 'Mo. State Auditor's Report').

⁸⁷ Section 8(d)(2) of 42 U.S.C. 1973gg-6(d). See, St. Louis Election Board Consent Order, 3.

⁸⁸ St. Louis Election Board Consent Order, 4.

⁸⁹ In 1996, 122,003 votes were cast in the general election in the City of St. Louis. In 2002, according to records from the Federal Election Commission, both nationwide and for the state of Missouri, 12 percent of all voters on the rolls were classified as "inactive," compared to 22 percent in the City of St. Louis. See, Mo. State Auditor's Report, 15.

⁹⁰ St. Louis Election Board Consent Order, 4.

⁹¹ David Scott, "Ashcroft, Talent Decide Against Pursuing St. Louis Voter Fraud Claims," *Associated Press* (November 8, 2000).

⁹² The State Auditor found that the St. Louis Election Board frequently failed to secure the minimum number of precinct-level election judges as required by state law. Section 115.081, RSMo 2000, mandates four election judges, two from each major political party, for each polling place at each primary and general election, or about 1,600 election judges per major election. The Auditor found that the Board has not been able to attract more than 1,200 such judges in recent elections. See, Mo. State Auditor's Report, 24.

⁹³ Scott (2000); see also, Ahmed (2000).

St. Louis Circuit Judge Evelyn Baker complied, but her order was overturned within 45 minutes of the regular poll closing time (7 PM) by a three-judge appeals panel. The St. Louis City Board of Elections successfully argued she lacked jurisdiction to change state law. Elections officials estimated that only about 100 extra people had been permitted to vote by Judge Baker's order. Republican officials charged there may have been a "preconceived plan" to misuse the judicial process to keep the polls open longer than their statutorily mandated closing time, as well as an "organized campaign" (by the Democrats) to abuse the procedure by which voters obtain court orders to vote, resulting in voter fraud and the casting of hundreds of illegal votes.⁹⁴

In a 51-page report, Republican Secretary of State Matt Blunt outlined the possible violations of law committed in the City of St. Louis by alleged illegal voters. He referred to an unspecified conspiracy "to create bedlam so that election fraud could be perpetrated,"⁹⁵ and to corrupt election judges put in place to manipulate the results of the election. The report claimed that, 1) 342 persons obtained court orders to vote even though the information provided by them on affidavits suggested they were properly disqualified from voting; 2) 62 convicted federal felons and 52 Missouri felons voted in either the City of St. Louis or St. Louis County; 3) 14 votes were cast in the names of dead people; 4) that there was a high probability of multiple voting by dozens of people; 5) 79 votes were cast by people registering to vote from vacant lots; and 6) 45 election judges were not registered to vote and therefore disqualified to serve.

Many of Blunt's allegations have been disproved or significantly weakened by the discovery of major records management problems at the Elections Board that resulted in grossly inaccurate voter rolls. The *St. Louis Post-Dispatch* conducted a canvass of over 2,000 alleged vacant lot addresses from which thousands of St. Louis voters were supposedly registered and found buildings on virtually all of them. The lots had been misclassified by the city assessor or misread by elections officials. They concluded that "most of the 79 people on the state's suspect voter list from last fall probably shouldn't be on it," including the city's budget director whose ten-year old condominium was mislabeled as a vacant lot.⁹⁶

The claim that more than 100 felons may have illegally voted is also unreliable since the data upon which it was based was inconclusive, as the report itself admits.⁹⁷ Later investigations by the State Auditor did find that three years after the 2000 election fiasco, St. Louis's voter rolls still included the names of over 2,000 felons prohibited by state law from voting or registering to vote. But the Auditor found no conspiracy to commit voter fraud on the part of voters and questioned instead why the Elections Board had failed to remove the names from their lists when they had been provided with monthly and quarterly felony conviction reports from state and federal authorities.

Like the Blunt Commission, the State Auditor also found thousands of duplicate records of voters registered to vote in St. Louis and elsewhere in the state, but only 28 instances across three recent election cycles in which a voter may have voted more than once. Without further investigation it is impossible to know whether these 28 cases represent actual illegal behavior or are more likely the product of clerical errors in the Board's voter registration files.

Throughout the months following the election, Republicans and Democrats alike called for a federal investigation, each side charging the other with fraud or with suppressing the vote. Both sides expected to be vindicated. The federal investigation provided a decisive end to the Blunt Commission's allegation that corrupt election judges allowed hundreds of patently unqualified voters to vote.

⁹⁴ Blunt Report, 21-35.

⁹⁵ Blunt Report, 36.

⁹⁶ Jo Mannies and Jennifer LaFleur, "City Mislabeled Dozens as Voting From Vacant Lots; Property Records Appear To Be In Error. Survey Finds: Just 14 Ballots Are Found Suspect." *St. Louis Post-Dispatch* (November 5, 2001): A1.

⁹⁷ Blunt Report, 24, note 63.

St. Louis Board of Elections forced into federal consent decree

After an F.B.I. investigation that involved subpoenaing *all* of the registration and voting records from the St. Louis Elections Board for the months before the election, the Justice Department made a surprise announcement. They told the Board they were planning to sue them for violating the NVRA and threatening the voting rights of thousands of eligible voters in St. Louis by erroneously purging their records from the active voter file. The Board was forced into a consent decree that stipulated how they would change their procedures for maintaining accurate registration records, complying with federal requirements for notifying voters of their status on the list, and with handling voters whose names are not on the active voter list on election day.

Four years after the St. Louis Elections Board signed the consent decree acknowledging these failures, Mark (Thor) Hearne, the St. Louis lawyer and influential Republican activist, submitted Senate testimony that included citations to materials he produced after 2002 that ignored the Board's culpability and repeated misleading allegations of voter fraud in St. Louis.⁹⁸

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⁹⁸ Hearne (June 2006), (July 10, 2006), and (December 2006).

Milwaukee: The Coup de Grâce

In 2000, Vice President Al Gore won Wisconsin by just under 6,000 votes out of more than 2.5 million cast. Heading into the last months of the 2004 presidential campaign candidates George W. Bush and John Kerry were neck-and-neck in the polls in Wisconsin and the race was once again projected to be razor close. As a battleground state Wisconsin attracted attention from the national campaigns and a host of non-profit and political consulting organizations that poured money, staff and volunteers into the state to increase voter registration before Election Day.

By September, the voter registration drives and heightened national interest in Wisconsin as a battleground state led elections director Kevin Kennedy to report that elections officials across the state had been swamped by an unprecedented increase of over 200,000 new applications submitted by mail.⁹⁹ The intensified focus on Wisconsin by outside voter registration groups pouring their volunteers into the state was unparalleled in recent elections, an anomaly associated with Wisconsin's swing state status and the closeness of the presidential contest – in Wisconsin and the nation – just four years before.¹⁰⁰

Pre-election news coverage in Wisconsin focused on three controversies: problems associated with some of the voter registration drives; a dispute between county and city officials over the number of ballots to be printed and provided to the city of Milwaukee; and a flap over thousands of alleged “bad addresses” on Milwaukee's voter registration list.

Procedural breakdowns and discrepancies in the voter registration records were associated with what Kennedy called “volume” problems, but they helped create a climate of suspicion about the quality of record keeping at the Milwaukee elections commission and the commission's ability to run a “clean” election.¹⁰¹ The pre-election disputes repeatedly invoked the language of “voter fraud,” though no evidence was produced that voters were intentionally committing it. The climate of distrust made it difficult to see clerical mistakes, illegible handwriting, and workload problems leading to backlogged voter registration applications as human error or problems related to resource issues. Instead, foul-ups and mistakes were assumed to be evidence of fraud perpetrated by partisans trying to “steal elections.”

Imperfect voter registration drives and simple human error, however, are not the same as voter fraud, nor do they inevitably lead to fraudulent voting.

Voter registration problems

Intensified political competition and the influx of outside organizations, campaign workers and volunteers into Wisconsin in the months and weeks before the election contributed to an inevitably flawed voter registration process. Duplicate registration cards, improperly filled out cards, cards from people who are not eligible to vote or who don't live in the district in which the card was submitted are not uncommon in the chaotic pre-election atmosphere of an intense political campaign. Imperfect voter registration drives and simple human error, however, are not the same as voter fraud, nor do they inevitably lead to fraudulent voting. As the Milwaukee case demonstrates, however, these deficiencies are easily exploited by partisans.

⁹⁹ Tom Kertscher, “Deputy Registrar May Have Violated State Election Law; He Says He Didn't Witness Forms He Signed,” *Milwaukee Journal-Sentinel* (October 1, 2004), B1.

¹⁰⁰ Jenny Price, “Voter Registration Efforts Ramped Up In Wisconsin,” *Associated Press State & Local Wire* (October 10, 2004). Since voters can register to vote on Election Day, pre-election voter registration drives have been less common in Wisconsin than elsewhere.

¹⁰¹ Price (2004).

How many ballots for Milwaukee?

As stories of potential voter registration fraud circulated in the press, a political fight erupted in Milwaukee. In October the chief elections official in Milwaukee asked the county elections board for 260,000 extra ballots in anticipation of record turnout. Under Wisconsin law counties print and pay for all ballots for their localities. Milwaukee county elections officials rejected the request, with County Executive Scott Walker writing in support of the county board's decision to give Milwaukee roughly the same number of ballots it had received in the previous presidential election. In 2000, the number of ballots on hand exceeded the eligible voting population in Milwaukee by at least 200,000. But in planning for the number of ballots needed, local officials must compensate for the fact that in order to scan and count the ballots after they are cast, a bar code is assigned that prevents ballots from being counted outside the ward in which they are issued. In other words, unused ballots can't be moved around from ward to ward to cover shortfalls. Estimating probable turnout involves estimating turnout in each ward rather than citywide. This could have the effect of inflating the overall estimated number of ballots needed citywide. In 2004 Milwaukee requested 938,000 ballots for a voting population of about 424,000. The county board agreed to give the city 679,000 ballots, and a firestorm of protest erupted when County Executive Walker defended the decision by suggesting that he was concerned about potential voter fraud and didn't want people to be able to "grab" extra ballots at the polling site.¹⁰²

Milwaukee Mayor Tom Barrett accused Walker of trying to foment chaos at the polls and suppress the central city vote. Barrett is a Democrat and served as a state co-chair of John Kerry's campaign, while Walker is a Republican and served as state co-chair of George W. Bush's campaign. In press reports, the dispute was repeatedly referred to as "ugly," generating partisan recrimination on both sides. On the morning of October 14, about a hundred protesters, including students, elected officials and union activists, stormed Walker's office while he was meeting with municipal election clerks, chanting, "Let the people have their voice!" and demanding that Walker issue the extra ballots to Milwaukee. Wisconsin Governor Jim Doyle intervened by asking the state elections board to help resolve the dispute and offered state aid to pay for the extra ballots. The next day Walker and Barrett held a joint press conference on the steps of Milwaukee city hall to announce a compromise between the city and county: the county would supply the extra ballots, giving the city the 938,000 ballots it originally requested, the city would split the cost, estimated at about \$40,000, and promise to return all unused ballots to the county election commission to ensure that all ballots were accounted for.¹⁰³ Approximately 665,000 unused ballots were later returned to the county board of elections.¹⁰⁴

Inaccurate lists of "potentially fraudulent voters"

At 4:57 p.m. on Wednesday, October 27, 2004, three minutes before the legal deadline for filing a complaint with the city elections commission, the state Republican Party challenged the validity of 5,619 names on the city voter rolls. State GOP chairman Rick Graber said, "This is a black eye on the city of Milwaukee and the state of Wisconsin. These 5,600 addresses could be used to allow fraudulent voting. Whether it's deliberate or not, something's wrong when you have people

¹⁰² Dave Umhoefer and Greg J. Borowski, "City, County Spar Over Ballot Supply; Walker Cites Fraud Concerns; Barrett Cries Foul," *Milwaukee Journal-Sentinel* (October 13, 2004), A1; Greg J. Borowski and Dave Umhoefer, "Walker-Barrett Ballot Dispute Heats Up More; County, City Accuse the Other of Trying to Make Election Day Controversy," *Milwaukee Journal-Sentinel* (October 14, 2004), B1.

¹⁰³ Associated Press, "Governor Sends Election Board Into Milwaukee Ballot Fray," *Capital Times* (October 15, 2004), 4A; Dave Umhoefer and Steve Schuitze, "Doyle Joins Rift Over Ballot Supply; Governor Seeks State Inquiry; After Protest, Walker Agrees to Review City's Request," *Milwaukee Journal-Sentinel* (October 15, 2004), A1.

¹⁰⁴ Greg J. Borowski, "665,000 Unused Ballots Returned; Review Finds City's Original Allotment Would Have Been Sufficient," *Milwaukee Journal-Sentinel* (November 25, 2004), B1.

from addresses that don't exist."¹⁰⁵ First the local elections board voted 3-0 when the board's lone Republican appointee joined the two Democrats in finding the challenge lacked sufficient evidence. The Milwaukee City Attorney, Grant Langley, conducted a review that he said in a letter to the city elections commission executive director casts "doubt on the overall accuracy" of the list supplied by the state GOP.¹⁰⁶

Then, just four days before Election Day the state GOP demanded that Milwaukee city officials require identification from 37,180 people it said its review of the city's voter rolls turned up as living at questionable addresses. The list was produced in the same manner as the first list of 5,619 names using a computer program to match data from the city's voter database with a U.S. Postal Service list of known addresses. It included 13,300 cases of incorrect apartment numbers and 18,200 cases of missing apartment numbers. City Attorney Langley, a non-partisan officeholder, called the GOP's request, "outrageous," adding, "We have already uncovered hundreds and hundreds and hundreds of addresses on their (original list) that do exist. Why should I take their word for the fact this new list is good? I'm out of the politics on this, but this is purely political."¹⁰⁷ Langley's review did find some addresses that do not appear to exist, and the *Milwaukee Journal-Sentinel* did its own limited investigation, finding 68 questionable addresses. "Others, though," it said, "were likely to be clerical errors."¹⁰⁸

By Monday, officials from the state GOP and the City of Milwaukee worked out an agreement on how the registrations of voters with addresses challenged by the GOP would be dealt with at the polls. The list of 37,000 was pared back down to 5,512 and the city agreed to provide poll workers with the names of people in their wards from the list whose addresses appeared to be incomplete or inaccurate. Those people would be flagged if they showed up to vote and asked to show identification and/or re-register to update their records.¹⁰⁹ At the time Wisconsin law did not require pre-registered voters to show identification to vote at the polls, they only needed to state their name and address to receive a ballot.¹¹⁰ The compromise deal with the Republican party imposed an identification requirement not mandated by law on people who made their way onto the GOP's list.

Who bears responsibility for sloppy records and procedural meltdown?

The *Journal-Sentinel* reviewed Milwaukee's voting records and found a number of unexplained discrepancies. The most troubling finding from the newspaper's detailed computer analysis was that as many as 1,242 votes, three-quarters of them cast by people registering on site on election day, appeared to have come from invalid addresses. Another 1,305 registration cards with discernible flaws such as missing addresses or missing names were accepted from voters on election day who were then allowed to vote.¹¹¹

¹⁰⁵ Greg J. Borowski, "GOP Fails To Get 5,619 Names Removed From Voting Lists: City Commission Says Party Didn't Prove Case; Challenges Could Move to Polling Places," *Milwaukee Journal-Sentinel* (October 29, 2004), A1.

¹⁰⁶ Greg J. Borowski, "Vote Inquiry Sharpens Focus: Prosecutors Find Many Disputed Addresses Exist," *Milwaukee Journal-Sentinel* (October 30, 2004), A1.

¹⁰⁷ Greg J. Borowski, "Election 2004: GOP Demands IDs of 37,000 in City; City Attorney Calls New List of Bad Addresses 'Purely Political,'" *Milwaukee Journal-Sentinel* (October 31, 2004): A1.

¹⁰⁸ Borowski (October 31, 2004).

¹⁰⁹ "Milwaukee Vote Deal Reached on Dubious Addresses," *The Capital Times* (November 1, 2004), 5A.

¹¹⁰ Wisconsin allows for election day registration. Same-day registration rules require new registrants to show some form of proof of residency, or, for those lacking proof, another registered voter may vouch for them.

¹¹¹ Greg J. Borowski, "Over 1,200 Voters Addresses Found Invalid; Some Mistakes Easily Explained, But Milwaukee Flaws Raise Concerns About Shoddy Record Keeping, Possible Fraud," *Milwaukee Journal-Sentinel* (January 25, 2005), A1; Greg J. Borowski, "Fraud or Bumbling, Voter Problems Still Unnerving to Public," *Milwaukee Journal-Sentinel* (January 30, 2005), A1.

The newspaper opined on its own investigation and reporting:

Republicans are quick to jump on the discrepancies, real or imagined, in voting data in Milwaukee as proof of widespread fraud in the big city. In their minds, the *Journal Sentinel's* findings fit that pattern. A more plausible explanation, however, is that the findings reflect the unfortunate tendency of voting systems throughout America to err.¹²

By the end of January, the Mayor had appointed an internal task force to review the city's electoral procedures, and federal and county law enforcement agencies began a joint investigation into whether breakdowns in procedure, poor record-keeping, human error or fraud explained the discrepancies. On February 10, the bipartisan Joint Legislative Audit Committee of the state legislature voted unanimously to direct auditors to review voter registration and address verification procedures. All of these investigations produced clear evidence that Milwaukee's Board of Elections was overwhelmed by its own incompetence and under-staffing on election day, resulting in massive record-keeping problems. Poll workers failed to follow procedures; the number of votes cast in Milwaukee failed to match the number of people recorded as voting; same day registration cards were not filled out properly and follow up was not performed when post-registration address verification efforts identified address discrepancies; some voters were allowed to register to vote in the wrong ward.

The dénouement

The scrutiny from federal, state and local law enforcement and elections officials produced several reports, an intensive review of voter registration practices in a number of Wisconsin cities, many recommendations for improving election administration and voter registration procedures, several later-vetoed photo ID bills in the state legislature, a variety of other legislative proposals, and very little conclusive evidence of voter fraud.

Widespread ignorance among the public and elections officials alike of Wisconsin's seldom enforced felony disenfranchisement laws account for the hundreds of ineligible felons post-election audits have found voted since 2000. Alleged illegal felon voting constitutes nearly all of the "voter fraud" reported on by the media in Wisconsin over the last six years, and represents most of the handful of cases prosecuted by the federal government. Wisconsin election crime laws require the establishment of a willful effort to defraud. Most of those identified as ineligible have not been prosecuted because they were never informed that they lost their voting rights until they completed their entire sentence. Until recently, Wisconsin's voter registration application form did not clearly indicate that felons on probation or parole were ineligible to vote. One of the federal cases against the dozen or so people charged with illegal (felon) voting in the 2004 election was dropped when it was revealed that the defendant had registered to vote on election day in Milwaukee using his state offender ID card.¹³

¹² Staff, "Widen Election Day Focus," *Milwaukee Journal-Sentinel* (January 26, 2005), A14.

¹³ Gina Barton, "A Felon But Not A Fraud: No Charges For Voter With Prison I.D.," *Milwaukee Journal-Sentinel* (March 17, 2006). See, *United States of America v. Derek G. Little*, "Motion to Dismiss Indictment," United States District Court, Eastern District of Wisconsin, Case No. 05-CR-172 (LSA) (March 14, 2006).

POLICY RECOMMENDATIONS

This report has illustrated how the public is being manipulated about the problem of voter fraud.

Voting is a right, it's not a gift and it's not a privilege. Moreover, we can't have a democracy without the voters, and that means all voters, contributing to self-government. Therefore, layers upon layers of rules and bureaucracy to administer elections do not serve us well if they hinder electoral participation, which they do especially when the electorate expands. It is simply naïve to argue that the rules have nothing to do with turnout. On the other hand, it's true, the rules don't on their own increase turnout – issues, passion, competition, good candidates, effective communication and a diverse media – these are some of the factors that contribute to higher levels of electoral participation. But high interest campaigns and elections present precisely those conditions under which a complex regime of rules will have a depressing effect. When voter interest is high, partisans exploit the rules to determine the size and shape of the electorate they want.

Today partisans use the threat of voter fraud as an intimidation tactic. As our history shows, it is an old and reliable instrument for shaping the electorate by influencing the rules and procedures governing access to the vote. It is difficult to openly suppress voting in a democratic culture. The threat of fraud, however, if it's real, is enough to scare most people into accepting new rules that undermine the electoral participation of other voters - the unfortunate price, we are told, we must pay to keep our elections clean. The unraveling logic of this argument should be obvious. Unfortunately, reason flies out the window when we're scared.

We need better data, better election administration, transparency and more responsible journalism to improve public understanding of the legitimate ways in which electoral outcomes can be distorted and manipulated. Specifically:

1. States' chief elections officers should collect and maintain data on fraud allegations and enforcement activities and routinely report this information to the public. The data and methods used to collect it should be transparent and in the public domain.
2. To protect the right to vote and improve public confidence in the electoral process improvements to statewide, centralized voter registration databases must continue. Accurate registration records and methods for instantaneously certifying voter eligibility are the best defense against voter fraud.
3. To minimize mistakes, clerical errors, and duplication, state and local elections officials need to develop good, cooperative working partnerships with third party voter registration organizations that do a service to democracy by encouraging more people to register and vote.
4. States can go further and reduce the need for registration drives by fully implementing the agency-based voter registration requirements of NVRA and instituting same-day voter registration procedures. Ultimately, the states and federal government should provide a means to automatic universal voter registration.
5. To improve public understanding of voter fraud and more balanced reporting, state elections and law enforcement officials should educate journalists to ask for and recognize evidence of fraud when reporting on fraud allegations.

APPENDIX: HOW TO IDENTIFY VOTER FRAUD

Elections are instruments of democracy. They are the mechanisms for choosing representatives of the people's will, and they are widely regulated by law. Many different actors participate in the electoral process. Legislators and administrators make and implement the rules, candidates organize campaigns to run for office, voters cast their ballots, administrators count the ballots and elected officials certify the results.

The voters' role is simple – to make choices about candidates by casting legal ballots. Voters don't set deadlines for registering to vote, nor do they make the rules about how ballots are designed, displayed, or marked. They don't decide where the polls are located, when they are open, or what voting technology will be used. Voters have nothing to do with receiving completed ballots, determining valid ballots, counting or recounting ballots, tallying election results, or ensuring that the vote totals are accurate.

Voters, like all other actors or groups in the electoral process, can only corrupt that part to which they have access.

Voters, like all other actors or groups in the electoral process, can only corrupt that part to which they have access. They can do this directly, for example, by providing false information about their identity and/or eligibility in order to vote illegally, or indirectly through participation in a conspiracy, usually with others who have more authority and access to the marking and counting of ballots than the voters themselves possess.

If the alleged fraud does not involve voters it should not be considered voter fraud.

The first step in confronting any allegation of voter fraud is to identify who is alleged to have committed the fraud and to figure out if any voters are involved. If the alleged fraud does not involve voters it should not be considered voter fraud.

The second step is to identify which part of the electoral process was corrupted by fraud. Given their limited access, voters can only corrupt the registration and voting phases. They can't corrupt the vote tallying and counting phases where most election fraud has occurred in the past because they lack access to votes after they've cast them.¹⁴ A fraudulent ballot

¹⁴ The most thorough analysis of election fraud in the early twentieth century is the landmark 1929 study of voter registration procedures for the Brookings Institution by the inventor of the punch card voting machine, Joseph P. Harris. See, Joseph P. Harris, *The Registration of Voters in the U.S.* (Baltimore: The Lord Baltimore Press, 1929). Harris was a public administration reformer who promoted government modernization and the use of scientific administrative practices to remove politics from the business of governing. He concluded that elections were more badly managed than just about any other area of public administration and that political machines were responsible for much of the fraud he analyzed. The case studies of election fraud in Chicago, Philadelphia and Louisville, Kentucky, Harris presents all involved large scale conspiracies orchestrated by politicians and political machines which Harris thought rigged elections through ballot box stuffing and the manipulation of the count. His conclusion that most fraud occurred during the vote counting stage spurred him to invent the Votomatic Vote Recorder (the first punch card voting machine) which Harris hoped would reduce opportunities for election fraud by removing the ballot counting function from precinct workers. See, Joseph P. Harris, *Oral History*, interview by Harriet Nathan, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, California, 1980, available from <http://bancroft.berkeley.edu/ROHO/Vote/>.

is one that was not cast legally. But the definition of a legal ballot varies according to the rules that qualify eligible voters to vote and govern the procedures for casting a ballot in the different states.

Fraud in Voter Registration

To its earliest proponents, voter registration was intended as an anti-fraud safeguard. Registration fraud is typically punished less severely than fraud in voting and this is as it should be. What matters most to the integrity of electoral outcomes is the casting and counting of an illegal ballot. A person who provides false information on a voter registration application but never casts a ballot is less of a threat to electoral integrity than one who negates or dilutes the will of the voters by casting an illegal ballot. This is not to say that voter registration fraud is a negligible crime or should be tolerated. The available evidence suggests voter registration fraud is rare, but when it does occur, if it goes undetected it can compromise the accuracy of the voter rolls. When it's caught it burdens the elections and law enforcement officials who find it and must address it.

Since voters can perpetrate it, even if they rarely do, for purposes of this report we will consider voter registration fraud a form of voter fraud, along with all forms of illegal voting. However, when voter registration fraud is committed by a campaign volunteer or a paid canvasser, we should not consider the crime 'voter fraud.'¹⁵ Doing so only adds to public confusion about what should be done to eliminate opportunities for fraud.

Fraud in Voting

Under most state and federal laws a vote is considered illegal when it is cast improperly by an unqualified or ineligible voter. The voter must be qualified and the vote cast according to the rules governing the act of voting under state and federal law. Both elements – the voter and the act of voting – must be legal or the vote is illegal.

The difference between an eligible and a qualified voter

To be legal, an *eligible* voter must be *qualified* by the state to vote. This raises questions about the difference between an 'eligible' voter and a 'qualified' voter. The centuries long struggle for the franchise in the U.S. established a common law right to vote and constitutional bans on voter discrimination by race, color, gender, or age (over the age of 18), but no constitutional right to vote. The lack of an affirmative right to vote in the Constitution and the delegation of authority to the states to determine voter qualifications and oversee election administration are peculiar features of American democracy. The Constitution explicitly grants the states the power to set voter qualifications, reserving authority to Congress to regulate only "the times, places and manner of holding elections for Senators and Representatives."¹⁶

"Eligible" voters are those whose age and citizenship status, and in some cases absence of a felony conviction allows them to be credentialed or "qualified" by the states as legitimate or legal voters. "Qualified" voters, therefore, are those eligible voters who complete a state's procedures for casting a legal ballot.

Because the Constitution vests power to 'qualify' voters in the states, as long as they do not unconstitutionally discriminate against people by race, color, gender or age, they may make different rules for qualifying voters, and they do. This is why the definition of a legal vote varies across the states, especially with regard to residency and felony disqualification rules. Consider,

¹⁵ For an example of how the voter fraud label is commonly misused, see "2 Signature Gatherers Sentenced in Orange County Voter Fraud Case," Associated Press (1/4/07), 17 News Online, available online at www.kget.com/news/state/story.aspx?content_id=6b487526-37ac-43e9-a5b0-496674b9d5e1.

¹⁶ But, "the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." See, U.S. Constitution, Article I, section 4.

for example, the ballot of an otherwise eligible and qualified voter with a felony conviction who is no longer under state supervision. If that citizen lived in Maine and registered to vote by or on Election Day, his or her vote would count as a legal ballot. If that citizen lived and voted in Florida where a felony conviction eliminates the right to vote until clemency is granted, he or she could be prosecuted for casting an illegal ballot.

In fact, states make lots of rules for qualifying voters. The most important is the requirement that all eligible voters register. All states except North Dakota require eligible voters to register before casting a ballot.¹¹⁷ Thus, all states except North Dakota qualify eligible voters by requiring them to meet certain conditions in order to register their names on the rolls of legitimate or valid voters. Voter registration, therefore, is a means of voter qualification, and in nearly all states, otherwise eligible voters must be registered properly or the vote they cast is illegal.¹¹⁸ In addition, ineligible voters, such as those disqualified by state law for a felony conviction or because they do not possess U.S. citizenship,¹¹⁹ could register to vote either mistakenly or by deceit, thus appearing on the voter rolls as 'qualified' voters despite their ineligibility. Their votes would be treated as legal votes when in fact they would be illegal.

There are a few known cases of ineligible persons such as non-citizens making it on to the voter registration rolls due to a misunderstanding about who has the right to vote in American elections, or to mistakes made by elections officials who misinformed such applicants or failed to note their lack of citizenship. One involves the case of Mohsin Ali, a long-time legal permanent resident living in Florida at the time of his arrest for "alien voting." He pleaded guilty but claimed a clerk in the Department of Motor Vehicles issued a voter registration application to him when he renewed his license. In a letter begging the judge to intercede with immigration authorities considering Ali's deportation back to Pakistan, Ali claimed he told the clerk he was a Florida resident but not a U.S. citizen.¹²⁰ He states that the clerk told him as the husband of an American citizen he was eligible to vote. When Ali received a voter registration card in the mail he assumed he was qualified to vote and voted in the 2000 presidential election.¹²¹

Voters have limited access to the electoral process, but where they do interact with it they confront an array of rules that can trip them up and change depending on where they live. The more rules and restrictions, the more stumbling blocks voters face when trying to cast legal ballots. For example, in Pennsylvania where a voter must qualify with an excuse when applying for an absentee ballot, it is illegal to vote that ballot if the voter's plans change and he or she remains physically present at home (barring a disability that prohibits the voter from visiting the polling place). A voter must apply for an absentee ballot a full week before Election Day. What happens if plans change or the business trip gets canceled and the voter is present on Election Day, after all? If that voter then mails in the ballot instead of striking out for the line at the polling place, that voter is breaking the law in Pennsylvania. Who knew? Who wouldn't make

¹¹⁷ North Dakota repealed its voter registration law in 1951. To vote in North Dakota eligible voters must have proper identification showing their name and current address. If they lack identification, they may still vote by filing a voter's affidavit attesting to their identity and address, or if a poll worker knows them and can vouch for them. Poll workers use lists of previous voters to track voting on Election Day.

¹¹⁸ The courts have dealt with the question of whether voter registration is an unconstitutional burden on the vote by using a balancing test, weighing the alleged burden on rights against a state's legitimate interest in ensuring electoral integrity. State laws mandating voter registration have been upheld repeatedly by the Supreme Court as reasonable administrative burdens on the right to vote ("a person does not have a federal constitutional right to walk up to a voting place on election day and demand a ballot," *Marston v. Lewis*, 410 U.S. 679, 680, (1973)).

¹¹⁹ Federal law does not require persons be U.S. citizens to vote, but all states do, as it is their constitutional prerogative to set citizenship as a condition for voter eligibility and qualification.

¹²⁰ Letter from Mohsin Ali to the Honorable William C. Sherrill, Jr., Chief U.S. Magistrate Judge, U.S. District Court, Tallahassee, Florida; dated November 3, 2006. The judge denied Ali's request.

¹²¹ *U.S. v. Mohsin Ali*, U.S. District Court, Northern District of Florida, Tallahassee Division, Case No. 4:05cr47-WCS

things easier and drop the ballot in the mailbox? The more complex are the rules regulating voter registration and voting, the more likely voter mistakes, clerical errors, and the like will be wrongly identified as "fraud."

Eligible voters may nevertheless fail to qualify as legal voters because they fail to register properly – usually their ballots would be considered illegal. Illegal ballots, however, may also result from qualified – or properly registered – voters failing to follow the rules for casting a ballot under state law. As the following table suggests, expanding rules create more ways to cast an illegal ballot than a legal one.

Voter Eligibility, Voter Registration and Legal Balloting

Voter	Registered	Voter Is	Vote Is Cast	Ballot
Eligible	Yes	Qualified	Legal	Legal
			Illegal	Illegal
Not Eligible	No	Not Qualified	Legal	Illegal
			Illegal	Illegal

As states and localities continue to loosen restrictions on the time and place for casting a legal ballot, qualified voters will face more options for casting their ballots. The lack of uniformity increases complexity of the rules and unintended consequences proliferate. For example, the growth of early and mail voting is generally considered positive because these reforms make voting more convenient by opening up more avenues for casting legal ballots. Voters in many

But one consequence of expanding voting opportunities is a corresponding increase in opportunities for casting unintentionally illegal ballots if administrative tracking and auditing systems are flawed.

states may now cast their ballots at a town clerk's office two weeks before the election, by mail, or in person at the polling booth on Election Day. But one consequence of expanding voting opportunities is a corresponding increase in opportunities for casting unintentionally illegal ballots if administrative tracking and auditing systems are flawed.

In fact, several recent cases of alleged voter fraud involved legal voters who mailed in their ballots and then showed up at the polls on Election Day because they either forgot mailing in their ballots or, distrusting the absentee balloting process, wanted to be sure that their votes were counted by voting again. They used their real names to try to vote twice because they were confused.¹²² Poor record management on the part of elections officials was the problem, but voters got the blame. As the options and rules expand they increase the possibility that voter misunderstandings will be labeled 'voter fraud.'

¹²² See, for example, Susan Greene and Karen Crummy, "Voter Fraud Probed in State: Double Dippers, Felons Targeted," *Denver Post* (March 24, 2005).

ABOUT THE AUTHOR

Lorraine C. Minnite holds a Ph.D. in political science and teaches courses on American and urban politics at Barnard College, in New York City. In 2003, she co-authored (with David Callahan), *Securing the Vote: An Analysis of Election Fraud* for *Dēmos: An Network for Ideas and Action*, and is currently finishing a book on the politics of voter fraud in contemporary American elections.



Washington DC Office
739 8th Street SE, Suite 202
Washington, DC 20003

Arkansas Office
2101 South Main Street
Little Rock, AR 72206

1-800-546-8683

www.projectvote.org



COMMITTEE ON RULES

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CHAIRPERSON
MAJORITY LEADER

Senator

Thomas C. Ada
VICE CHAIRPERSON
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Member

V. Anthony Ada

MINORITY LEADER

Mary C. Torres

MINORITY MEMBER

March 6, 2015

Memorandum

To: **Rennae Meno**
Clerk of the Legislature

From: **Senator Dennis G. Rodriguez, Jr.** *[Signature]*
Acting Chairperson of the Committee on Rules

Subject: **Fiscal Notes**

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes are issued on the bills as introduced.

FISCAL NOTES:

Bill No. 24-33(COR)

Bill No. 25-33(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'ase'!

2015 MAR - 6 PM 11:21 AM

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 25-33 (COR)**

AN ACT TO ADD NEW SUBSECTION §3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION

Department/Agency Appropriation Information	
Dept./Agency Affected: Guam Election Commission	Dept./Agency Head: Maria Pangelman, Executive Director
Department's General Fund (GF) appropriation(s) to date:	1,382,852
Department's Other Fund (Specify) appropriation(s) to date:	-
Total Department/Agency Appropriation(s) to date:	\$1,382,852

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2014 Unreserved Fund Balance		\$0	\$0
FY 2015 Adopted Revenues	\$0	\$0	\$0
FY 2015 Appro. (P.L. 32-181 thru 32-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2015 (if applicable)	FY 2016	FY 2017	FY 2018	FY 2019
General Fund	1/	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? Yes No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? N/A Yes No
If no, what is the additional amount required? \$ N/A
- Does the Bill establish a new program/agency? Yes No
If yes, will the program duplicate existing programs/agencies? N/A Yes No
Is there a federal mandate to establish the program/agency? Yes No
- Will the enactment of this Bill require new physical facilities? Yes No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: Yes No
 Requested agency comments not received by due date Other:

Analyst: Dina P. Rivera Date: 3/4/15 Director: Jose S. Calvo Date: MAR 05 2015
Dina P. Rivera Jose S. Calvo, Acting Director

Footnote:
1/ See attached comments.

COMMENTS TO BILL No. 25-33(COR)**AN ACT TO ADD NEW SUBSECTION §3101.3 TO CHAPTER 3, TITLE 16,
GUAM CODE ANNOTATED (GCA) RELATIVE TO ENABLING REGISTRATION
OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION**

The Bill is proposing that persons applying or renewing a Guam driver's license or a Guam Identification Card at the Department of Revenue and Taxation (R&T) may also be afforded the opportunity to register to vote. Based on information from the Guam Election Commission (GEC), the GEC will provide R&T "Affidavit of Registration (AOR)" forms. However, the bill specifically states that it "shall be the responsibility of the Department of Revenue and Taxation to print and have available at all times a sufficient number of voter registration forms..." Either way, fiscal impacts would be realized, first, for example [Reference: Comments to Bill Nos. 23-33 (COR) and 24-33(COR)], the GEC would have to order new AOR forms to include language for Sixteen (16) year olds who would be eligible to pre-register to vote. The added language for example would be: "Registrant is not eligible to vote until such time as he or she turns eighteen (18) years of age before or by election day..." The GEC also noted that it could cost between \$1,500-\$5,000 to order new "Affidavit of Registration (AOR)" forms to comply with the proposed changes to the form. GEC further explained that the cost of AOR forms may vary since it must be forms with carbon copy and the GEC orders sufficient supply of AOR forms for multiple years. In addition, the AOR forms (available on pdf format only) in GEC's website is only applicable to "Absentee" or "Homebound" voters, therefore, this pdf form must also be updated. Finally, R&T would more than likely have to increase its paper supply to print the forms. Please note that the only "local" current appropriation budgeted to R&T for "Supplies" is under its *Tax Collection Enhancement Fund*. This is in the amount of \$90,000 of which \$82,337 has already been expended/encumbered to date. In closing, using the FY15 supply expenditure/encumbrance data as well as the FY14 total expenditures for supplies of \$98,819, the Bureau is able to make an assumption that R&T will need additional appropriations to meet the added supply requirement for printing. There is no additional appropriation to R&T for supplies addressed in the bill.



COMMITTEE ON RULES

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Mary C. Torres
MINORITY MEMBER

January 22, 2014

VIA E-MAIL

anthony.blaz@bbmr.guam.gov

Anthony C. Blaz
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 21-33(COR) through 28-33(COR)

Hafa Adai Mr. Blaz:

Transmitted herewith is a listing of *I Mina'trentai Tres na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (I)

Cc: Clerk of the Legislature

Bill Nos.	Sponsor	Title
21-33 (COR)	Brant T. McCreadie	AN ACT TO AMEND § 5106 (a) OF CHAPTER 5, TITLE 19 GUAM CODE ANNOTATED RELATIVE TO PROVIDING DISCRETION TO THE OFFICE OF THE ATTORNEY GENERAL WITH REGARDS TO THE AUTOMATIC CERTIFICATION OF MINORS AS ADULTS FOR CERTAIN CRIMES, WHICH MAY BE CITED AS THE "JUVENILE JUSTICE REFORM ACT OF 2015".
22-33 (COR)	B. J.F. Cruz	AN ACT TO AUTHORIZE THE TRANSFER OF THE SUM OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000) FROM FISCAL YEAR 2015 APPROPRIATIONS TO COMPLY WITH THE UNITED STATES DISTRICT COURT OF GUAM ORDER DATED JANUARY 16, 2015 IN CIVIL CASE NO. 91-00020.
23-33 (COR)	M.C. Torres	AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES
24-33 (COR)	M.C. Torres	AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE
25-33 (COR)	M.C. Torres	AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION.
26-33 (COR)	T R. Muña Barnes	AN ACT TO ADD A NEW § 10315 TO CHAPTER 10, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE ONLINE AND PUBLIC DISCLOSURE OF MEDICAL LICENCES ISSUED BY THE GUAM BOARD OF MEDICAL EXAMINERS.
27-33 (COR)	FRANK B. AGUON, JR	AN ACT RELATIVE TO RECOGNIZING THAT PUBLIC EMPLOYEES WITH SUPERIOR RATINGS IN FISCAL YEAR 2002 WERE NOT COMPENSATED FOR MERITORIOUS PERFORMANCE IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN §6203, TITLE 4, GUAM CODE ANNOTATED. AUTHORIZING THE APPLICATION OF THE MERIT BONUS PROGRAM FOR FISCAL YEAR 2002; AND PROVIDING FOR SUCH PAYMENTS.
28-33 (COR)	FRANK B. AGUON, JR.	AN ACT RELATIVE TO REMOVING THE TIME RESTRICTION FOR THE GUAM POLICE DEPARTMENT HEADQUARTERS, ADMINISTRATIVE AND OTHER AGENCY SECTIONS FROM OCCUPYING GOVERNMENT-OWNED FACILITIES AT TIYAN, GUAM; THROUGH AMENDING SECTION 2 OF PUBLIC LAW NO 26-100.



Rory Respicio <cor@guamlegislature.org>

First Notice of Public Hearing-- Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

Senator Rory J. Respicio <cor@guamlegislature.org> Mon, Feb 23, 2015 at 4:23 PM
To: Benjamin JF Cruz <senator@senatorbjcruz.com>, Brant McCreadle <brantforguam@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "Frank F. Blas Jr." <frank.blasjr@gmail.com>, Jim Espaldon <jespaldonesq@gmail.com>, "Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, Mary Camacho <marycamachotorres@gmail.com>, "Michael F. Q. San Nicolas" <senatorsannicolas@gmail.com>, Nerissa Underwood <senatorunderwood@guamlegislature.org>, "Thomas (Tommy) Morrison" <tommy@senatormorrison.com>, "Thomas C. Ada" <tom@senatorada.org>, Tina Rose Muna Barnes <senator@tinamunabarnes.com>, "V. Anthony Ada" <senatortoryada@guamlegislature.org>, "hottips@kuam.com" <hottips@kuam.com>, "mvariety@pticom.com" <mvariety@pticom.com>, "news@guampdn.com" <news@guampdn.com>, "news@k57.com" <news@k57.com>
Bcc: phnotice <phnotice@guamlegislature.org>, Elaine Tajalle <etajalle@guamlegislature.org>, Jennifer Louise Dulla <jennifer.lj.dulla@gmail.com>, mary louise wheeler <mlwheeler2000@yahoo.com>, Mary Maravilla <mary@guamlegislature.org>, "Rory J. Respicio" <roryforguam@gmail.com>, Tyrone Taitano <tjtaitano@cs.com>, "Vince P. Ariola" <vpriola1@gmail.com>, maria.connelley@dol.guam.gov, victoria.mafnas@dol.guam.gov, gregoryperez@perezbrosinc.com, lolafranquez@perezbrosinc.com, rothann@gmail.com, Maria Pangelinan <maria.pangelinan@gec.guam.gov>, John.camacho@revtax.guam.gov, Mayors of Guam <mcogadmin@tefeguam.net>, Angel Sablan <anghet@hotmail.com>, john.rios@Investguam.com, tsantos@investguam.com, Joe Quinata <jqpreservation@guam.net>, Joseph Cameron <joseph.cameron@dca.guam.gov>, jcap168@yahoo.com, joseph.santos@hrra.guam.gov, anthony.blaz@doa.guam.gov, "Thomas V. Tanaka Jr." <tomtanakajr@guam.net>, Hope Cristobal <hope.cristobal@gmail.com>, Ernie Wusstig <Islandviewfarms@ymail.com>

February 23, 2015

MEMORANDUM

To: All Members
All Media
From: Majority Leader Rory J. Respicio
Subject: First Notice of Public Hearing-- Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

Håfa Adai! Please be advised that the Committee on Rules; Federal, Foreign & Micronesian Affairs; Human & Natural Resources; Election Reform and Capitol District will be conducting the following on Wednesday, March 4, 2015 beginning at 9:00 A.M., the Legislature's Public Hearing Room:

9:00 A.M. Public Hearing



Rory Respicio <cor@guamlegislature.org>

First Notice of Public Hearing– Wednesday, February 11, 2015, 9:00 A.M.

Senator Rory J. Respicio <cor@guamlegislature.org>

Tue, Feb 3, 2015 at 5:57 PM

To: Benjamin JF Cruz <senator@senatorbjcruz.com>, Brant McCreadie <brantforguam@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "Frank F. Blas Jr." <frank.blasjr@gmail.com>, Jim Espaldon <jespaldonesq@gmail.com>, "Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, Mary Camacho <marycamachotorres@gmail.com>, "Michael F. Q. San Nicolas" <senatorsannicolas@gmail.com>, Nerissa Underwood <senatorunderwood@guamlegislature.org>, "Thomas (Tommy) Morrison" <tommy@senatormorrison.com>, "Thomas C. Ada" <tom@senatorada.org>, Tina Rose Muna Barnes <senator@tinamunabarnes.com>, "V. Anthony Ada" <senatortonyada@guamlegislature.org>, "hottips@kuam.com" <hottips@kuam.com>, "mvariety@pticom.com" <mvariety@pticom.com>, "news@guampdn.com" <news@guampdn.com>, "news@k57.com" <news@k57.com>

Cc: phnotice <phnotice@guamlegislature.org>, Guam Legislature Clerks <clerks@guamlegislature.org>, Therese Tertaje <legislativecounsel@guamlegislature.org>, Tom Unslog <sgtams@guamlegislature.org>, Joe San Agustin <joesa@guamlegislature.org>, av@guamlegislature.org, mis <mis@guamlegislature.org>, "phmaterials@guamlegislature.org" <phmaterials@guamlegislature.org>

Bcc: Elaine Tajalle <etajalle@guamlegislature.org>, Jennifer Louise Dulla <jennifer.lj.dulla@gmail.com>, mary louise wheeler <mlwheeler2000@yahoo.com>, Mary Maravilla <mary@guamlegislature.org>, "Rory J. Respicio" <roryforguam@gmail.com>, Tyrone Taitano <tjtaitano@cs.com>, "Vince P. Arriola" <vparricola1@gmail.com>

February 3, 2015

MEMORANDUM

To: All Members

All Media

From: Majority Leader Rory J. Respicio

Subject: First Notice of Public Hearing– Wednesday, February 11, 2015, 9:00 A.M.

Hafa Adai! Please be advised that the Committee on Rules; Federal, Foreign & Micronesia Affairs; Human & Natural Resources; Election Reform and Capitol District will be conducting the following on **Wednesday, February 11, 2015** beginning at 9:00 A.M., the Legislature's Public Hearing Room:

9:00 A.M. Public Hearing

- **Bill No. 23-33 (COR)- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE**

ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**

• **Bill No. 24-33 (COR)-** "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." **Sponsor- Senator Mary C. Torres**

• **Bill No. 25-33 (COR)-** "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." **Sponsor- Senator Mary C. Torres**

• **Bill No. 32-33 (COR)-** "AN ACT TO AMEND § 79601 OF ARTICLE 6, CHAPTER 79, TITLE 21, GUAM CODE ANNOTATED; AND TO ADD A NEW ITEM (v) TO §1515(i)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DEMOLITION OF THE MANUEL F.L. GUERRERO ADMINISTRATION BUILDING IN HAGÁTÑA AS A HOTEL OCCUPANCY TAX (HOT) BOND PROJECT." **Sponsors- Senator Rory J. Respicio, Senator Tina Rose Muña Barnes and Speaker Judith T. Won Pat, Ed.D.**

Written testimony for the hearings should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources; Election Reform, and may be submitted via email to cor@guamlegislature.org; fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, Hagátña, Guam 96910. The hearings will be broadcast live on Docomo channel 117 and GTA channel 21. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at etajalle@guamlegislature.org.

Si Yu'os ma'áse'!

cc: Clerk of the Legislature

Executive Director

Legal Counsel

Sergeant-at-Arms

MIS

AV

Majority Leader Rory J. Respicio

Chairperson, Committee on Rules, Federal, Foreign and Micronesian Affairs,
Human and Natural Resources, Election Reform and Capitol District

I Mina Trentai Tres na Liheslaturan Guåhan

155 Hesler Place, Ste. 302

Hagátña, Guam 96910

Phone: (671) 472-7679

Fax: (671) 472-3547

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180K

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES; ELECTION REFORM AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guában
THIRTY-THIRD GUAM LEGISLATURE

February 3, 2015

MEMORANDUM

To: All Members
All Media

From: Majority Leader Rory J. Respicio *[Signature]*

Subject: First Notice of Public Hearing-- Wednesday, February 11, 2015, 9:00 A.M.

Håfa Adai! Please be advised that the Committee on Rules; Federal, Foreign & Micronesian Affairs; Human & Natural Resources; Election Reform and Capitol District will be conducting the following on **Wednesday, February 11, 2015 beginning at 9:00 A.M.**, the Legislature's Public Hearing Room:

9:00 A.M. Public Hearing

- **Bill No. 23-33 (COR)**- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." Sponsor- Senator Mary C. Torres
- **Bill No. 24-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." Sponsor- Senator Mary C. Torres
- **Bill No. 25-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." Sponsor- Senator Mary C. Torres
- **Bill No. 32-33 (COR)**- "AN ACT TO AMEND § 79601 OF ARTICLE 6, CHAPTER 79, TITLE 21, GUAM CODE ANNOTATED; AND TO ADD A NEW ITEM (v) TO §1515(i)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DEMOLITION OF THE MANUEL F.L. GUERRERO ADMINISTRATION BUILDING IN HAGÁTÑA AS A HOTEL OCCUPANCY TAX (HOT) BOND PROJECT." Sponsors- Senator Rory J. Respicio, Senator Tina Rose Muña Barnes and Speaker Judith T. Won Pat, Ed.D.

Written testimony for the hearings should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources; Election Reform, and may be submitted via email to cor@guamlegislature.org; fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, Hagåtña, Guam 96910. The hearings will be broadcast live on Docomo channel 117 and GTA channel 21. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at etajalle@guamlegislature.org. *Si Yu'os ma'åse'!*

cc: Clerk of the Legislature
Executive Director
Legal Counsel
Sergeant-at-Arms
MIS
AV



Rory Respicio <cor@guamlegislature.org>

Second Notice of Public Hearing– Wednesday, February 11, 2015, 9:00 A.M.

Senator Rory J. Respicio <cor@guamlegislature.org> Fri, Feb 6, 2015 at 10:49 AM
To: Benjamin JF Cruz <senator@senatorbjcruz.com>, Brant McCreadie <brantforguam@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "Frank F. Blas Jr." <frank.blasjr@gmail.com>, Jim Espaldon <jespaldonesq@gmail.com>, "Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, Mary Camacho <marycamachotomes@gmail.com>, "Michael F. Q. San Nicolas" <senatorsannicolas@gmail.com>, Nerissa Underwood <senatorunderwood@guamlegislature.org>, "Thomas (Tommy) Morrison" <tommy@senatomorrison.com>, "Thomas C. Ada" <tom@senatorada.org>, Tina Rose Muna Barnes <senator@tinamunabarnes.com>, "V. Anthony Ada" <senatortonyada@guamlegislature.org>, "hottips@kuam.com" <hottips@kuam.com>, "mvariety@pticom.com" <mvariety@pticom.com>, "news@guampdn.com" <news@guampdn.com>, "news@k57.com" <news@k57.com>
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Bcc: Elaine Tajalle <etajalle@guamlegislature.org>, Jennifer Louise Dulla <jennifer.lj.dulla@gmail.com>, mary louise wheeler <mlwheeler2000@yahoo.com>, Mary Maravilla <mary@guamlegislature.org>, "Rory J. Respicio" <roryforguam@gmail.com>, Tyrone Taitano <tjtaitano@cs.com>, "Vince P. Ariola" <vpriola1@gmail.com>

February 6, 2015

MEMORANDUM

To: All Members
All Media
From: Majority Leader Rory J. Respicio
Subject: Second Notice of Public Hearing– Wednesday, February 11, 2015, 9:00 A.M.

Håfa Adai! Please be advised that the Committee on Rules; Federal, Foreign & Micronesia Affairs; Human & Natural Resources; Election Reform and Capitol District will be conducting the following on **Wednesday, February 11, 2015 beginning at 9:00 A.M.**, the Legislature’s Public Hearing Room:

9:00 A.M. Public Hearing

- Bill No. 23-33 (COR)- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE

ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**

• **Bill No. 24-33 (COR)-** "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." **Sponsor- Senator Mary C. Torres**

• **Bill No. 25-33 (COR)-** "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." **Sponsor- Senator Mary C. Torres**

• **Bill No. 32-33 (COR)-** "AN ACT TO AMEND § 79601 OF ARTICLE 6, CHAPTER 79, TITLE 21, GUAM CODE ANNOTATED; AND TO ADD A NEW ITEM (v) TO §1515(i)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DEMOLITION OF THE MANUEL F.L. GUERRERO ADMINISTRATION BUILDING IN HAGÁTÑA AS A HOTEL OCCUPANCY TAX (HOT) BOND PROJECT." **Sponsors- Senator Rory J. Respicio, Senator Tina Rose Muña Barnes and Speaker Judith T. Won Pat, Ed.D.**

Written testimony for the hearings should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources; Election Reform, and may be submitted via email to cor@guamlegislature.org; fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, Hagåtña, Guam 96910. The hearings will be broadcast live on Docomo channel 117 and GTA channel 21. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at etajalle@guamlegislature.org. *Si Yu'os ma'åse'!*

cc: Clerk of the Legislature

Executive Director

Legal Counsel

Sergeant-at-Arms

MIS

AV

—
Majority Leader Rory J. Respicio

Chairperson, Committee on Rules, Federal, Foreign and Micronesian Affairs,
Human and Natural Resources, Election Reform and Capitol District

I Mina Trentai Tres na Liheslafuran Guåhan

155 Hesler Place, Ste. 302

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SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guáhan
THIRTY-THIRD GUAM LEGISLATURE

February 6, 2015

MEMORANDUM

To: All Members
All Media

From: Majority Leader Rory J. Respicio

Subject: Second Notice of Public Hearing-- Wednesday, February 11, 2015, 9:00 A.M.

Håfa Adai! Please be advised that the Committee on Rules; Federal, Foreign & Micronesian Affairs; Human & Natural Resources; Election Reform and Capitol District will be conducting the following on **Wednesday, February 11, 2015 beginning at 9:00 A.M.**, the Legislature's Public Hearing Room:

9:00 A.M. Public Hearing.

- **Bill No. 23-33 (COR)**- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**
- **Bill No. 24-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." **Sponsor- Senator Mary C. Torres**
- **Bill No. 25-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." **Sponsor- Senator Mary C. Torres**
- **Bill No. 32-33 (COR)**- "AN ACT TO AMEND § 79601 OF ARTICLE 6, CHAPTER 79, TITLE 21, GUAM CODE ANNOTATED; AND TO ADD A NEW ITEM (v) TO §1515(i)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DEMOLITION OF THE MANUEL F.L. GUERRERO ADMINISTRATION BUILDING IN HAGATÑA AS A HOTEL OCCUPANCY TAX (HOT) BOND PROJECT." **Sponsors- Senator Rory J. Respicio, Senator Tina Rose Muña Barnes and Speaker Judith T. Won Pat, Ed.D.**

Written testimony for the hearings should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources; Election Reform, and may be submitted via email to cor@guamlegislature.org; fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, Hagatña, Guam 96910. The hearings will be broadcast live on Docomo channel 117 and GTA channel 21. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at etajalle@guamlegislature.org. *Si Yu'os ma'åse'!*

cc: Clerk of the Legislature
Executive Director
Legal Counsel
Sergeant-at-Arms
MIS
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Rory Respicio <cor@guamlegislature.org>

Notice of Public Hearing– Wednesday, February 11, 2015, 9:00 A.M.

Senator Rory J. Respicio <cor@guamlegislature.org>

Mon, Feb 9, 2015 at 11:42 AM

To: Maria Pangelinan <maria.pangelinan@gec.guam.gov>

Cc: "<vote@gec.guam.gov>" <vote@gec.guam.gov>

Bcc: Elaine Tajalle <etajalle@guamlegislature.org>, Jennifer Louise Dulla <jennifer.lj.dulla@gmail.com>, mary louise wheeler <mlwheeler2000@yahoo.com>, Mary Maravilla <mary@guamlegislature.org>, "Rory J. Respicio" <roryforguam@gmail.com>, Tyrone Taitano <tjtaitano@cs.com>, "Vince P. Arriola" <vparriola1@gmail.com>

February 9, 2015

VIA E-MAIL

maria.pangelinan@gec.guam.gov

Ms. Maria Pangelinan

Executive Director

Guam Election Commission

414 West Soledad Avenue,

GCIC Bldg., 2nd Floor, Suite 200

Hagåtña, Guam 96910

Subject: Notice of Public Hearing– Wednesday, February 11, 2015, 9:00 A.M.

Dear Ms. Pangelinan:

Håfa Adai! Please be advised that the Committee on Rules; Federal, Foreign and Micronesian Affairs; Human and Natural Resources, Election Reform, and Capitol District will be conducting the following on **Wednesday, February 11, 2015 beginning at 9:00 A.M.**, the Legislature's Public Hearing Room:

9:00 A.M. Public Hearing

- **Bill No. 23-33 (COR)- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION**

REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**

- **Bill No. 24-33 (COR)- "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." Sponsor- Senator Mary C. Torres**

- **Bill No. 25-33 (COR)- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." Sponsor- Senator Mary C. Torres**

I invite you to appear before this committee and provide testimony on the bills. Please feel free to extend this invitation to other interested members of our community. Testimony should be addressed to Majority Leader Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign and Micronesian Affairs; Human and Natural Resources, Election Reform, and Capitol District, and may be hand-delivered or mailed to my office at 155 Hesler Place, *Hagåtña*, Guam 96910; e-mailed to cor@guamlegislature.org; or faxed to (671) 472-3547. Individuals requiring special accommodations, auxiliary aids, or service shall contact and submit their request to Elaine Tajalle at my office.

Please do not hesitate to contact me, should you have any questions or concerns. I look forward to your attendance and participation. *Si Yu'os Ma'ase!*

Very truly yours,

Rory J. Respicio

—
Majority Leader Rory J. Respicio

Chairperson, Committee on Rules, Federal, Foreign and Micronesian Affairs,
Human and Natural Resources, Election Reform and Capitol District
I Mina Trentai Tres na Liheslaturan Guåhan
155 Hesler Place, Ste. 302
Hagåtña, Guam 96910
Phone: (671) 472-7679
Fax: (671) 472-3547

SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'rentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

February 9, 2015

VIA E-MAIL

maria.pangelinan@gcc.guam.gov

Ms. Maria Pangelinan
Executive Director
Guam Election Commission
414 West Soledad Avenue,
GCIC Bldg., 2nd Floor, Suite 200
Hagåtña, Guam 96910

Subject: Notice of Public Hearing-- Wednesday, February 11, 2015, 9:00 A.M.

Dear Ms. Pangelinan:

Håfa Adai! Please be advised that the Committee on Rules; Federal, Foreign and Micronesian Affairs; Human and Natural Resources, Election Reform, and Capitol District will be conducting the following on **Wednesday, February 11, 2015 beginning at 9:00 A.M.**, the Legislature's Public Hearing Room:

9:00 A.M. Public Hearing

- **Bill No. 23-33 (COR)**- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**
- **Bill No. 24-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." **Sponsor- Senator Mary C. Torres**
- **Bill No. 25-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." **Sponsor- Senator Mary C. Torres**

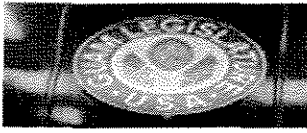
I invite you to appear before this committee and provide testimony on the bills. Please feel free to extend this invitation to other interested members of our community. Testimony should be addressed to Majority Leader Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign and Micronesian Affairs; Human and Natural Resources, Election Reform, and Capitol District, and may be hand-delivered or mailed to my office at 155 Hesler Place, Hagåtña, Guam 96910; e-mailed to cor@guamlegislature.org; or faxed to (671) 472-3547. Individuals requiring special accommodations, auxiliary aids, or service shall contact and submit their request to Elaine Tajalle at my office.

Please do not hesitate to contact me, should you have any questions or concerns. I look forward to your attendance and participation. *Si Yu'os Ma'ase!*

Very truly yours,

Handwritten signature of Rory J. Respicio in black ink.

Rory J. Respicio



Mary Maravilla <marym@guamlegislature.org>

First Notice of Public Hearing– Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

Senator Rory J. Respicio <cor@guamlegislature.org> Mon, Feb 23, 2015 at 4:23 PM
To: Benjamin JF Cruz <senator@senatorbjcruz.com>, Brant McCreadie <brantforguam@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "Frank F. Blas Jr." <frank.blasjr@gmail.com>, Jim Espaldon <jespaldonesq@gmail.com>, "Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, Mary Camacho <marycamachotorres@gmail.com>, "Michael F. Q. San Nicolas" <senatorsannicolas@gmail.com>, Nerissa Underwood <senatorunderwood@guamlegislature.org>, "Thomas (Tommy) Morrison" <tommy@senatormorrison.com>, "Thomas C. Ada" <tom@senatorada.org>, Tina Rose Muna Bames <senator@tinamunabames.com>, "V. Anthony Ada" <senatortonyada@guamlegislature.org>, "hottips@kuam.com" <hottips@kuam.com>, "mvariety@pticom.com" <mvariety@pticom.com>, "news@guampdn.com" <news@guampdn.com>, "news@k57.com" <news@k57.com>
Bcc: mary@guamlegislature.org

February 23, 2015

MEMORANDUM

To: All Members
All Media
From: Majority Leader Rory J. Respicio
Subject: First Notice of Public Hearing– Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

Håfa Adai! Please be advised that the Committee on Rules; Federal, Foreign & Micronesia Affairs; Human & Natural Resources; Election Reform and Capitol District will be conducting the following on **Wednesday, March 4, 2015 beginning at 9:00 A.M.**, the Legislature's Public Hearing Room:

9:00 A.M. Public Hearing

- Appointment of **Maria Connelley**, Director, Department of Labor
Length of Term: To serve at the pleasure of the Governor
- Appointment of **Gregory D. Perez**, Member, *Hagåtña* Restoration and Redevelopment Authority Board of Commissioners
Length of Term: Five (5) Years

- Appointment of **Ann Roth**, Member, Guam Environmental Protection Agency Board of Directors

Length of Term: Three (3) Years

- **Bill No. 23-33 (COR)**- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**
- **Bill No. 24-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." **Sponsor- Senator Mary C. Torres**
- **Bill No. 25-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." **Sponsor- Senator Mary C. Torres**

2:00 P.M. Public Hearing and Status Update

- **Bill No. 32-33 (COR)**- "AN ACT TO *AMEND* § 79601 OF ARTICLE 6, CHAPTER 79, TITLE 21, GUAM CODE ANNOTATED; AND TO *ADD* A NEW ITEM (v) TO §1515(i)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DEMOLITION OF THE MANUEL F.L. GUERRERO ADMINISTRATION BUILDING IN *HAGÁTÑA* AS A HOTEL OCCUPANCY TAX (HOT) BOND PROJECT." **Sponsors- Senator Rory J. Respicio, Senator Tina Rose Muña Barnes and Speaker Judith T. Won Pat, Ed.D.**
- **Status Update on the Farmer's Market Facility**

Written testimony for the hearings should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources; Election Reform, and may be submitted via email to cor@guamlegislature.org; fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, *Hagåtña*, Guam 96910. The hearings will be broadcast live on Docomo channel 117 and GTA channel 21. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at etajalle@guamlegislature.org. *Si Yu'os ma'åse'!*

cc: Clerk of the Legislature

Executive Director

Legal Counsel

Sergeant-at-Arms

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Majority Leader Rory J. Respicio

Chairperson, Committee on Rules, Federal, Foreign and Micronesian Affairs,
Human and Natural Resources, Election Reform and Capitol District

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155 Hesler Place, Ste. 302

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SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES; ELECTION REFORM AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

February 23, 2015

MEMORANDUM

To: All Members
All Media

From: Majority Leader Rory J. Respicio

Subject: First Notice of Public Hearing-- Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

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9:00 A.M. Public Hearing

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Length of Term: To serve at the pleasure of the Governor
- Appointment of **Gregory D. Perez**, Member, *Hagåtña* Restoration and Redevelopment Authority Board of Commissioners
Length of Term: Five (5) Years
- Appointment of **Ann Roth**, Member, Guam Environmental Protection Agency Board of Directors
Length of Term: Three (3) Years
- **Bill No. 23-33 (COR)**- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**
- **Bill No. 24-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." **Sponsor- Senator Mary C. Torres**
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cc: Clerk of the Legislature
Executive Director
Legal Counsel
Sergeant-at-Arms
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Listserv: phnotice@guamlegislature.org
Updated as of February 18, 2015

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Updated as of February 18, 2015

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Rory Respicio <cor@guamlegislature.org>

Notice of Public Hearing– Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

Senator Rory J. Respicio <cor@guamlegislature.org>

Wed, Feb 25, 2015 at 2:47 PM

To: Benjamin JF Cruz <senator@senatorbjcruz.com>, Brant McCreadie <brantforguam@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "Frank F. Blas Jr." <frank.blasjr@gmail.com>, Jim Espaldon <jespaldonesq@gmail.com>, "Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, Mary Camacho <marycamachotorres@gmail.com>, "Michael F. Q. San Nicolas" <senatorsannicolas@gmail.com>, Nerissa Underwood <senatorunderwood@guamlegislature.org>, "Thomas (Tommy) Morrison" <tommy@senatormomison.com>, "Thomas C. Ada" <tom@senatorada.org>, Tina Rose Muna Barnes <senator@tinamunabarnes.com>, "V. Anthony Ada" <senatortonyada@guamlegislature.org>, "hottips@kuam.com" <hottips@kuam.com>, "mvariety@pticom.com" <mvariety@pticom.com>, "news@guampdn.com" <news@guampdn.com>, "news@k57.com" <news@k57.com>

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February 25, 2015

MEMORANDUM

To: All Members

All Media

From: Majority Leader Rory J. Respicio

Subject: Notice of Public Hearing– Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

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9:00 A.M. Public Hearing

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Length of Term: To serve at the pleasure of the Governor

- Appointment of **Gregory D. Perez**, Member, *Hagåtña* Restoration and Redevelopment Authority Board of Commissioners

Length of Term: Five (5) Years

- Appointment of **Ann Roth**, Member, Guam Environmental Protection Agency Board of Directors

Length of Term: Three (3) Years

- **Bill No. 23-33 (COR)**- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**
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2:00 P.M. Public Hearing and Status Update

- **Bill No. 32-33 (COR)**- "AN ACT TO AMEND § 79601 OF ARTICLE 6, CHAPTER 79, TITLE 21, GUAM CODE ANNOTATED; AND TO ADD A NEW ITEM (v) TO §1515(i)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DEMOLITION OF THE MANUEL F.L. GUERRERO ADMINISTRATION BUILDING IN *HAGÁTÑA* AS A HOTEL OCCUPANCY TAX (HOT) BOND PROJECT." **Sponsors- Senator Rory J. Respicio, Senator Tina Rose Muña Barnes and Speaker Judith T. Won Pat, Ed.D.**
- ~~Status Update on the Farmer's Market Facility~~

Written testimony for the hearings should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources; Election Reform, and may be submitted via email to cor@guantegislature.org; fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, *Hagåtña*, Guam 96910. The hearings will be broadcast live on Docomo channel 117 and GTA channel 21. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7879 or by e-mail at etajalle@guantegislature.org. *Si Yu'os ma'åse'!*

cc: Clerk of the Legislature

Executive Director

Legal Counsel

Sergeant-at-Arms

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AV

—
Majority Leader Rory J. Respicio

Chairperson, Committee on Rules, Federal, Foreign and Micronesian Affairs,
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SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS,
HUMAN & NATURAL RESOURCES, ELECTION REFORM AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

February 25, 2015

MEMORANDUM

To: All Members
All Media

From: Majority Leader Rory J. Respicio

Subject: Notice of Public Hearing-- Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

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9:00 A.M. Public Hearing

- Appointment of **Maria Connelley**, Director, Department of Labor
Length of Term: To serve at the pleasure of the Governor
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Length of Term: Five (5) Years
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2:00 P.M. Public Hearing and Status Update

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cc: Clerk of the Legislature
Executive Director
Legal Counsel
Sergeant-at-Arms
MIS
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Rory Respicio <cor@guamlegislature.org>

Second Notice of Public Hearing– Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

Senator Rory J. Respicio <cor@guamlegislature.org> Thu, Feb 26, 2015 at 10:53 AM

To: Benjamin JF Cruz <senator@senatorbjcruz.com>, Brant McCreadie <brantforguam@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "Frank F. Blas Jr." <frank.blasjr@gmail.com>, Jim Espaldon <jespaldonesq@gmail.com>, "Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, Mary Camacho <marycamachotorres@gmail.com>, "Michael F. Q. San Nicolas" <senatorsannicolas@gmail.com>, Nerissa Underwood <senatorunderwood@guamlegislature.org>, "Thomas (Tommy) Morrison" <tommy@senatormorrison.com>, "Thomas C. Ada" <tom@senatorada.org>, Tina Rose Muna Barnes <senator@tinamunabarnes.com>, "V. Anthony Ada" <senatorvonyada@guamlegislature.org>, "hottips@kuam.com" <hottips@kuam.com>, "mvariety@pticom.com" <mvariety@pticom.com>, "news@guampdn.com" <news@guampdn.com>, "news@k57.com" <news@k57.com>

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February 26, 2015

MEMORANDUM

To: All Members
All Media

From: Majority Leader Rory J. Respicio

Subject: Second Notice of Public Hearing– Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

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9:00 A.M. Public Hearing

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Length of Term: To serve at the pleasure of the Governor

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Length of Term: Five (5) Years

- Appointment of **Ann Roth**, Member, Guam Environmental Protection Agency Board of Directors

Length of Term: Three (3) Years

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Written testimony for the hearings should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources; Election Reform, and may be submitted via email to cor@guamlegislature.org, fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, *Hagåtña*, Guam 96910. The hearings will be broadcast live on Docomo channel 117 and GTA channel 21. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7879 or by e-mail at etajalle@guamlegislature.org. *Si Yu'os ma'ise'!*

cc: Clerk of the Legislature

Executive Director

Legal Counsel

Sergeant-at-Arms

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—
Majority Leader Rory J. Respicio

Chairperson, Committee on Rules, Federal, Foreign and Micronesian Affairs,
Human and Natural Resources, Election Reform and Capitol District

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SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåban
THIRTY-THIRD GUAM LEGISLATURE

February 26, 2015

MEMORANDUM

To: All Members
All Media

From: Majority Leader Rory J. Respicio *[Signature]*

Subject: Second Notice of Public Hearing-- Wednesday, March 4, 2015, 9:00 A.M. and 2:00 P.M.

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cc: Clerk of the Legislature
Executive Director
Legal Counsel
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AV

Listserv: phnotice@guamlegislature.org

Updated as of January 15, 2015

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SENATOR RORY J. RESPICIO
MAJORITY LEADER

CHAIRPERSON
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;
HUMAN & NATURAL RESOURCES, ELECTION REFORM, AND CAPITOL DISTRICT



I Mina'trentai Tres na Libeslaturan Guåhan
THIRTY-THIRD GUAM LEGISLATURE

PUBLIC HEARING
Wednesday, February 11, 2015 • 9:00 AM
Legislature's Public Hearing Room • Hagåtña, Guam

AGENDA

- I. Call to Order**
- II. Announcements**
- III. Items for Public Consideration**

- **Bill No. 23-33 (COR)**- "AN ACT TO AMEND SUBSECTION § 3102(a) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO DELETE SUBSECTION § 3102(b) OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO ADD NEW SUBSECTION § 3102.1 TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING AND STREAMLINING GUAM'S VOTER REGISTRATION REQUIREMENTS AND PROCESSES." **Sponsor- Senator Mary C. Torres**
- **Bill No. 24-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3102(c) TO CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, AND TO AMEND § 3122 OF CHAPTER 3, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO VOTER PRE-REGISTRATION OF PERSONS AT LEAST SIXTEEN (16) YEARS OF AGE." **Sponsor- Senator Mary C. Torres**
- **Bill No. 25-33 (COR)**- "AN ACT TO ADD NEW SUBSECTION § 3101.3 TO CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENABLING REGISTRATION OF VOTERS INCIDENT TO MOTOR VEHICLE REGISTRATION." **Sponsor- Senator Mary C. Torres**
- **Bill No. 32-33 (COR)**- "AN ACT TO AMEND § 79601 OF ARTICLE 6, CHAPTER 79, TITLE 21, GUAM CODE ANNOTATED; AND TO ADD A NEW ITEM (v) TO §1515(i)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DEMOLITION OF THE MANUEL F.L. GUERRERO ADMINISTRATION BUILDING IN HAGÁTÑA AS A HOTEL OCCUPANCY TAX (HOT) BOND PROJECT." **Sponsors- Senator Rory J. Respicio, Senator Tina Rose Muña Barnes and Speaker Judith T. Won Pat, Ed.D.**

- IV. Closing Remarks**
- V. Adjournment**

For copies of the above mentioned bills, please visit the Guam Legislature's website at www.guamlegislature.com. Testimony should be addressed to Senator Rory J. Respicio, Chairperson, and may be submitted via hand-delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagatna, Guam 96910, via e-mail to cor@guamlegislature.com, or via facsimile to (671) 472-3547. Individuals requiring special accommodations, auxiliary aids, or services shall contact and submit their request to Elaine Tajalle at our office. For more information, please call 472-7679. We look forward to your attendance and participation. *Si Yu'os ma'åse'!*

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Local » News » Torres introduces three bills to streamline voter registration



WEDNESDAY, 21 JAN 2015 03:00AM BY LOUELLA LOSINIO | VARIETY NEWS STAFF

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SEN. Mary Torres has introduced three bills to streamline Guam's voter registration laws, increase voter registration and improve voter participation in island elections.

The first measure, Bill 23-33, proposes that Guam adopt a system for online voter registration.

According to Torres, online voter registration is a growing national trend and studies show online registration saves taxpayer dollars, increases the accuracy of voter rolls and provides a convenient option for citizens who wish to register.

To make online voter registration viable, Torres said Guam must repeal what she says is an "antiquated" requirement for multiple forms of identification from persons registering to vote.

She said requiring a passport or original birth certificate disadvantages indigent voters. In addition, she states in the U.S. mainland that have adopted strict voter identification laws have seen registration and vo turnout decrease.

"Not surprisingly, obstacles to registration result in fewer people who are registered to vote, leaving many voices unheard. Many of these onerous registration requirements were originally designed to exclude citiz



Sen. Mary Torres has introduc three bills to streamline Guan voter registration laws, increa voter registration and improv voter participation in island elections. Variety file photo

of color and lower-income citizens from easily casting a ballot and have no place in our diverse society," Torres said.

Pre-register

The second bill, Bill 24-33, is co-sponsored with Sen. Frank Aguon and proposes that Guam permit young voters to pre-register at age 16 and automatically be added to voter rolls when they turn 18.

"Young voters are the future of our island, yet voters (who are) 18 to 24 vote in some of the lowest number any age group. Engaging potential voters at a young age is a successful way to increase voter registration not just in the short term but also over a lifetime. Evidence collected from states that have implemented voter pre-registration suggests this change will have limited or no fiscal impact, but have a direct impact on voter registration rates and participation when implemented effectively," Torres said.

The third measure, Bill 25-33, aims to increase voter registration rates by requiring the Department of Revenue and Taxation to affirmatively offer voter registration opportunities whenever residents obtain or renew their driver's license or Guam identification card.

Torres pointed out that expanding the number of ways to register has expanded the freedom to vote for millions of Americans.

"As legislators, we must make every effort to increase voter participation and higher registration is critical to achieving higher voter turnout," Torres said. "The three bills that I introduced will make it easier for eligible voters to register and to increase registration rates of traditionally underrepresented groups, including people of color."

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Mayors question senator's voter registration legislation

THURSDAY, 05 FEB 2015 03:00AM
BY JASMINE STOLE | VARIETY NEWS STAFF



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SOME mayors yesterday questioned the enforceability of a bill introduced by freshman Sen. Mary Torres.

At yesterday's meeting of the Mayors' Council of Guam, Agat Mayor Carol Tayama, Yigo Mayor Rudy Matanane and Merizo Mayor Ernest Chargualaf questioned how the government could verify voters' residency through online registration.

Without enough members present at yesterday's Mayors' Council of Guam meeting to meet a quorum, the council was not able to vote on agenda items.

Mayors who attended the meeting discussed how they thought Torres' bill might impact the mayoral elections. Executive Director Angel Sablan said Tayama wanted to discuss Torres' bill as a "new business" agenda item.



Freshman Sen. Mary Torres introduced Bill 23-33, which proposes that Guam adopt a system for online voter registration. Variety file photo

Last month, Torres introduced Bill 23-33, which proposes that Guam adopt a system for online voter registration.

According to Torres, online voter registration is a growing national trend and studies show online registration saves taxpayer dollars, increases the accuracy of voter rolls and provides a convenient option for citizens who wish to register.

To make online voter registration viable, Torres said Guam must repeal what she says is an "antiquated" requirement for multiple forms of identification from persons registering to vote.

She said requiring a passport or original birth certificate disadvantages indigent voters. In addition, she said states in the U.S. mainland that have adopted strict voter identification laws have seen registration and voter turnout decrease.

"Not surprisingly, obstacles to registration result in fewer people who are registered to vote, leaving many voices unheard. Many of these onerous registration requirements were originally designed to exclude citizens of color and lower-income citizens from easily casting a ballot and have no place in our diverse society," Torres said.

Torres pointed out that expanding the number of ways to register has expanded the freedom to vote for millions of Americans.

"As legislators, we must make every effort to increase voter participation and higher

registration is critical to achieving higher voter turnout," Torres said. "The legislation that I introduced will make it easier for eligible voters to register and to increase registration rates of traditionally underrepresented groups, including poor people."

More research

But some mayors during yesterday's meeting said more research must be done on how the legislation could affect elections.

"This is the time for us to get together and have (Ordot-Chalan Pãgo Mayor Jessy Gogue) do some research," Tayama said. Gogue is the council's legislative liaison. "It will really affect all of you. ... You're going to have people vote in your village and you've never seen them before."

Tayama added other mayors who might have concerns about the bill should testify at the public hearing next week. "You should look at it because you know for a fact that it (voters crossing district lines) has happened before," she said.

Tayama said she will not be running again for mayor but the consequences of the bill could affect mayors seeking re-election.

Chargualaf said with online voting registration, there would be no one to verify that the registrant actually lives at the address that they list on their registration.

"Who's going to verify where you live? Before a person votes you know they have to verify that the person physically lives in the village," he said.

"How do you know where that person really resides?" asked Sablan. "You can manipulate computers to do anything for you." Sablan said it does not affect senatorial and gubernatorial races as it could affect mayoral races.

"Let's not open another problem here on Guam," Matanane said. "We're having problems with what we're doing now. We don't need other problems, man. Let's solve the other problems at hand as far as voting is concerned, then they can look at something else."

Public hearing set on voter registration bills

TUESDAY, 10 FEB 2015 03:00AM

BY LOUELLA LOSINIO | VARIETY NEWS STAFF



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THE 33rd Guam Legislature's committee on rules will conduct a public hearing for three bills which seek to streamline Guam's voter registration laws, increase voter registration and improve voter participation in island elections. The hearing is scheduled for tomorrow, Feb. 11, at 9 a.m.

Sen. Mary Torres introduced the three bills.

The first measure, Bill 23-33, proposes that Guam adopt a system for online voter registration. According to the measure, the percentage of eligible voters on Guam has been declining and every effort should be made to encourage voter registration.

Torres said she introduced the bill because online voter registration is a growing national trend and studies show online registration saves taxpayer dollars, increases the accuracy of voter rolls and provides a convenient option for citizens who wish to register.

To make online voter registration viable, Torres said Guam must repeal what she says is an "antiquated" requirement for multiple forms of identification from persons registering to vote.

She said requiring a passport or original birth certificate disadvantages indigent voters. In addition, she said states in the U.S. mainland that have adopted strict voter identification laws have seen registration and voter turnout decrease.

Pre-register

The second bill, Bill 24-33, is co-sponsored by Sen. Frank Aguon and proposes that Guam permit young voters to pre-register at age 16 and automatically be added to voter rolls when they turn 18.

According to Torres, engaging potential voters at a young age is a successful way to increase voter registration, not just in the short term but also over a lifetime.

The third measure, Bill 25-33, aims to increase voter registration rates by requiring the Department of Revenue and Taxation to affirmatively offer voter registration opportunities whenever residents obtain or renew their driver's license or Guam identification card.

Torres said the three bills she introduced will make it easier for eligible voters to register and to increase registration rates of traditionally underrepresented groups, including poor people.



Sen. Mary Torres has introduced three bills which seek to streamline Guam's voter registration laws, increase voter registration and improve voter participation in island elections.

Variety file photo

After the introduction of the measure, some members of the Mayors' Council of Guam questioned the enforceability and impact of Bill 23-33 on the mayoral elections.

The mayors suggested that more research be conducted on the legislation and some may testify during the public hearing.



Trio of bills promote online voter registration

Posted: Feb 11, 2015 3:44 PM

Updated: Feb 11, 2015 4:51 PM

by [Ken Quintanilla](#)

Guam - In the last general election, only 71% of the voting electorate cast their vote - the lowest percentage for any gubernatorial election in Guam's history. However, a trio of bills before the Guam Legislature is hoping to change that.

Freshman senator Mary Torres hit the ground running introducing not one, but a trio of measures upon her first month in office. "I've introduced three bills to modernize and streamline voter registration on Guam," she explained.

Among the trio of measures include Bill 23 allowing for online registration. "And studies have shown that it saves tax payers dollars, it increases the accuracy of voter rolls, and it provides a convenience option for citizens who wish to register to vote," she added.

Torres says online voter registration is a growing national trend across the United States. It's a trend University of Guam graduate student Anthony Quenga supports. He said, "I agree with the intent of the proposed legislation that creates a voter registration process that is widely accessible and I think widening accessibility encourages stronger civic engagement from our citizens."

But not everyone is sold on the idea including Joe Garrido, who feared the proposal would open the door to "illegal aliens" or non-US citizens to vote. "I cannot support your bill at this point in time," he declared.

Torres says some of the antiquated requirements for identification can be an obstacle and need to be repealed. She says there are barely any documented cases of illegal aliens fraudulently registering to vote saying it's like getting struck and killed by lightning - "extremely rare." Daniel Perez meanwhile brought up concerns raised by the Mayors Council, saying, "If these bills were to pass it would be an injustice to mayors knowing that voters physically live in another municipality yet exercising their votes in other than where they physically live."

The island's mayors, who will go up for election in 2016, raised concern whether the bill guarantees that a person that registered online came from that actual district. Torres says her bill has nothing to do with residency issues, saying, "This bill neither makes the problems worse or helps the problem, because that's addressed in another section but I will certainly look at that and encourage more dialogue with the mayors and the Guam Election Commission about what we can do to get people to understand and be forthright about voting in their district and changing the registration when they move."

And while lawmakers head into session next week, oversight chair Senator Rory Respicio says the bills are not ready as they need the testimony from the GEC, the mayors, Rev & Tax and both political parties. Another hearing will be set at a later date.

The Guam Election Commission was in attendance during this morning's hearing on Senator Torres' trio of bills regarding voter registration but did not provide any testimony. Executive director Maria Pangelinan says she is waiting for the commission to meet next week. Pangelinan does tell KUAM News that the idea is a possibility but does not know the fiscal impact it may have to the GEC she adds the GEC does conduct some form of online registration but only for voters who are applying for an absentee ballot or who are off-island. As for registering to vote, she says the GEC does require proof of u-s citizenship through a passport or birth certificate but does not require any actual proof for what district

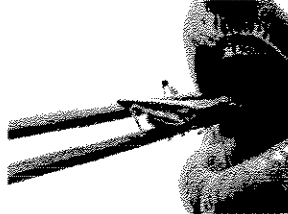
they reside in. Pangelinan says voters sign an affidavit that he or she has been a resident of Guam for 30 days.

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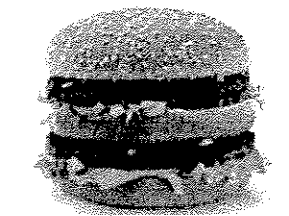
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Voter registration bills get mixed reactions in public hearing

THURSDAY, 12 FEB 2015 03:00AM

BY LOUELLA LOSINIO | VARIETY NEWS STAFF



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DURING the Guam Legislature's public hearing for three bills which seek to streamline Guam's voter registration laws, Sen. Mary Torres tried to allay fears of possible voter fraud issues and other concerns raised by members of the community.

All three measures received mixed testimony during the hearing convened by the committee on rules yesterday.

The first measure, Bill 23-33, proposes that Guam adopt a system for online voter registration. According to the measure, the percentage of eligible voters on Guam has been declining and every effort should be made to encourage voter registration.

Torres said online voter registration has been a growing trend in the U.S. "Studies have shown that it has saved taxpayer dollars, increased accuracy of voter rolls and provides a convenient option for citizens who wish to register to vote," she said.

But in order to make this a viable option for Guam, she said some of the antiquated requirements for multiple forms of identification must be repealed, such as requirements for a passport or original birth certificate, which disadvantage some voters.

The second bill, Bill 24-33, co-sponsored by Sen. Frank Aguon, proposes that Guam permit young voters to pre-register at age 16 and automatically be added to voter rolls when they turn 18.

The third measure, Bill 25-33, aims to increase voter registration rates by requiring the Department of Revenue and Taxation to affirmatively offer voter registration opportunities whenever residents obtain or renew their driver's license or Guam identification card.

Mixed testimony

Anthony Quenga, a graduate student at the University of Guam, said he supports the intent of all three bills.

"As a member of the voting population and one who identifies with the youth, I see that there is a need for an increase in voter participation. I agree with the intent of the proposed legislation that creates a voter registration process that is widely accessible," he said.



According to Bill 23, the percentage of eligible voters on Guam has been declining and every effort should be made to encourage voter registration.

Variety file photo

Quenga added that widening accessibility encourages stronger civic engagement from citizens, noting that the proposed legislation is a progressive move towards creating that opportunity.

"I strongly encourage consideration of the committee and the legislative body to approve those bills," he said.

But Jose Garrido, a concerned citizen, said he cannot support the legislation pushing for online voter registration and that several components of the bill needed to be refined.

Garrido raised concerns about providing proof of citizenship as a requirement for voting and also potential issues with online hacking which could compromise the system.

Torres said Garrido raised valid and very popular concerns regarding this type of legislation. "What we found in addressing this issue, there are a lot of concerns that illegal aliens can register and vote if we don't force them to produce a passport or an original birth certificate," she said.

However, Torres pointed out that a lot of people don't have a passport and will never own a passport, even on Guam. "They don't have a need to travel, it is very hard and expensive to obtain. There are even instances when people don't have an original birth certificate," she said.

According to Torres, many of these requirements have resulted in obstacles to registrants – mainly, the disadvantaged or minorities.

"With regard to your concern on providing proof of citizenship, even with the federal government, all that is required to vote is an attestation – you have to swear and sign a sworn statement that you are in fact a U.S citizen. Now with that sworn attestation comes the penalty of perjury, a third-degree felony or deportation," she said.

Torres said that her bill is also earmarked for those who are computer-savvy and targets the demographic of 18- to 24-year-olds, the sector with a low voter turnout on Guam.

Concerns

Torres said a lot of concerns, such as voter fraud issues, have been voiced to date since the introduction of the bill. To allay these preconceptions about online registration, the senator referred to several evidence-based studies, including a document drafted by the Pew Charitable Trusts entitled "Understanding Online Voter Registration."

The Pew Charitable Trusts conducted a survey in June 2013 of 13 states that had online registration at that time: Arizona, California, Colorado, Indiana, Kansas, Louisiana, Maryland, Nevada, New York, Oregon, South Carolina, Utah and Washington. Overall, the responses in the study indicate that the registration systems are cost-effective for states, convenient for voters, and secure because they reduce the potential for fraud while improving the accuracy of voter rolls.

The senator also submitted a study by the Immigration Policy Center entitled "Chicken Little in the Voting Booth: The Non-Existent Problem of Non-Citizen Voter Fraud," which says that there is no evidence of widespread or systematic vote fraud by noncitizens.

GEC offers feedback on bills to streamline voter registration

Posted: Mar 02, 2015 2:10 PM
Updated: Mar 02, 2015 2:32 PM

by [Ken Quintanilla](#)

Guam - The Guam Election Commission is finally weighing in on a trio of bills introduced by freshman senator Mary Torres. A second public hearing is set for this week on Bills 23, 24 and 25 to modernize and streamline voter registration including online registration.

Executive director Maria Pangelinan says the GEC supports the bills in principle but there are some concerns, saying, "For the online registration, one of the things it will come at a cost and we don't know what the costs is there's anywhere from doing it in-house and I saw some information on it that it costs some states \$240,000 and what that entails is security for our access to the Internet."

As for the proposal to allow 16-year-olds to pre-register to vote, she questions how the GEC will validate the information. The GEC will provide testimony during the public hearing set for Wednesday at 9am at the Guam Legislature.

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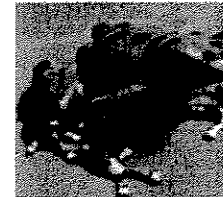
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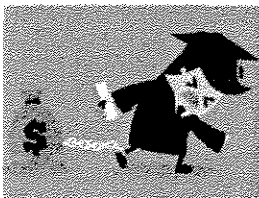
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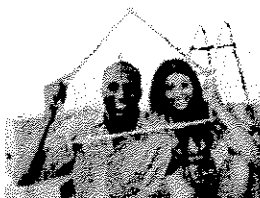
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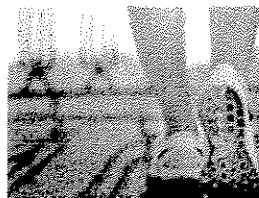
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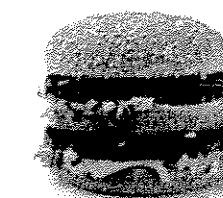
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Election reform bills up for more debate

Mar 4, 2015 | 4 Comments

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Written by
Shawn Raymundo
Pacific Daily News

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The Committee on Election Reform this morning is scheduled to resume discussion on a series of voter registration bills intended to streamline the registration process and increase voter turnout on island.

Last month a public hearing was held for Bills 23-33, 24-33 and 25-33, but committee Chairman Sen. Rory Respicio, D-Agana Heights, said the measures weren't ready to move forward until lawmakers heard testimony from the Guam Election Commission and the village mayors, who have spoken against the bills.

GEC Executive Director Maria Pangelinan attended the hearing but she said she wouldn't testify until she spoke with Election Commission board members at their monthly meeting.



Torres

Freshman Sen. Mary Camacho Torres, R-Santa Rita, who introduced the three bills, said she believes after today's public hearing the bills will be ready to go to session for deliberation.

"It's just a matter of having a committee report and allowing experts to provide testimony,"

Torres said. "I believe it will make it into the next session for this March."

Bill 23 would strike down a provision in current Guam law that requires citizens to provide a birth certificate or passport when registering to vote. It also would set up an online voter registration system with GEC.

Torres, along with Sen. Frank Aguon Jr., D-Yona, introduced Bill 24 to allow 16-and-17-year-olds the ability to preregister to vote. The third measure, Bill 25, would give residents the option of registering to vote when they apply for or renew their driver's license or identification card with the Department of Revenue and Taxation.

Although four residents attended the previous hearing to provide testimony, none of the mayors came to voice their concerns that utilizing voter technology would increase the possibility of voter fraud,

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allowing citizens to lie about who they are when registering or voting in multiple districts during mayoral election races.

Torres said her bills wouldn't make voter fraud worse because they don't make any changes to the law's sections on municipalities.

She said when residents register to vote, they will still be required to attest, under penalty of perjury, that they are who they say they are.

"Of course there's always questions, but the mayors' concerns aren't going to be affected either way with these bills," Torres said.

"Nonetheless, it's good though, it stirred discussion," she added. "It was good dialogue, it was good that it generated some discussion so we could work something out."

Pangelinan agreed with Torres' position, stating that the bills wouldn't make any changes to the municipality statutes in the law.

"That is not addressed in any of the bills and it doesn't compromise any of that stuff," Pangelinan said. "It addresses citizenship but not the district."

She added that the GEC board members support the bills "in principle," but believe that some details need to be worked out, such as the cost to implement an online registration system as well as establishing a cooperative effort between GEC and Rev and Tax.

"The bill doesn't contain very much detail," Pangelinan said. "And one of the things is there are other parties involved, like the Department of Revenue and Taxation, and so it would just be a matter of fine-tuning the details."

Torres said, since the last public hearing, she has included an amendment to Bill 23 that would also allow Guam's native inhabitants to register with the Decolonization Registry online.

The registry, which reached nearly 7,200 people last August, is for those who want to participate in a plebiscite that would state the preference for the island's political status.

Pangelinan called the amendment a "fantastic" idea.



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Criticism, suggestions offered on poll reform bills

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A series of proposed measures to reform Guam's voter registration laws went through its second public hearing in less than month yesterday morning.

While the Guam Youth Congress, Guam Election Commission and Mayors' Council of Guam provided the Committee on Election Reform positive feedback regarding the bills, the three entities also expressed some criticism and offered suggestions.

"The (GEC) supports the bills' objective of reducing barriers to registration and of providing additional methods by which citizens can register to vote," GEC Executive Director

Maria Pangelinan said in Chamorro as she read off a prepared written statement.

"The Commission unanimously supports the principles of the bills and wishes to address some matters pertaining to the proposed legislations," Pangelinan said.

Bills 23-33, 24-33 and 25-33 intend to streamline the voter registration process and make registering easier for Guamanians. Freshman Sen. Mary Camacho Torres, R-Santa Rita, authored the bills in her first act as a legislator.

During the first hearing in February, four residents testified on the measures, but Committee on Election Reform Chairman Sen. Rory Respicio, D-Agana Heights, decided to stall the bills until the GEC and village mayors had an opportunity to speak on them.

"I think it was prudent that we waited for feedback from the Guam Election Commission," Respicio said during the hearing.

Written by
Shawn Raymond
Pacific Daily News

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AT A GLANCE

* **Bill 23-33:** Establishes an online voter registration system with the Guam Election Commission and strikes down a provision in Guam law that requires citizens to provide a birth certificate or passport when registering to vote.

* **Bill 24-33:** Allows 16-and-17-year-olds to preregister to vote.

* **Bill 25-33:** Gives residents the option of registering to vote when they apply for or renew their driver's license or identification card with the Department of Revenue and Taxation.

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Bill 23 would strike down a provision in current Guam law that requires citizens to provide a birth certificate or passport when registering to vote. It also would set up an online voter registration system with GEC.

Torres, along with Sen. Frank Aguon Jr., D-Yona, introduced Bill 24 to allow 16- and 17-year-olds the ability to preregister to vote. The third measure, Bill 25, would give residents the option of registering to vote when they apply for or renew their driver's license or identification card with the Department of Revenue and Taxation.

None of the village mayors attended yesterday's hearing, but they did submit written testimony that was signed by Angel Sablan, executive director for the Mayors' Council.

The mayors commended Torres for introducing legislation that would "enhance the practice of democracy" and said they supported Bills 24 and 25.

And while they are in favor of the online voter registration in Bill 23, they suggested adding language to it. The mayors asked that if registrants sign up online, they must declare what municipality they reside in as well as the name of the street they live on.

The GEC recommended a similar amendment – one that would require individuals to declare they are U.S. citizens who will be at least 18 years of age at the next election.

The commission also raised the concern that Bill 24 doesn't take into account that a person's information could change from the time they register at 16 years old to when they turn 18.

During discussion yesterday between Pangelinan and the legislative committee, Respicio posed some questions about how the GEC verifies a person's identity upon registering to vote.

Torres chimed in, making the point that currently when someone registers to vote, they aren't officially registered until the GEC director ascertains the information is correct.

Online registration wouldn't change that.

Pangelinan added that every two years, in between election years, she sends a list of all registered voters to the mayors to check for any errors.

Torres later touched on a concern Pangelinan made when she spoke with Pacific Daily News this week regarding the cost of implementing the online registration system.

The senator said that the many other jurisdictions that implemented the voter registration technology experienced a quick turnaround in cost savings.

"Whatever costs they had upfront, they recovered almost immediately in savings," Torres said, adding, "The return on investment is very quick."

Torres said as her bills move forward she would look into all the concerns raised during the hearing.

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GEC Testifies on Voter Registration Bills
Written by Clynt Ridgell



Bills Aim to Allow for More Voter Registration

Guam - The Guam Election Commission testified in favor of the principles behind Senator Mary Torres election reform bills but with some recommendations

Bill 23, 24, and 25 all deal with voter registration. Bill 23 would modernize and streamline Guam's voter registration requirements and processes, bill 24 would allow 16 year olds to pre-register to vote so that they are ready to vote once they turn 18 and bill 25 would allow people to register to vote when they register their motor vehicle. GEC Executive Director Maria Pangelinan read the election commission boards testimony in Chamorro today saying that one of their major recommendations for bill 23 is that the affidavit of registration contain a declaration under penalty of perjury that the person is a U.S. citizen who will be at least 18 by the next election. "I priniponi lai bente tres este yan sina ma na danna na para guaha no attestigu yanggen mandaggi i mismo prohimu siempre no sina ma konne bai kotte ya este pago i yanngen ti man magahet na ma sangan na para sempre man diese ocho antes de man maila na eleksion," said Pangelinan.

The commission also noted difficulty with bill 24 in that it doesn't specify how the GEC is to determine if information obtained two years prior to an election is still valid. The GEC recommended that bill 25 have language added making it clear that voters must still register before the deadline of an election.

Senator Torres Proposes Online Voter Registration & Pre-Registration For 16-Year-Olds

Written by Ciynt Ridgeil



Senator Introduces Three Bills In Hopes of Boosting Voter Registration Numbers

Guam - Senator Mary Torres is hoping to encourage more voter participation on Guam and she's hoping more younger voters will get involved in Guam's political process as well.

Torres' first three bills aim to modernize and streamline voter registration. Bill 23 would allow Guam to adopt an online voter registration something that is a growing national trend. To accomplish this the bill would repeal the requirement for multiple forms of identification for people registering to vote. Bill 24 which was co-sponsored by Senator Frank Aguon Jr. proposes that Guam permit young voters to pre-register to vote at age 16. This pre-registration would automatically register them when they turn 18. Bill 25 requires that the Department of Revenue and taxation offer voter registration whenever residents get or renew their drivers' licenses or Guam I.D. Cards. "I wanted to address what I thought was a problem coming out of the general election and what I saw was a big problem on our Island and a trend that's not gonna get better unless we address it right away is voter apathy and low voter turnouts," said Senator Torres adding, "What I'd like to do is just get us involved in the Democratic process because it's important that everybody get involved." Torres hopes that the public will come out and testify when her bills have public hearings.

Maria Pangelinan with Ray Gibson

Written by Bob Gaeth



Interview between Ray Gibson and Maria Pangelinan, Executive Director Guam Election Commission, about legislation submitted by Senator Mary Torres to change the voter registration laws.
Published in K57 Interviews