



Testimony of Jonah H Goldman  
Director, National Campaign for Fair Elections, Lawyers' Committee for Civil Rights  
Under Law

Before the Senate Committee on the Judiciary  
"Protecting the Constitutional Right to Vote for All Americans"  
May 20, 2008

Mr. Chairman, members of the Committee, thank you for inviting me here today and for holding this hearing on the foundational issue of our great democracy – the fundamental right to vote.

My name is Jonah H Goldman and I am the Director of the National Campaign for Fair Elections at the Lawyers' Committee for Civil Rights Under Law. The Lawyers' Committee was founded 45 years ago by President Kennedy to organize the *pro bono* resources of the private bar to protect civil rights. The National Campaign for Fair Elections was established by the Lawyers' Committee to serve as the lead legal partner of Election Protection, the nation's largest non-partisan voter protection coalition, and to turn the lessons learned from that experience into real, effective, policy solutions for America's voters. This year, the Lawyers' Committee will recruit, train and deploy over 10,000 legal volunteers to develop a nationwide comprehensive, year round program to work on all facets necessary to ensure the right to vote. We will support over 150 coalition partners, establish a productive dialogue with election officials, conduct strategic legal voter protection field programs and answer the 1-866-OUR-VOTE hotline. This hotline is the nation's largest voter services hotline which, since its inception, has answered nearly 300,000 calls from voters across the country, including over 6,000 in this year's primaries.

Mr. Chairman, the Congress has both a Constitutional and moral duty to protect the rights of all eligible Americans to cast a meaningful ballot. My fellow panelists, with whom I am proud to share this honor with, have laid out the historical and constitutional imperative to fiercely protect the right to vote. The 1<sup>st</sup>, 14<sup>th</sup> and 15<sup>th</sup> amendments give Congress the power to protect this fundamental right. Through the Voting Rights Act, the National Voter Registration Act, and the Help America Vote Act Congress has shown, with varying levels of success, a commitment to protect this right. In addition to the constitutional responsibility, there is another critical reason why this hearing – and hopefully subsequent remedial action – is so important. This country is the light of liberty and democracy. Our noble experiment in providing each citizen a voice in the destiny of her country – constantly evolving and made better through expanding the

voices of those able to participate – is now the template for freedom around the world. The hope of our democratic institutions inspires nations to entrust power to the citizenry.

Of course, with this role comes great responsibility. We have a moral obligation to America's voters to provide the most responsive infrastructure available. We have a duty to make our elections equally open to all eligible citizens, conduct them fairly, and transparent so all Americans have confidence in the process. Unfortunately, we are not there yet.

In this year's primaries we have made strides towards honoring our democratic promise through historic voter turnout. This primary season, almost 50 million voters have already cast ballots. In Pennsylvania in 2004, fewer than 800,000 voters cast ballots in the presidential primary; this year over 3 million voters showed up to the polls. Georgia saw a 157% increase during that same time and Virginia added over 1 million voters to its primary process this year as compared to the last presidential contest. Unfortunately, this civic exuberance has put tremendous weight on an already crumbling election infrastructure. This year Election Protection has recruited, trained and deployed nearly 2,000 legal volunteers and answered more than 6,000 calls to its hotline during programs on the season's five largest primary days: February 5, February 12, March 4, April 22 and May 6. Attached to my testimony is a report the Lawyers' Committee compiled highlighting the experience of voters across the country in those elections. This experience is consistent with what we have learned over the 7 years of this program and during the 45 years the Lawyers' Committee has been working to secure voters' rights. Real, eligible voters – between 4-6 million voters, according to a study conducted by CalTech and MIT in 2000 – may be prevented from exercising their right to vote in a general election. Primarily, this staggering level of disfranchisement stems from an election administration system that lacks resources, is overly burdensome and complicated, lacks centralization, and, unfortunately, is still marred by cynical attempts to remove eligible voters from the process for political gain.

These administrative failures violate our constitutional protections and undermine our democratic leadership. Americans want the best election system in the world and we deserve it.

During this year's primaries, Election Protection identified unique challenges in each of the 10 states in which we ran programs. Four themes emerged across state lines that violate the constitutional right to vote by denying eligible voters an opportunity to cast a ballot:

- under trained and under resourced poll workers;
- voting technology malfunctions;
- inaccurate and incomplete registration lists; and
- Problems with voter identification requirements.

### *Under trained and Under Resourced Poll Workers*

There are over 1.4 million poll workers across the country. The overwhelming majority of these dedicated Americans are committed to doing their civic duty by volunteering up to 18 hours on Election Day. Despite this commitment voters are turned away because poll workers lack training and guidance on how to effectively administer an election. In every state we ran a program during this cycle and in every program we have run in the past, Election Protection uncovers voters who were turned away because poll workers did not know the rules. Voters who should have been able to cast regular ballots were forced to cast provisional ballots and voters who should have been offered provisional ballots were turned away from the polling place. Voters stood in lines for hours or were disfranchised because there were not enough poll workers or because polling places opened late or close early.

We need to be creative about how we recruit, train and deploy poll workers. Government workers on all levels should be encouraged to be poll workers and should be provided extensive training. High schools, colleges and universities should pursue programs that put students at the polls. Large employers should work in public/private partnerships to encourage their employees to become poll workers. Before November, however, election officials must improve their training curricula and programs. They need to ensure that poll workers have the tools they need to do their job and the guidance necessary to understand the rules. They must have an effective way to communicate with election officials if they have questions or if something goes wrong.

### *Voting Technology Malfunctions*

Problems with voting equipment also led to disenfranchised eligible voters. In 8 of the 12 states Election Protection has covered this year, we received reports of significant problems with voting technology that led to voters being turned away at the polls. Most of the problems were with voting machines, but some concerned electronic poll books and other election technologies. Sometimes, the problems were caused by technological glitches, but frequently the problems were more human. Both poll workers and voters were confused about how new voting technology works. Unfortunately, many jurisdictions do not have adequate safeguards for when voting technology breaks down. In many places when the machines breakdown, voting stops. Those voters who have the bad luck to show up when the machines are down are turned away. States should implement emergency ballot procedures and be sure to teach their poll workers how to follow them.

### *Inaccurate and Incomplete Registration Lists*

This year, more than 3.5 million new voters have registered, up 65% from the same period 4 years ago. These numbers are staggering and we should all be proud of the powerful chorus of new voices engaging in the process. Unfortunately, in every state we covered during this year's primaries and in every program we have run in elections past, eligible voters who submit timely registration applications find that their names are not

on the registration rolls. Moreover, this year in Indiana, Pennsylvania, Georgia and elsewhere, longtime voters -- many with their voter registration confirmations in hand -- were told they were not on registration lists or their party affiliation had been switched. In addition to the administrative shortcomings that left voters off of registration rolls, irresponsible, discriminatory or ineffective purges removed countless voters from the rolls. Many of these problems are foreign to voters in states with Election Day Registration. There, administrative problems and other pitfalls of registration lists can be fixed by voters when they get to the polls. More than any other single reform, Election Day Registration will move us towards fulfilling our moral and constitutional imperative.

### *Problems with Voter Identification Requirements*

Voters in every state are also being turned away by confusion over voter identification requirements. Poll workers are confused about when voters need to show identification and what identification is required by state law. Because of this confusion, poll workers force voters to cast provisional ballots, though they are entitled to regular ballots and turn away voters who should be casting provisional ballots. Worse, some poll workers, educated about what the rules are in their states, insist on implementing stricter ID requirements based on what they think the law *should* be. In every election cycle, we receive calls and our volunteers on the ground witness, poll workers implementing ID requirements in a discriminatory way. Sometimes, in areas where there are large populations of young voters, only students are asked for ID. In addition, we have seen poll workers only ask for the ID of voters they do not know or only voters of a particular racial or ethnic background.

Unfortunately, the debate over voter ID has distracted us from a productive discussion of how to solve the real problems voters face. The case recently decided by the United States Supreme Court, *William Crawford, ET AL. v. Marion County Election Board, ET AL.*; and *Indiana Democratic Party, ET AL., v. Todd Rokita, Indiana Secretary of State, ET AL.* has only made this problem worse. As this Committee has heard, there is no evidence of a massive conspiracy to impersonate eligible voters at the polling place -- the only type of election misconduct that voter ID actually guards against. There are no shadow bands of ineligible voters roving from polling place to polling place to affect election results. And no wonder, penalties are quite high -- up to 10 years in prison and a fine of up to \$10,000 and the prospects of affecting election outcomes are low -- changing a single vote. As they should, every state has a process for verifying voters' identities. Most accomplish that essential goal without sacrificing the ability of eligible voters to participate in the process. Of course, there have been attempts to influence election results through misconduct; it just is not done *this* way. The truth is you have a better chance of being hit by lightning than you do finding a voter impersonator.

But the participatory casualties of voter ID are real. On May 6, as Indianans headed to the polls for the first time since the Supreme Court decided *Crawford*, Election Protection was on the ground assisting voters who had questions or problems at the polls. We also were running the 1-866-OUR-VOTE hotline to provide immediate assistance to citizens who needed help during the day. Early that morning, Election Protection volunteer and

Lawyers' Committee board member, John Borkowski, a partner at the law firm of Hogan and Hartson, LLP, walked into a polling place on the campus of St. Mary's College in his hometown of South Bend. Students from the college were being turned away because they only had a student ID from the private college and not a government issued photo identification with an expiration date. The students were devastated. While talking to Sister Julie McGuire, one of the poll workers, John discovered that it was not just the students that were the victims of this misguided policy, but many of the nuns who lived in the convent that housed the polling place. John talked to more than a half dozen retired nuns, between 70-90 years old who either did not have ID or only had an expired license. These nuns no longer drove and had no need for current, government issued photo identification. They lived in the convent, among a community of their sisters. John discovered many of the sisters who were ineligible did not attempt to come to the polls. And that is the true scope of this tragedy. Most of the citizen voices made silent because they do not have this type of ID, as many as 21 million eligible voters across the country, will not show up because they know they will be turned away.

That night, John summed it up best, referring to the voter ID law he said it "definitely had the effect of preventing many people who were highly motivated to participate in this primary election from exercising their right to vote. It seems very ironic to me that a law intended to prevent voter fraud prevented members of a single community, essentially a family, who have lived together for years, from accepting the votes of their own sisters."

Mr. Chairman, there are real problems with our election system that prevent real, eligible voters with a deep desire to participate in the proud tradition of our democracy. Government has a constitutional mandate to act to protect our moral obligation to providing the world's light of democracy with the best system possible. In addition to the problems I have already discussed, Congress should focus its attention on preventing the cynical attempts to remove eligible voters from the process that actually cause real, eligible voters to be confused, turned away, and disfranchised for political gain. It is critical to show Congress is concerned with making it easier, not harder, for eligible citizens to have their voices heard. Failing this, we risk losing the possibility to transform the energy inspired by this historic election season – the young voter revolution and the reinvigorated voices from all walks of American life – into a civic community committed to a lasting voice in the future of the nation.

Common sense provisions like the Deceptive Practices and Voter Intimidation Prevention Act – which is spearheaded by members of this Committee – will demonstrate the Congress's commitment to fulfilling its constitutional mandate to protect all voters. A particularly strong illustration of the need for this critical legislation is the experience of African-American voters in Milwaukee in 2004. Across the community fliers were distributed claiming to be from the "Milwaukee Black Voters' League" saying that if voters failed to pay parking tickets, if any member of their family was convicted of a felony or if they had ever voted during that year, they could be arrested at the polls. Other fliers were distributed in states across the country telling voters to come to the polls on the wrong day. Unless you can prove conspiracy, these tactics are not currently prohibited by federal law. Furthermore, Senator Whitehouse's Caging Prohibition Act,

will go a long way to providing the tools needed to stop these insidious political attacks on our right to vote and preventing voter intimidation at the polls.

The Department of Justice should also vigorously enforce the current federal voter protections including the Voting Rights Act and the National Voter Registration Act. The Voting Rights Act is the most successful civil rights legislation in the country's history. We are proud of the clear commitment to the Voting Rights Act that Congress made just two years ago by overwhelmingly reauthorizing the Act. The Department of Justice must reinvigorate its efforts to honor that commitment by vigorous enforcement. Similarly, the Congress took a tremendous step towards progress in passing the National Voter Registration Act just over 15 years ago. Unfortunately, the promise of that bill continues to be unfulfilled because there has not been adequate enforcement of Section 7, which requires state social service agencies to provide their clients with voter registration opportunities. The Department of Justice, and states across the country, must do a better job of enforcing this critical provision.

Unfortunately, election administration has been largely treated as a political issue and not a policy issue in our country. This needs to change. We need real solutions to the real problems that prevent eligible voters from participating in the process and we need to address those issues, not only on the eve of a national election, but in a constant effort to improve the process. Our election system needs an overhaul and not with political solutions to non-existent problems – like requiring discriminatory photo ID requirements, but with common sense solutions to the real problems voters face. We should move toward universal registration by implementing Election Day Registration. Election Day Registration has been implemented with security and reliability in several states, with voters in those states overwhelmingly approving the system once it is in place. This policy also helps simplify the system for poll workers: if there is some problem in the process that would otherwise require several different steps for a poll worker to remedy, Election Day Registration makes the fix easy. We should prevent the real fraud that happens in elections like offensive deception and take away the tools of intimidation and dirty tricks like voter caging. We need to provide a real infrastructure of training for our nation's poll workers and searchingly contemplate the best technology for voters to cast ballots on. We should be creative, thinking of ways to make sure that those who have work or family obligations on Election Day can still participate. Finally, we need to protect those voters who have reliably shown up election after election by making it easier for our seniors to participate.

For over a century, the Supreme Court has held that the right to vote is our most fundamental right because it is preservative of all of our other rights and freedoms. We must honor those who participate by providing the most responsive, advanced infrastructure available. We owe our history, our children and our country no less.

Thank you for the opportunity to testify today and I would be happy to answer any questions.

**Appendix A:**  
**Election Protection 2008 Primary Report:**  
**Looking Ahead to November**  
**May 16, 2008**

**Election Protection Partners:**

A. Philip Randolph Institute	Black Youth Vote
ACLU of Maryland	Brennan Center for Justice
ACLU of Southern California	Bronx Defenders
ACLU Voting Rights Project	California Common Cause
ACORN	California Protection and Advocacy
Advancement Project	CASE Ohio
Advocates for Basic Legal Equality	Center for Election Integrity at Cleveland State University
AFL-CIO	Change to Win
African American Ministers Leadership Council	Coalition of Black Trade Unionists
Alliance for Retired Americans.	Committee of 70
American Association for Justice	Common Cause
American Bar Association	Common Cause Indiana
Asia Pacific American Labor Alliance	Common Cause Ohio
Asian American Justice Center	Common Cause Pennsylvania
Asian American Legal Defense and Education Fund	Congreso de Latino Unidos
Asian Pacific American Bar Association	Cook County Bar Association
Association of Black Women Attorneys	Democracia USA
Atlanta Legal Aid Society	Democracy North Carolina
Avencia	Demos
Bet Tzedek	Disability Rights Network of Pennsylvania
Black Leadership Forum	Drexel University
Black Women Lawyers Association of Los Angeles	Ebenezer A.M.E. Church
	Gate City Bar Association
	Georgia Association of Black Women

Attorneys  
Georgia Association of Latino Elected  
Officials  
Georgia Coalition of the Peoples' Agenda  
Greater Philadelphia Cares  
Greater Washington Area Chapter Women  
Lawyers Division of National Bar  
Association  
Hispanic National Bar Association  
Houston Black Lawyers Association  
Human Rights Campaign  
IMPACT  
J. L. Turner Legal Association  
John M. Langston Bar Association  
KPMG International  
Labor Council for Latin American  
Advancement  
Leadership Conference on Civil Rights  
League of United Latin American Citizens  
League of Women Voters of Ohio  
League of Women Voters of Pennsylvania  
Metropolitan Black Bar Association  
Mexican American Legal Defense  
and Educational Fund  
NAACP, Inc.  
NAACP Atlanta Branch  
NAACP Brooklyn Branch  
NAACP Cleveland Branch  
NAACP Houston Branch  
NAACP Indiana State Conference  
NAACP Legal Defense Fund  
NAACP National Voter Fund  
NAACP Ohio State Conference  
NAACP Prince Georges' County Branch  
National Association of Latino Elected  
and Appointed Officials  
National Bar Association  
National Black Law School Association  
National Coalition on Black Civic  
Participation  
National Congress of American Indians  
National Disability Rights Network  
Native American Bar Association  
New York PIRG  
Norman S. Minor Bar Association  
Ohio Women with Disabilities Network  
OhioVotes  
People for the American Way Foundation  
Philadelphia AFL-CIO  
Philadelphia Daily News  
Policy Information Exchange  
Puerto Rican Legal Defense and Education  
Fund  
Rock the Vote  
Service Employees International Union  
Special People In Northeast, Inc.  
Temple University  
The Black Press of America  
The New Voters Project  
University of Philadelphia Law School  
Video the Vote  
VotePA

Votes for Home

Washington Bar Association

**Legal Partners:**

Arent Fox LLP

Arnold & Porter LLP

Ballard Spahr Andrews  
& Ingersoll, LLP

Bingham McCutchen LLP

Blank Rome LLP

Cleary Gottlieb Steen  
& Hamilton LLP

Cooley Godward Kronish LLP

Crowell & Moring LLP

Davis Polk & Wardwell

Debevoise & Plimpton LLP

Dechert LLP

Dewey & LeBoeuf LLP

Dickstein Shapiro LLP

DLA Piper US LLP

Dorsey & Whitney LLP

Drinker Biddle & Reath LLP

Fried, Frank, Harris, Shriver  
& Jacobson LLP

Heller Ehrman LLP

Hogan & Hartson LLP

Kaye Scholer LLP

Kilpatrick Stockton LLP

Kirkland & Ellis LLP

Latham & Watkins LLP

Manatt, Phelps & Phillips, LLP

Miner, Barnhill & Galland, P.C.

Morgan, Lewis & Bockius LLP

Morrison & Foerster LLP

Munger, Tolles & Olson LLP

Nixon Peabody LLP

O'Melveny & Myers LLP

Patton Boggs LLP

Proskauer Rose LLP

Reed Smith LLP

Ropes & Gray LLP

Shearman & Sterling LLP

Simpson Thacher & Bartlett LLP

Skadden, Arps, Slate, Meagher  
& Flom LLP

Steptoe & Johnson LLP

Stroock & Stroock & Lavan LLP

Sullivan & Cromwell LLP

Sutherland Asbill & Brennan LLP

Troutman Sanders LLP

Venable LLP

Weil, Gotshal & Manges LLP

## INTRODUCTION

In this unprecedented primary season, Americans have once again turned to Election Protection to ensure their votes count. Pundits and strategists alike never imagined the length of this primary process, nor how the historic ground swell of the collective voice of new voters would shape the results.

Unfortunately, the encouraging story of record turnout has been tempered by voters in each primary reporting they were underserved by the infrastructure that supports the election process. This report highlights some of those problems. While each state had a unique set of issues at the polls, there are some common obstacles that voters across the country faced.

While some of the reports that follow describe a single caller's experience, many represent the problems faced by tens, sometimes hundreds of voters. The experiences of the voters served by Election Protection paint a picture of a system that is not prepared to handle this year's expected significant increase in voter turnout. There is time, however, for jurisdictions across the country to adopt new procedures to better respond to the needs of their constituents. Election Protection and the Lawyers' Committee are already establishing programs across the country to operate from now through Election Day to ensure that all voters have an opportunity to cast a meaningful ballot. And when the polls close on November 4, 2008, the Lawyers' Committee will begin culling through the unprecedented amount of data collected by the coalition to make recommendations about improving the voting process nationwide based on real experiences of voters across the country. Based on what Election Protection learned in the primary, the most pressing problems are:

- **Under Trained and Not Enough Poll Workers:** In each primary covered by Election Protection, the dedicated cadre of poll workers misapplied many election rules – from what ballot to give which voter, to what to do when election equipment broke down – causing voters to unnecessarily cast provisional ballots or, worse, to leave the polling place without voting.
- **Election Machinery Breakdowns:** Last-minute changes in voting equipment and new procedures at the polls caused confusion among voters, poll workers and election

administrators often leading to disenfranchisement. But it was not only human error and confusion; ballot scanners jammed, electronic voting machines broke down and new electronic poll books malfunctioned.

- **Registration Roll Problems:** From state to state, eligible voters who submitted timely registration applications failed to appear on the registration rolls. Other voters showed up on the rolls registered with a political party other than the one with which they intended to register.
- **Confusion Over Voter Identification Requirements:** Voters across the country were improperly asked for identification. Some poll workers, apparently confused about the requirements in their state, were implementing illegal and restrictive voter identification requirements, turning away eligible voters who did not have identification.

Over the coming months, election officials across the country have the authority to prevent many of these problems from happening. Election Protection looks forward to working together with those responsible for administering elections to:

- **Improve poll worker training;**
- **Ensure proper protocols for dealing with election machinery breakdowns;**
- **Implement procedures to guarantee that all eligible registrants make it on the registration rolls; and**
- **Widely publicize correct requirements and restrictions about voter identification and other procedures.**

## **ELECTION PROTECTION 2008**

This year, Election Protection has already organized legal programs for the February 5 “Super Tuesday” Primary, the February 12 “Potomac Primary”, the March 4 “Second Super Tuesday” Primaries in Ohio, Texas, Rhode Island and Vermont, the April 22 Pennsylvania Primary, and the May 6 Indiana and North Carolina Primaries. The unique combination of activities that the coalition offers provided immediate support for thousands of voters across the country. Almost 1700 legal volunteers have been recruited, trained and deployed. The 1-866-OUR-VOTE Hotline, administered by the Lawyers’ Committee and our pro bono partners, answered more than 6,800 calls from 43

states and the District of Columbia. Nine call centers were established at law firms across the country where legal Hotline operators staffed over 200 lines. The Election Protection database, designed by the Electronic Frontier Foundation, has already collected more than 5,500 reports from voters across the country. Legal field programs were also organized in Atlanta, Los Angeles, Maryland, Dallas, Houston, Cleveland, Philadelphia, Pittsburgh, Indianapolis and Charlotte.

As November draws closer, the Lawyers' Committee is gearing up to provide the most extensive legal assistance structure to its Election Protection allies since the founding of the program in 2001. Ten thousand legal volunteers will form over 25 local Election Protection Legal Committees (EPLCs) to provide comprehensive legal assistance, guidance, support and advice to diverse coalitions of state and local voter mobilization partners, answer over 200,000 calls to the 866-OUR-VOTE Hotline, meet with election officials, litigate where necessary and advocate for common sense improvements in the election process. There will be more call centers, more trained volunteers and more locations to provide immediate assistance to voters and support for our coalition partners from late spring through Election Day. EPLCs will be working with coalition partners to identify the types of problems voters may face in each location and what can realistically be done to address those issues before Election Day.

## **SUPER TUESDAY - FEBRUARY 5, 2008**

For the first time in history, over half of primary voters cast ballots or caucused on the same day. Starting nearly a year before, state legislatures began moving their presidential nominating contests up to give their voters an opportunity to play a more significant role in the selection of the parties' presidential candidates.

As the country was gearing up for its largest primary process, Election Protection was doing the same. The Lawyers' Committee, together with pro bono partners set up call centers in Los Angeles, CA; Atlanta, GA; Chicago, IL and New York, NY.

Volunteer attorneys created local Election Protection Legal Committees (EPLCs) to coordinate a strategic media campaign focusing their efforts on placing the non-partisan Hotline (1-866-OUR-VOTE) number and critical voter protection information in media outlets that target traditionally disenfranchised voters. A comprehensive suite of

election materials, from election guides, to Frequently Asked Questions, to Voters' Bills of Rights were updated for each of the states voting on February 5.

Community partners led voter mobilization programs, spread the word about the resources the Election Protection coalition provides to voters and worked with the EPLCs to engage local election officials and prepared the programs for what voters might face on primary day.

Voters across the country received invaluable information and problem-solving from trained call center volunteers.

While the majority of calls were received from the four states where Election Protection had call centers, voters from 15 other Super Tuesday states also received assistance through the Hotline.

## **CALIFORNIA - FEBRUARY 5, 2008**

Arcane primary rules and poll workers' confusion dominated the coverage of problems in California. Voters who did not register with a political party (in California, these voters are referred to as "Decline-to-State" voters) are allowed to vote in either the Democratic or American Independent primaries.

Across the state, the Election Protection Hotline received calls from voters and poll workers alike unfamiliar with who could vote in which primary. Untrained poll workers refused to allow some Decline-to-State voters to cast ballots.

In Southern California another poll worker training problem dubbed "Double Bubble Trouble" threatened to leave 59,000 ballots uncounted. Los Angeles County used a balloting system which required Decline-to-State voters to physically mark a bubble at the top of their ballot indicating whether they were voting in the Democratic or the American Independent primary.

Confusion about the double bubble issue resulted in the disenfranchisement of many Decline-to-State California voters because they did not mark the bubble at the top of their ballot indicating in which primary they wished to vote.

Election Protection coalition partners led by Common Cause and the California Voter Empowerment Circle (CalVEC) advocated with Secretary of State Deborah Bowen for these ballots to count since the vast majority of voters intended to vote in the

Democratic primary, as indicated by the rosters of votes.

Armed with the data and voter experiences collected through Election Protection, coalition partners met with acting Los Angeles Registrar of Voters Dean Logan and his staff to discuss possible solutions. Within two weeks, Los Angeles County was able to implement a plan to assess the intent of 47,000 voters and “rescue” and count their ballots.

Of course, this is just one of the problems that voters faced in California. Many California voters were disenfranchised because they were dropped from the registration rolls. One caller who had registered two years before had called the Secretary of State’s posted phone number to confirm her registration two weeks prior the election, but was not on the registration list when she went to cast her vote.

California voters were also disenfranchised when their party affiliations were wrongly designated on the registration rolls at their polling places. Some registered Democrats were listed as Republicans on the registration rolls, and were not allowed to vote in the Democratic primary, while many registered Republicans were listed on the registration rolls as a Decline-to-State voters or Democrats and were not permitted to vote in the Republican primary.

**Other California voters called Election Protection to report:**

- A poll worker in Baldwin Park was going down a long line of voters demanding they show identification before they could vote, despite no identification being required.
- Callers reported that they did not receive the vote-by-mail ballots they had previously requested.
- At one polling place, a poll worker challenged a student voter’s right to vote and refused to issue a regular ballot because the poll worker asserted that the voter no longer lived at the address the voter used for voter registration.
- In Oxnard, a polling place did not have the voter registration roll for any voter with a last name beginning with “M” or later in the alphabet. All voters with a last name beginning with “M” or later were being instructed to vote by provisional ballot. Poll workers were forcing these voters to vote provisionally.
- Several polling places opened late, making it difficult for working voters to vote prior to going to work and creating confusion for voters.

## **GEORGIA - FEBRUARY 5, 2008**

Many of Georgia's difficulties on Super Tuesday stemmed from issues with voting technology. Long lines were caused by a shortage of, and problems with, new computerized poll books.

In other incidents, callers reported that the voting equipment was not working, sometimes for an extended period of time, or that the machine failed to record votes properly. One caller reported a line "down the street and around the corner" with over a 45-minute delay due to only one of three machines working. Election Protection advised the caller to ask for a paper ballot and sent a Mobile Legal Volunteer to ensure the situation was resolved.

Throughout the day Election Protection notified election officials about technological issues reported by voters.

In another incident, a caller reported that he had asked to vote Democrat, but when the poll worker inserted the yellow card into the machine Republican names appeared and then the machine shut off. When he asked the poll worker for assistance he was told he had voted. The caller disputed this fact because he had no intention of voting Republican, but the poll worker was unwilling to help. Election Protection was able to resolve this issue by contacting an election official who sent a technician to pull up his voting information and contacted the voter to cast a provisional ballot.

Election Protection also responded to several reports of voter intimidation. In one instance, a caller was stopped by a road block in Fulton County. Election Protection responded by calling officials and the road block was disbanded.

Another report involved an armed Elections Investigator for the Secretary of State at a polling location. Election Protection quickly responded by dispatching a Mobile Legal Volunteer to the polling place.

When the team arrived at the majority African American polling place, the Investigator was standing behind a poll worker who was reviewing and entering identification at the check-in. He left shortly after the team arrived and Election Protection called the Secretary of State's office to report the incident and the concern expressed by voters.

### **Other Georgia voters called Election Protection to report:**

- A voter in Cobb County reported the entrance to her precinct was blocked and the polling location appeared to be closed. She explained that police wanted voters to enter through the side of the building, but people were unaware and were leaving.
- There were scattered reports of voters being issued a ballot for the wrong party—one caller reported his girlfriend was given an incorrect ballot and the poll worker refused to provide the correct one.
- Another caller reported she was unable to cast a regular ballot at her polling location because a poll worker had incorrectly marked her name when a previous voter with a similar name had voted. Instead, she was forced to cast a provisional ballot.
- Many voters showed up to vote, believed they were registered, and in some cases had received confirmation of their registration, but were told they were not on the rolls.
- Several voters from one particular polling location called to report very long lines caused by the electronic ID verification machines – only two of the 10 machines were being used.
- After presenting identification, a caller was told she was listed as having already voted. The poll worker was unable to make the screen function properly and advised her to return later, even though she had already waited an hour. When the caller returned in the evening, she was told she could have voted earlier by paper ballot.

### **ILLINOIS - FEBRUARY 5, 2008**

Confusion among poll workers regarding identification requirements complicated primary voting in Illinois. Election Protection received multiple reports of poll workers who were erroneously asking voters to show photo identification.

Illinois law requires only first time voters who register by mail to show identification, but reports came in to Election Protection that several long-time voters were being turned away in the city of Chicago.

Another caller alerted Election Protection to a situation in DuPage County where

he witnessed a poll worker requiring voters to show identification. When a fellow poll worker informed her that identification was not required under most circumstances she seemingly ignored him. The incident was reported to an “obstinate” Election Judge. Election Protection dispatched a Mobile Legal Volunteer to the polling location to address the identification issue.

Yet another problem arose in a precinct with a large Latino population when a caller reported a similar incident to his Board of Elections, but did not believe they were responding to his complaint and called 1-866-OUR-VOTE for further assistance.

Another problem experienced by Illinois voters involved the distribution of ballots. One voter reported that she had been given a Republican ballot despite requesting a Democratic one. When she finally received the correct ballot, she reported the poll workers put her ballot aside rather than in the proper place for counting.

There were several reports about electioneering close to the polls. A caller in Chicago Heights reported he was followed into the polls by a stranger trying to convince him to support particular candidates.

Similar reports were made to the Election Protection Hotline regarding poll workers who were encouraging individuals to vote for certain candidates, or of poll workers calling out voter party information in a crowded polling place.

**Other Illinois voters called Election Protection to report:**

- Polling places in multiple counties opened late. One voter reported that he could not wait for his polling place to open and would not be able to vote because he worked over one hour away.
- One voter knew that, by law, officials were required to offer Democratic, Republican and Green Party ballots, but did not receive his requested Green Party ballot at his polling location in Lake County until he insisted to multiple officials that they provide him with the correct ballot. After two different officials claimed not to have any ballots, they were “finally able to dig one up.”
- A caller expressed concern about the ballot machine at her polling location. When she finished voting, the election judge tried to feed her ballot into the machine back-side up. She protested and the ballot went through the correct way, but the election judge said that she “was one of the lucky ones.” The caller was concerned that if the

election judge was doing this with other ballots, these ballots were not being counted because they were not being fed into the machine properly.

- When a voter asked for a Democratic ballot in a predominantly Republican area, she was told she needed to show photo identification, contrary to Illinois law. She refused and insisted they allow her to vote. Other poll workers then made loud remarks like, “Oh, we've got a Democrat here.”

## **NEW YORK - FEBRUARY 5, 2008**

Across New York City, longtime voters showed up at the polls to find they were not on the rolls. Many of these citizens had neither changed their party affiliation nor their address.

A number of callers received documents in the mail detailing their assigned polling location, but when they arrived at the sites they were not listed on the rolls.

One caller estimated that over 100 voters at a single polling place had been dropped from the rolls. Poll managers confirmed that names were missing from the rolls. A number of voters whose names did not appear on the list had registered with the Department of Motor Vehicles.

One caller and her husband were turned away from their polling place because their names were not on the list. They reported the poll worker had told them that “there must be pages missing from the voting rolls” because there was a group of names missing spanning a section of the alphabet. Election Protection verified that she and her husband were at the correct polling site and advised them to print their registrations and return to the polls.

Voting machines also caused problems in New York due to inadequate poll worker training as well as machine malfunctions. Voting machine failures occurred across the city, including parts of Manhattan, West Harlem, Brooklyn and areas of the Bronx.

Some callers reported poll workers were not following protocol by turning away voters when voting machines broke down. Other voters were mistakenly given an affidavit instead of an emergency ballot which is counted regularly.

Callers also complained that poll workers were disseminating information

contrary to written instructions or were unfamiliar with the correct administration of voting materials. When one caller's voting machine was broken, she was given a paper ballot that was already filled out. She also reported the paper ballot receptacle was an unlocked cardboard box and the paper ballot had candidates from both parties listed.

Throughout the day, when machines broke down many poll workers became confused about proper procedures. Problems resulted from these poll workers' lack of training when failing voting equipment or names missing from the voter rolls required that alternative measures be taken as designated by complex New York voting laws.

Election Protection sent legal representatives to polling locations to inform poll workers of their legal duties, communicated problems to the Board of Elections and initiated the dispatch of machine technicians.

**Other New York voters called Election Protection to report:**

- Multiple callers reported inappropriate behavior by poll workers. One caller reported that her husband, a registered Republican, was laughed at and ridiculed because of his declared party affiliation. Another caller reported a poll worker made a disparaging remark about the candidate for whom she was wearing a pin.
- At a Manhattan theater, a caller reported the only voting machine assigned to his district had broken down. Voters were instructed to fill out emergency ballots at a table without any privacy. Ballots were then folded into quarters and placed in a cardboard box.
- Another caller reported there was a lack of privacy for voters filling out affidavit ballots at her polling place. She was also concerned there was no visible lockbox to hold the completed ballots. Instead, poll workers took the envelope and "disappeared into a room with it."
- A caller reported that at her polling location, poll workers physically entered the voting booth trying to fix the machines and changed the voter's selection. Election Protection sent a Mobile Legal Volunteer to the polling location to inform the poll workers that they needed to use emergency ballots.

**POTOMAC PRIMARIES - FEBRUARY 12, 2008**

When Super Tuesday failed to produce presumptive nominees in either party, the eyes of the nation and Election Protection turned to the District of Columbia, Maryland and Virginia on February 12, 2008, dubbed the “Potomac Primaries.”

The Lawyers’ Committee, together with DLA Piper US LLP, set up a call center in Washington, D.C., monitored polling places in Prince George’s and Montgomery Counties in Maryland and had volunteers stationed at select election official offices in the region.

Volunteer attorneys created a regional Election Protection Legal Committee (EPLC) to meet with local election officials, developed a suite of legal materials and implemented a strategic media campaign to promote the 1-866-OUR-VOTE number and provide vital election-related information to voters.

EPLC members also analyzed data to create a target polling site list for Mobile Legal Volunteers focusing on areas with a disproportionate number of traditionally disenfranchised voters or histories of election administration problems.

The Potomac Primaries continued the trend of high voter turnout. In the District of Columbia, turnout was the highest it had been for a presidential primary in 20 years; in Virginia, there was a 130% increase from 2004; and Maryland had the highest presidential primary turnout in 16 years.

Election officials were overwhelmed and under prepared for such large crowds. Across the region a large number of voters were unable to exercise their fundamental right because the polling places opened late, poll workers were uninformed about the rules, machines malfunctioned and polling places ran out of ballots.

Election Protection worked overtime when a Maryland judge extended polling hours in that state due to an ice storm.

## **DISTRICT OF COLUMBIA - FEBRUARY 12, 2008**

Election officials and poll workers in the District of Columbia were not adequately prepared for the near record turnout during its 2008 Presidential Primary. A shortage of paper ballots, malfunctioning machines and a lack of resources at polling places led to long lines and voters being turned away without casting a ballot.

Election Protection worked closely with D.C. election officials throughout the day

to help fix problems as they were reported. A number of polling locations ran out of ballots, sometimes more than once throughout the day, causing excessively long lines and forcing countless numbers of voters to leave without casting a ballot. One caller reported that when her polling location ran out of Democratic ballots, voters were instructed to vote Republican.

Election Protection leadership stayed in close contact with the District of Columbia Board of Elections and Ethics late in the day, relaying reports of paper ballot shortages as they were coming in.

Callers reporting ballot shortages included D.C. Councilmember Yvette Alexander, who called to report her precinct had run out of paper ballots. Another caller, who did not feel comfortable voting electronically, was denied her request for a paper ballot, despite local law that gives voters the right to cast a paper ballot if requested. The caller left without voting.

There were also numerous reports from across the District of Columbia of problems with voting machines, including one call from a polling location where only machine was not functioning. The voter reported that she was instructed to use a paper ballot, and to place that ballot in an unsecured box.

**Other District of Columbia voters called Election Protection to report:**

- Poll workers at one precinct giving out Republican and Statehood Green Party ballots to registered Democrats because they had run out of Democratic ballots.
- A caller reported that, when the polling place at Mount Pleasant Library ran out of paper ballots, voters had to wait in a long line because there was only one touch-screen machine. The polling site also ran out of registration cards to submit for a ballot after signing the roster, so people started using blank pieces of paper to obtain ballots.
- One of Election Protection's Mobile Legal Volunteers reported that when she voted, the optical scanner at her polling place was not working. Ballots were being placed inside the scanner to be processed later.
- Another caller had voted Democrat and registered as a Democrat since 1986, but was informed at her polling place that she was listed as a Republican and so had to vote on a provisional ballot.

## **MARYLAND - FEBRUARY 12, 2008**

In Maryland near record turnout swamped poll workers and precincts throughout the state. Election Protection received numerous reports of voting machines breaking down. Making the problem worse, many poll workers were not properly trained to hand-out emergency ballots, causing voters to leave without casting a ballot.

In Montgomery and Prince George's County, Election Protection volunteers at election offices worked with county officials to rectify many of these problems and prevent further voters from being turned away. Election Protection also dispatched Mobile Legal Volunteers to polling locations to check on problems, work with poll workers and ensure problems were resolved.

Election Protection received a troubling number of calls from voters who registered through the Department of Motor Vehicles (DMV), but were not on the rolls. Numerous voters arrived at the polling place only to find they were not registered with the party they chose on their registration form preventing them from voting in Maryland's closed primary.

In addition to issues with the DMV, Election Protection worked with numerous voters who had problems with their registrations. Reports from callers and Mobile Legal Volunteers included names dropped from the rolls, incorrect party affiliation, confusion and apparent malfunction of electronic poll books.

A number of the voters reporting party affiliation issues had previously voted without problem. Election Protection was able to help some voters determine their correct party affiliation, allowing them to vote. Volunteers advised others to cast a provisional ballot and contact their local Board of Elections to try to resolve the problem.

Election Protection worked late on February 12 when a Maryland judge extended polling place hours by 90 minutes due to severe weather. The Hotline received a flood of calls after the normal closing time from voters confused about the rules pertaining to extended hours – Federal law requires after hours voters to cast a provisional ballot that is counted like a regular ballot, however, poll workers at several precincts were not properly informed about the procedures.

A caller also reported that poll workers at a polling location in Clinton, MD

closed the site, kicked voters out of line and locked the doors, despite Maryland's extended hours. Election Protection quickly contacted county election officials who ordered the polling place back open, allowing several voters, who would have otherwise been turned away, an opportunity to cast a ballot.

**Other Maryland voters called Election Protection to report:**

- A caller in Upper Marlboro reported the ballot on her touch screen machine was incorrectly setup as an audio ballot. The voter asked the presiding election judge for assistance and, after speaking to his supervisor, pulled the card out of the machine. The screen read that the ballot had been cancelled and the election judge gave her a provisional ballot and took her voter card. The caller said she witnessed the same incident happen to approximately 15-20 other voters.
- Multiple callers reported long lines due to disorganization at the polling site, an inadequate number of voting machines, or insufficient preparation for check-in. Several callers reported long lines caused a large number of voters to leave without casting a ballot.
- A number of callers reported they had not been notified of polling location changes. A voter in Prince George's County reported she and other voters had stood in line for 30 to 45 minutes before finding out the polling site had changed. Another caller reported she did not know the polling place where she has voted for a number of years had changed until she was waiting in line. She ultimately cast a provisional ballot along with at least four other people in line.

**VIRGINIA - FEBRUARY 12, 2008**

Election Protection helped keep countless Virginians in the Richmond area from being turned away when polling places in Chester County ran out of Democratic ballots. At one of the polling places, a poll worker was giving out sheets of paper and telling voters to write down their name, party and presidential candidate, and the sheets of paper would be counted as regular ballots the next day. Volunteers contacted the county board of elections and stayed in close contact with the media, ensuring that ballots were delivered before the polls closed. The Hotline also received multiple reports of poll workers not allowing voters without identification to vote.

Election Protection also received disturbing reports of voter intimidation. In Spotsylvania, a caller reported seeing a scarecrow hanging from a tree—as though it had been lynched—near her polling place. Another caller in Arlington County reported that a county sheriff’s officer was pulling people over in front of the polling place. An Election Protection volunteer notified the county board of elections who contacted the sheriff’s office to address the situation.

Severe weather caused power outages in the southwestern part of the state, forcing election officials to change polling locations at the last minute. Election Protection received reports that voters were confused about where they were supposed to vote. Local television and radio stations reported the changes, but many voters did not have power in their homes. Election officials put out signs at the closed precincts, but many of them were too small or not readily visible for voters to see. Confused voters also could not get through to their local election officials because the phone lines were jammed. Election Protection leadership immediately contacted the Virginia State Board of Elections and stayed in contact with them throughout the evening. The Board contacted the media and area poll workers to disseminate corrective information.

**Other Virginia voters called Election Protection to report:**

- A polling place in Fairfax County had only one person checking voters in and one person handing out ballots. At one point, a poll worker even went outside and advised voters that they might want to come back later.
- An Arlington County polling place lacked sufficient parking forcing voters to circle the location for over 30 minutes. The caller observed several voters give up and drive off without casting a ballot.
- Multiple callers reported that a polling place in Prince William County was understaffed and under resourced. Several voters could not wait in a line that took over an hour and left without casting a ballot.
- A polling place in Fairfax County was listed incorrectly on the website and in the voters’ guide mailed by the board of elections, causing numerous voters to go to the wrong location with no information directing them to the correct address.

**THE SECOND SUPER TUESDAY - MARCH 4, 2008**

The unprecedented turnout continued on Tuesday, March 4th as voters went to the polls in Ohio, Rhode Island, Texas and Vermont.

The Lawyers' Committee and DLA Piper US LLP set up a call center in Washington, D.C., where the 1-866-OUR-VOTE Hotline received over 1,000 calls from voters.

Volunteer attorneys again organized into Election Protection Legal Committees (EPLCs) to meet with local election officials, developed a suite of legal materials and implemented a strategic media campaign to promote the 1-866-OUR-VOTE number and provide vital election-related information to voters.

In Dallas and Harris Counties in Texas, and Cuyahoga County in Ohio, volunteer attorneys and coalition partners set up local command centers. From these command centers, local leaders dispatched mobile legal volunteers, contacted election officials and helped resolve problems called into the call center in Washington, D.C.

High voter turnout again overwhelmed states as they struggled to supply a sufficient number of ballots and provide space for voters and caucus-goers. Over 2.8 million voters cast ballots, 61% more than in the last presidential election.

In Cuyahoga County, Ohio, Election Protection Mobile Legal Volunteers worked closely with poll workers to solve problems when they couldn't get in touch with the county board of elections' Hotline. Election Protection was able to quickly contact volunteers directly at the board's offices and fix problems in minutes rather than hours, protecting the right to vote for countless Ohioans.

In Texas, Election Protection volunteers worked overtime when the complex Democratic Party primary/precinct convention rules confused and disenfranchised voters across the state.

## **OHIO - MARCH 4, 2008**

About half of the March 4 primary calls came from Ohio. The majority of the problems reported were the result of insufficient information, a lack of resources and inclement weather. While Election Protection and county boards of elections worked to fix problems as they arose, countless Ohioans were disenfranchised due to these problems.

Election Protection had an especially strong presence in Cuyahoga County with legal volunteers on the ground monitoring targeted precincts throughout the County, assisting voters, helping poll workers and gathering information. The coalition also placed legal volunteers at select Board of Elections offices in Cuyahoga County and across the state.

One of the common problems reported by callers was confusion among voters and poll workers about the newly implemented paper ballot system, especially whether or not to remove “Stub A” from paper ballots. The stub was clearly labeled "Do Not Remove Or Vote Will Not Be Counted." While the warning was not to remove the stub prior to a voter marking the ballot, this was not clear to voters or poll workers. Election Protection worked with the Cuyahoga County Board of Elections to inform voters and poll workers of correct procedure, ensuring that ballots would be counted.

Additionally, multiple precincts began to run out of materials in the evening and poll workers reported problems getting more from the board. When one precinct ran out of paper ballots, poll workers began handing out ballots for another precinct within the polling location despite the fact that the two precincts were in different Congressional Districts. Election Protection was able to quickly notify the Board of Elections and get ballots to the polling place.

Polling locations also ran out of other materials. At one location an Election Protection mobile legal volunteer brought a new box of pens for filling out ballots because the poll workers could not get through to the Board of Elections and workers were concerned that voters would be turned away.

During early voting, a concerned caller reported to the Hotline that voters were not being permitted to park temporarily at a free parking lot behind the Cuyahoga County Board of Elections and were instead directed to pay for parking at lots costing \$4.00-\$10.00. One woman, who could not pay for parking, was in tears because she was unable to vote. Election Protection’s coalition partners on the ground contacted the Cuyahoga Board of Elections and the Board cleared the employee lot to allow any voter free parking for the remainder of the early voting period. The Board also delivered an absentee ballot to the house of the elderly woman who had been turned away.

**Other Ohio voters called Election Protection to report:**

- In Cuyahoga County, disability access and electronic reading machines were down at multiple polling locations—some had not worked since early morning. One report noted that the person with knowledge to operate the special disability equipment simply failed to show up.
- The paper ballot system also raised privacy issues across the state. Mobile Legal Volunteers observed multiple polling locations that lacked sufficient privacy screens, forcing many voters to cast their ballot in the open.
- Numerous eligible voters were unable to vote with regular ballots because their names did not appear on the electoral rolls or appeared incorrectly. A caller reported that when she gave the poll worker an electric bill as proof of identification, the worker refused to accept it and told her voters needed a valid Ohio drivers' license with a current address in order to vote.
- One student reported that a poll worker required students to recite their address, while another overheard poll workers incorrectly saying that if the address on a student's driver's license did not match the address on their voter registration they would have to vote a provisional ballot.

## **TEXAS - MARCH 4, 2008**

Dubbed “the Texas Two-Step”, the Texas primary was unique because it was both a primary and a caucus. Election Protection worked on the ground and in call centers to help ensure that voters were able to fully participate in both processes.

At the polls, late openings created problems for early voters. One location in Tarrant County opened late and attempted to close early. Election Protection was able to contact the County Registrar to correct the problem. At another polling location in Dallas, there were 100 to 200 people waiting in line at 7:10 a.m. because the polling place wasn't set up. The two workers who were on hand were telling people to return at later without offering an emergency ballot.

Both during regular voting and early voting, callers from Texas reported having problems at the polls when their registration information was either incorrect, changed, or their names were missing from the electoral rolls. Voters across the state reported their names were purged from the rolls, including voters who had submitted changes to their

registration information six weeks before the election.

Some voters reported that, although they had registered before the deadline with the Department of Motor Vehicles, they were not listed on the rolls at the corresponding polling location or had never received a registration card in the mail. Election Protection instructed them to vote by provisional ballot and to contact the local election authorities before the November elections.

Multiple callers reported that they showed up to cast a ballot before the polls closed, but because of the long lines and general chaos ended up in line for the caucus by mistake. By the time they realized their error, the polls had closed and they were unable to vote.

The Texas precinct conventions were also problematic, largely due to a lack of preparation for an unprecedented turnout. Election Protection received numerous reports of locations that weren't equipped to handle the large number of caucus-goers that arrived, causing excessively long lines at precinct convention locations.

At one location 400 people were still waiting to participate in the caucus one and a half hours after it started, and at another a caller reported that she was in line before 7:15 p.m. to caucus, but the line was so long that when she finally made it to the front more than an hour later the door was locked and she was told she could not participate.

Election Protection also received numerous calls from voters who were confused about the transition from primary to caucus. One caller who had participated in early voting was turned away because he didn't bring the yellow receipt given when he voted.

At one caucus site, a poll worker kept voters waiting to caucus 100 feet away from the polling place, even after the polls closed on time. She would not let anybody inside. Voters were filling out caucus forms in the dark, many using light from cell phones. At another location, voters were denied entry to their caucus by the Fire Marshall.

**Other Texas voters called Election Protection to report:**

- Election Protection received multiple reports of employers denying employees their legal right to time off to vote. One caller reported that, when he requested time to leave and vote, the employer responded, "it's your problem if you do not get off in time to go vote."

- At a polling location in Dallas, a volunteer for a sheriff candidate entered a polling place and started incorrectly telling people waiting in line that if they were voting Republican they could go down the street and vote at a different location.
- A single location had only eight booths and one scanner, but the polling place housed three precincts.
- A polling place in Denton County was directing disabled voters to the back of the building where there was no assistance for them to go up the stairs to the voting area.
- General logistics were a significant problem in Texas. Multiple callers reported tow trucks towing cars, including one site in Dallas where people had to leave the caucus location to go outside to stop their cars from being towed.

### **PENNSYLVANIA PRIMARY - APRIL 22, 2008**

At the end of April, the country's attention turned to the Pennsylvania Primary. The Lawyers' Committee and principle Pennsylvania coalition partner the Committee of Seventy were on the ground with over 800 volunteers, mostly stationed in Philadelphia, making this the largest single state Election Protection Primary program. Volunteer attorneys once again organized into an Election Protection Legal Committee (EPLC) to develop relationships with local election officials and media to promote the 1-866-OUR-VOTE number and provide critical support to voters.

A call center at the DLA Piper LLP US office in Philadelphia fielded Hotline calls from across the state, while an army of trained volunteers fanned out across the city to respond to problems at any polling place in Philadelphia. Election Protection leadership was also able to rapidly dispatch these volunteers to polling places in their zones to check on reports of problems and address the issue at the source, helping to protect voters across the city. The comprehensive program was a success by taking advantage of the combined strengths of the Lawyers' Committee and the Committee of Seventy. The relationship between these organizations is spearheaded by Lawyers' Committee board member John E. McKeever, a partner at DLA Piper, who also serves on the Board of Directors for the Committee of Seventy. Election Protection's Coalition partner Congreso de Latino Unidos, in conjunction with other members of the Coalition, fielded the 1-866-OUR-VOTE Spanish language calls, helping to ensure Pennsylvania's Latino and

Spanish voters were able to cast a meaningful ballot during the primary.

The Election Protection partnership produced over 1,000 voter reports into the Election Protection database recorded throughout the day, the largest number for any single state primary.

Voter turnout once again led to overwhelmed poll workers and long lines - over 3.8 million voters cast ballots in Pennsylvania's primary. As in the other primaries covered by Election Protection, the high turnout exposed many of the fundamental problems that plague the election administration system throughout the state. The sources of problems faced by voters in other states – untrained poll workers, voting machine malfunctions, and problems with the voter rolls – caused many of the obstacles Pennsylvanians faced at the polls.

One of the most troubling issues was a barrage of reports from voters who have been registered as Democrats for years, but were forced to vote provisionally because they were listed as unaffiliated so were prevented from casting a ballot in Pennsylvania's closed primary. When this problem surfaced early in the day, the Coalition took action by alerting the county Boards of Election to the issue and releasing a statement to the media advising voters who encountered this problem to vote provisionally.

## **PENNSYLVANIA - APRIL 22, 2008**

The majority of incidents reported by callers to the 1-866-OUR-VOTE Hotline in Pennsylvania were caused by poorly trained poll workers and an overly-complicated election administration system and poor registration rolls.

Volunteers received more than 300 individual reports of issues at polling locations including poll workers vocally supporting individual candidates at the polls, polling locations that were moved at the last minute without sufficient voter notification, poll workers not being aware of electioneering rules and poll workers imposing overly restrictive voter identification requirements. Election Protection even received a report of a polling location located inside an apartment building with a security system that prevented all but building residents from entering.

Voting machine malfunctions and registration problems were also high on the list of incidents reported. The 1-866-OUR-VOTE Hotline received multiple reports of callers

unable to vote because of machine problems. In some locations, poll workers refused to distribute provisional ballots where voting machines weren't functioning, while others simply ran out of provisional ballots. The machine problems were diverse in type, ranging from power outages to machine vote counts that were different than the records in the poll books.

Issues with registration were also widespread. Some callers reported that their Party affiliation had been changed despite a long-time voting record with their chosen political party, while others - some of whom had been voting for decades - were simply not listed on the rolls. One caller reported that she had voted as a Democrat in the last election, but when she arrived at the polls, her registration was changed to an "Independent needing assistance." The voter was not in need of assistance, nor had she changed her party affiliation.

New registrants, and those who switched their party affiliation for this election, were also listed incorrectly on the rolls. Election Protection also received multiple reports of registration problems from election administrators - several Judges of Elections called to report incorrect or missing voter registrations.

Voters also called to report intimidation at the polls, including candidates videotaping the entrance to the polling location as well as more disturbing incidents. In one instance, a caller reported that people were standing in the doorway of her polling place. When she asked if they would move, they laughed at her. One of the men followed her into the polling place and ridiculed her when she asked an election official about the rule. Callers also reported issues with various candidates' supporters using bullhorns and other devices to shout obscenities.

Another common issue reported to the 1-866-OUR-VOTE Hotline was last-minute changes in polling place location. One caller reported that his polling place had moved without notice - he was only able to find his new polling location through word-of-mouth; there was no poll worker or sign to indicate where the new polling place was. Another voter received a card in the mail directing her to her polling location, which turned out to be a construction site and not a polling spot.

**Other Pennsylvania voters called Election Protection to report:**

- A number of callers were confused and upset by sample ballots that seemed official, but only showed one presidential candidate.
- A voter entered her polling place and asked to be shown how to push the button for her candidate. The poll worker told the voter she was supporting a competitor and said she hoped the voter would adhere to her request.
- Election protection received a call from a voter who reported that the voting machines at her location were set for Republicans only. She told the poll worker that she was a Democrat and the worker replied, "Not today." The voter insisted that she had always voted at that location as a Democrat, but the poll worker simply said "Oh well." The caller was unable to vote.
- At one location, a sample ballot provided by the city was displayed next to the polling machine. A volunteer for a particular candidate had marked this sample ballot in favor of his candidate. This defaced sample ballot remained on display into the afternoon.
- Election Protection received multiple reports of privacy issues - in one location, polling booths were exposed with the machine screens in plain sight of poll workers.
- Disability access was also an issue in Pennsylvania. One woman reported that her mother was unable to access the polling place which was down stairs - the poll workers refused to provide her with a provisional ballot. Another caller reported that she was not allowed assistance from her husband despite being blind. The situation was mismanaged and the caller felt publicly embarrassed.
- One voter called to report that, contrary to Pennsylvania law, a poll worker refused to allow her child to accompany her to the voting machine. When she asked the poll worker why her son was not allowed, the poll worker told her it was because her son "can read."

## **INDIANA & NORTH CAROLINA PRIMARY - MAY 6, 2008**

For our last program of the 2008 Primary season, Election Protection again helped to ensure voters were able to cast meaningful ballots on May 6th. The trend of record turnout continued as voters went to the polls in Indiana and North Carolina.

The Lawyers' Committee together with coalition partner the Brennan Center for

Justice set up a call center at DLA Piper US LLP in New York City, where legal volunteers answered calls from both primary states through the 1-866-OUR-VOTE Hotline.

In Indiana, Election Protection, supported by coalition partners the Brennan Center for Justice and the NAACP Legal Defense Fund, worked with election officials on the ground in Allen, Bartholomew, Clark, Elkhart, Howard, Lake, LaPorte, Madison, Marion, Monroe, Rush, St. Joseph, Vanderburgh and Vigo counties. In North Carolina, we were supported by coalition partner Democracy North Carolina, and worked on the ground in Durham, Mecklenburg, Orange and Wake counties.

Early in the day Indiana's strict voter ID law emerged as a significant issue, as Election Protection received reports from voters across the state who were turned away from the polls. Students, members of the armed services, and even a group of retired nuns were not allowed to cast a ballot due to the burdensome law recently upheld by the United States Supreme Court.

Voters in both states also reported problems with machine breakdowns. In Indianapolis, a school teacher could not wait in the long line resulting from a machine breakdown and was unable to vote, while in North Carolina, a caller was told that the machine at her polling location was broken and her ballot might not be counted.

Registration problems were again an issue, as voters called 1-866-OUR-VOTE to report they were not listed despite having registered by the deadline, or they were listed under the incorrect party.

Inadequate poll worker training aggravated such situations, as workers in both states were not aware of, or did not follow correct procedure. Some turned away voters without offering provisional ballots, while others incorrectly represented the ID requirements in their state.

## **INDIANA - MAY 6, 2008**

Predictably, Indiana voters were met with a variety of problems stemming from confusion over the state's strict voter ID requirements. Indiana is the only state in the nation to require that a voter's ID include a photo, name, expiration date, and be issued by the State of Indiana or the U.S. Government, a requirement upheld in the recent

Supreme Court decision.

The impact of the Court's decision was exemplified in an incident that began with a first-time voter, a freshman at a local private college. She was reduced to tears when poll workers, nuns at a local convent, informed her that her private college ID was insufficient identification for her to cast a ballot. Lawyers' Committee board member and Election Protection leader John Borkowski, a partner at Hogan & Hartson LLP, was working as a Mobile Legal Volunteer at the polling place and attempted to help the student, including offering to help her get a valid ID. While Borkowski and the poll workers were helping her, the workers indicated that some of their fellow nuns also could not vote because of the photo ID law. Not only was this student disenfranchised, but so were many of the retired nuns at the convent.

Borkowski expressed his frustration with the onerous law, saying that it "definitely had the effect of preventing many people who were highly motivated to participate in this primary election from exercising their right to vote. It seems very ironic to me that a law intended to prevent voter fraud prevented members of a single community, essentially a family, who have lived together for years, from accepting the votes of their own sisters."

Confusion about voter ID requirements in Indiana also threatened to prevent a registered member of the military from voting—a caller reported to Election Protection that poll workers refused to accept his current U.S. Military ID, claiming that it was insufficient identification. Fortunately, the caller, through consultation with Election Protection, was able to speak with a precinct judge who corrected the poll workers.

Another common issue involved registration. In what has become a consistent pattern this primary season, Election Protection received multiple reports of voters who had registered, and even had current registration cards, but were not found on the rolls.

Poll worker confusion exacerbated these problems. Many of the people who were unable to vote due to insufficient ID or incorrect registration should have been offered a provisional ballot. Unfortunately, insufficient poll worker training resulted in those voters being simply turned away.

**Other Indiana voters called Election Protection to report:**

- Machine breakdowns continued to disenfranchise voters. One caller reported a precinct where all electronic voting machines had stopped working, but the poll workers were not offering paper ballots. Many voters left without casting a ballot, including the caller who waited for over an hour. In another incident, a school teacher was forced to leave without casting a ballot because he could not wait for a broken machine to be repaired.
- One polling location utilized a private parking facility, so voters had to go through a gate to park, but it was unclear how a voter should leave the facility since a code was required for exit. Election Protection was able to assist voters by speaking with the Inspector, who agreed it was a problem, and was able to provide the code to an EP volunteer for dissemination.
- Disorganization was also an issue. Election protection received multiple reports of polling places opening late and long lines due to organizational issues. In one instance, a poll opened late because the Inspector was not familiar with the area and had to be guided to the location by a Circuit Court Clerk. In another, a voter reported a polling site where the power cord to the machine had not been delivered as of 11 a.m.

## **NORTH CAROLINA - MAY 6, 2008**

As has happened throughout this primary season, the majority of problems experienced by North Carolina voters on May 6th resulted from poorly trained poll workers. Election Protection fielded calls from across the state as voters encountered barriers at the polls.

Election Protection was prepared and assisted voters on the ground with Mobile Legal Volunteers in Durham, Mecklenburg, Orange and Wake counties, and a Command Center, through the support of Dewey & LeBoeuf LLP, in Charlotte. Legal Volunteers got an early start when a caller reported that a poll worker came outside and announced at 6:20 am that there were no ballots and voters were sent away. Election Protection followed up and discovered the polling place had the ballots in a box but had not opened it. Volunteers quickly notified the caller who was able to vote.

One of the poll worker problems that have occurred throughout the primary

season, confusion with party affiliation, affected North Carolina voters on May 6th. Despite the fact North Carolina law allows registered voters who are unaffiliated with the Democratic or Republican parties to vote in either primary, multiple callers who were registered as Independents reported poll workers incorrectly turned them away. One voter was told she could only vote in a non-affiliated district judge election; Election Protection advised her she could vote in either primary election.

While North Carolina's primary is open for Independents, voters registered with either the Democratic or Republican parties must vote their party ticket. This added to the confusion on May 6th. Election Protection received reports of voters being registered with the wrong party, including a caller who claimed to have registered as a Democrat, but was informed by poll workers that she was listed as a Republican. The situation was made worse when poll workers incorrectly prevented her from voting for her Democratic candidate, rather than allowing her to vote provisionally.

Inappropriate behavior by poll workers was also reported to Election Protection. At one polling location, a poll worker followed a voter into the voting booth. At another, poll workers were incorrectly telling students their registration was invalid because the deadline to register was 30 days before the election.

**Other North Carolina voters called Election Protection to report:**

- At one location, officials announced they ran out of Democratic ballots and they would be closing the polling location. Election Protection contacted the County Board of Elections to fix the situation.
- Election Protection also received multiple reports of registration issues. One voter was turned away for not being registered, but had done so at the Department of Social Services in March, prior to the April 11 deadline. Another voter had registered at the Department of Motor Vehicles in 2005, but was turned away at the polls. After speaking with the Board of Elections, she was made to wait an additional 1 hour and 45 minutes to cast a provisional ballot.
- Call center volunteers assisted numerous voters who had recently moved and were confused about where they should vote. Volunteers were able to walk callers through the complex rules and helped them locate the right polling location.

## RECOMMENDATIONS

The problems that have been uncovered by Election Protection – in this primary season and in past efforts – demonstrate that seemingly simple problems, a poll worker not being trained on the proper use of provisional ballots or an election official not properly planning for how to distribute election equipment, leads to countless eligible voters being turned away from the process.

Over the coming months, election officials across the country have the authority to prevent many of these problems from reoccurring. Election Protection looks forward to working together with those responsible for administering elections to:

- **Improve poll worker training:** Election officials have wide discretion over how long, and on what subject areas/topics, poll workers are trained. Poll workers should be provided adequate guidance on how to administer the provisional balloting system, what to do when voters are not on the registration rolls, how to deal with election machinery breakdowns and how to keep lines moving on Election Day.
- **Ensure proper protocols for dealing with election machinery breakdowns:** States and election officials should ensure that there are effective protocols in the case of machine breakdowns. Every polling place with electronic voting equipment should have ample emergency ballots – that are counted as regular ballots – in case machines do not function properly.
- **Implement procedures to guarantee that all eligible registrants make it on the registration rolls:** Every jurisdiction should have adequate staffing and procedures to make sure that every eligible voter who submits a registration application by the deadline is added to the registration list. Moreover, state and local government officials must ensure that all voters who register at the Department of Motor Vehicles or at state social service agencies, pursuant to the National Voter Registration Act, are added to the rolls.
- **Widely publicize correct requirements and restrictions about voter identification and other procedures:** Election officials should clearly communicate to every voter and every poll worker acceptable forms of voter identification required by state law. Similarly, election officials should educate voters through direct mail, advertising and at the polls about their rights.

---

**THE NATIONAL CAMPAIGN FOR FAIR ELECTIONS IS AN INITIATIVE OF THE VOTING RIGHTS PROJECT OF THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW.**

**THE GOAL OF THE NATIONAL CAMPAIGN IS TO FOSTER A NATIONAL MOVEMENT COMMITTED TO ENSURING THAT ALL VOTERS HAVE AN EQUAL OPPORTUNITY TO CAST A MEANINGFUL BALLOT. NCFE IS THE LEGAL LEAD OF ELECTION PROTECTION - THE NATION'S LARGEST NON-PARTISAN VOTER PROTECTION COALITION WITH OVER 100 PARTNERS AT THE NATIONAL, STATE AND LOCAL LEVEL. WE ADMINISTER THE 1-866-OUR-VOTE HOTLINE AND RECRUIT, TRAIN AND DEPLOY THOUSANDS OF DEDICATED TRAINED VOLUNTEERS WHO HELP TENS OF THOUSANDS OF VOTERS ACCESS THE POLLS AND OVERCOME OBSTACLES TO THE BALLOT BOX.**

**IN ADDITION TO OUR LEADERSHIP IN THE ELECTION PROTECTION COALITION, NCFE ADVOCATES FOR PROGRESSIVE ELECTION REFORMS AT THE FEDERAL, STATE AND LOCAL LEVEL, LITIGATES WHERE VOTING RIGHTS ARE VIOLATED AND BRINGS COMMUNITIES TOGETHER TO EDUCATE AND MOBILIZE CITIZENS ABOUT FAIR ELECTIONS. WE CANNOT WAIT UNTIL ELECTION DAY TO RESPOND TO THE PROBLEMS VOTERS FACE EXERCISING THEIR MOST FUNDAMENTAL RIGHT, THE RIGHT TO VOTE.**

## Appendix B:

### **Fast Facts on the Impact of Photo ID: The Data**

Justin Levitt, Counsel  
Brennan Center for Justice at NYU School of Law  
April 2008

- We now know that Indiana's law has actually disenfranchised real citizens. In contrast, no party or *amicus* cited even one case of impersonation at the polls in Indiana to the Supreme Court. In fact, more real Hoosiers have been disenfranchised by the law in the last two years than the number of reported cases of impersonation at the polls cited to the Supreme Court — from anywhere in the country — in the last two decades.<sup>i</sup>

#### *Actual elections*

- For example, in limited-turnout local elections in one Indiana county (Marion) in 2007, 32 voters cast ballots that could not be counted because of the voter ID law.<sup>ii</sup> Moreover, these were long-time voters: 14 of them had previously voted in at least 10 elections.<sup>iii</sup>
- Similarly, in limited turnout local elections in 2007 in Georgia — the only other state that requires photo ID at the polls to vote a valid ballot — 33 voters' ballots were rejected because of the ID law.<sup>iv</sup> In the 2008 presidential primary, the number grew to hundreds (254).<sup>v</sup> It is impossible to know how many other voters without ID came to the polls but did not cast provisional ballots (which wouldn't have counted anyway), or how many declined to make the trip to the polls in the first place (which would have been futile).

#### *Surveys of registered voters*

- Researchers have also surveyed voters to assess the impact of photo ID laws on the electorate. A 2007 academic study found that **13.3%** of registered Indiana voters ( $\pm 3.1\%$ ) did not have a current government-issued photo ID card.<sup>vi</sup> The same study found that:
  - 18.1% of black registered voters (compared to 11.5% of white voters)
  - 20.3% of registered voters 18-34 (compared to 9.4% of voters 55-69)
  - 16.4% of registered voters over 69 (compared to 9.4% of voters 55-69)
  - 16.7% of voters without a college degree (compared to 7.9% of voters with a degree)
  - 17.5% of voters earning < \$40,000/ year (compared to 11-12% of others)

in Indiana did not have a current government-issued photo ID card. All of these differences were statistically significant.

- These same academic researchers also conducted an exit poll study based on the 2006 elections in three counties in California, New Mexico, and Washington.<sup>vii</sup> Surveying actual midterm voters, the researchers found that **12%** of actual voters reported that they did not have a valid state driver's license. The same study found that:
  - Nonwhite voters were 9.8% less likely to have a valid license than white voters
  - Voters over 65 were 8.1% less likely to have a valid license than younger voters
  - Voters with no high school diploma were 5.6% less likely to have a valid license than voters with a graduate degree, and
  - Voters making less than \$20,000 per year were 4.0% less likely to have a driver's license than voters making more than \$100,000.
- In 2008, the Executive Director of the Carter-Baker Commission released a study of registered voters in Indiana, Maryland, and Mississippi.<sup>viii</sup> The study found that 1.2% of registered voters had no government-issued photo ID; it did not ask whether the ID in question was current. Even this modest result amounts to an impact reaching more than **two million** registered voters if applied nationwide.<sup>ix</sup> The same study found that 2.2% of black registered voters (compared to 0.9% of white voters) lacked government-issued photo ID, though that difference was not statistically significant, given the small sample size.

#### *Surveys of eligible voters*

- Researchers have also surveyed eligible voters, including registered and non-registered voting age citizens. A 2006 national survey by an independent survey firm, and sponsored by the Brennan Center, found that **11%** of voting-age citizens ( $\pm 2\%$ ) did not have current government-issued photo ID.<sup>x</sup> The same study found that:
  - 18% of citizens 65 and above
  - 25% of black voting-age citizens (compared to 8% of white citizens)
  - 16% of Hispanic voting-age citizens (compared to 8% of white citizens)
  - 20% of nonwhite voting-age citizens (compared to 8% of white citizens), and
  - 15% of citizens earning < \$35,000/year (compared to 7% of others)did not have a current government-issued photo ID card. All of these differences, except for the Hispanic citizens alone, were statistically significant.
- The 2007 academic study of Hoosiers was cited above with respect to registered voters, but it also surveyed voting-age citizens in Indiana, both registered and not. That study found that approximately **16.1%** of voting-age Indiana citizens did not have a current government-issued photo ID card.<sup>xi</sup> That same study found that 26.6% of black voting-age citizens had no current government-issued photo ID card, compared to 13.6% of white voting-age citizens.

### *Estimates using government records*

- Private researchers and government entities have also tried to quantify the number of their voting-age citizens without government-issued photo ID, usually by comparing census tabulations to motor vehicle records. The 2005 Carter-Baker Commission, for example, estimated that **12%** of voting-age Americans do not have a driver's license.<sup>xii</sup> Research collected by its predecessor, the 2001 Carter-Ford Commission, showed that 5-10% of voting-age Americans had neither driver's licenses nor other state-issued photo ID.<sup>xiii</sup>
- A 2005 study by researchers at the University of Wisconsin-Milwaukee estimated that approximately **20%** of Wisconsin voting-age residents did not have a driver's license or state-issued photo ID.<sup>xiv</sup> The same study also found that, of Wisconsin residents:
  - 23% of residents 65 and above
  - 52% of nonwhite residents 18+ (compared to 17% of white residents)
  - 78% of black men 18-24 (compared to 36% of white men 18-24)
  - 63% of Hispanic women 18-24 (compared to 25% of white women 18-24)did not have a driver's license or state-issued photo ID.
- The Georgia chapter of the AARP has estimated that about 153,000 Georgians older than 60 who voted in 2004 do not have government-issued photo ID. It has also estimated that 36 percent of Georgians over age 75 do not have a driver's license.<sup>xv</sup>
- Several states have also tried to quantify the number of their registered voters without photo ID, usually by comparing registration lists to motor vehicle records. Such methods have been critiqued, particularly when either motor vehicle records or registration lists are substantially outdated, reflecting individuals who have died or moved out of state.
  - In 2006, the Michigan Secretary of State estimated that about 370,000 (5%) of the state's registered voters had no driver's license or state-issued photo ID.<sup>xvi</sup>
  - The Missouri Department of Revenue estimated that 169,215 registered Missouri voters did not have the required photo ID in that state; the Secretary of State estimated that approximately 240,000 registered voters did not have the right ID.<sup>xvii</sup>
  - In Georgia, estimates have ranged from 198,000 registered voters to 676,246 registered voters without driver's licenses or state-issued photo ID,<sup>xviii</sup> but both estimates have been heavily criticized.

### *Studies of turnout*

- Another set of studies tries to estimate the impact of restrictive ID laws on voter turnout, by analyzing past voting patterns and trying to extrapolate the degree of change in any given election based on the ID laws.<sup>xix</sup> These studies' methods vary, and there are substantial differences in the results, and substantial disputes about the validity of each approach. Only a few studies analyze data from 2006, the first federal election in which a photo identification law was actually in place.<sup>xx</sup> Moreover, even these studies are constrained by the limited pool of data, because only a few elections have taken place under the new restrictive laws.

#### *Studies of voter attitudes*

- On the other side of the coin, some seek to justify restrictive ID laws, despite their demonstrated impact on American citizens, by claiming that they will increase public confidence in the election process. A careful new study, forthcoming in the *Harvard Law Review*, casts serious doubt on the validity of such assertions. The data show no support for the notion that requiring identification will increase voter confidence; the study found no statistically significant correlation between the rate at which citizens were asked to produce photo ID and their perception that either voter fraud generally, or voter impersonation in particular, exists.<sup>xxi</sup> That is, there appears to be no empirical confirmation thus far that photo ID laws make citizens feel more secure about their elections.

---

<sup>i</sup> See Justin Levitt, Analysis of Alleged Fraud in Briefs Supporting Crawford Respondents (2007), at <http://www.truthaboutfraud.org/pdf/CrawfordAllegations.pdf>.

<sup>ii</sup> Brief for Respondent Marion County Election Board at 8-9, *Crawford v. Marion County Election Board*, Nos. 07-21, 07-25 (U.S. Dec. 3, 2007).

<sup>iii</sup> *Id.* at 9-10.

<sup>iv</sup> Shannon McCaffrey, *Votes of Some Who Lacked Photo ID in November Didn't Count*, THE LEDGER-ENQUIRER (Columbus, Ga.), Jan. 29, 2008.

<sup>v</sup> Robert A. Simms, Ga. Deputy Sec'y of State, Testimony Before the U.S. Senate Comm. on Rules and Admin.: In-Person Voter Fraud: Myth and Trigger for Disenfranchisement? 5, Mar. 12, 2008; see also Shannon McCaffrey, *More Than 400 Voters Lacked Photo IDs in Feb. 5 Primary*, THE LEDGER-ENQUIRER (Columbus, Ga.), Feb. 14, 2008 (reporting 296 voters without ID casting provisional ballots that were not counted).

<sup>vi</sup> Matt A. Barreto *et al.*, The Disproportionate Impact of Indiana Voter ID Requirements on the Electorate (2007), available at [http://depts.washington.edu/uwiser/documents/Indiana\\_voter.pdf](http://depts.washington.edu/uwiser/documents/Indiana_voter.pdf).

<sup>vii</sup> Matt A. Barreto *et al.*, Voter ID Requirements and the Disenfranchisement of Latino, Black and Asian Voters (2007), available at [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_50884.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_50884.pdf).

<sup>viii</sup> Dr. Robert Pastor *et al.*, Voter IDs Are Not the Problem: A Survey of Three States (2008), available at <http://www.american.edu/ia/cdem/pdfs/VoterIDFinalReport1-9-08.pdf>.

<sup>ix</sup> See Pastor, *supra note* **Error! Bookmark not defined.**, at 8 (concluding that approximately 1.2% of registered voters in the selected states had no government-issued photo identification); U.S. Election Assistance Comm'n, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2005-2006*, at 8 (2007), available at [http://www.eac.gov/clearinghouse/docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment\\_download/file](http://www.eac.gov/clearinghouse/docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment_download/file) (reporting at least 172,810,006 registered voters as of the 2006 general election).

<sup>x</sup> See Brennan Center for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification 3* (2006), available at [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_39242.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_39242.pdf).

<sup>xi</sup> Matt A. Barreto *et al.*, The Disproportionate Impact of Indiana Voter ID Requirements on the Electorate (2007), available at [http://depts.washington.edu/uwiser/documents/Indiana\\_voter.pdf](http://depts.washington.edu/uwiser/documents/Indiana_voter.pdf).

<sup>xii</sup> Commission on Federal Election Reform, *Building Confidence in U.S. Elections* 73 n.22 (Sept. 2005).

<sup>xiii</sup> See John Mark Hansen, Coordinator, Task Force on the Federal Election System, *Report*, at VI-4 in *Task Force Reports to Accompany the Report of the National Commission on Election Reform* (Aug. 2001); National Commission on Election Reform, *To Assure Pride and Confidence in the Electoral Process*, at 32 (Aug. 2001) ("5-7% of adults do not possess a driver's license or other photo identification, and are disproportionately poor and urban") [*hereinafter* "Ford-Carter Report"].

<sup>xiv</sup> John Pawasarat, *The Driver License Status of the Voting Age Population in Wisconsin* 21-22 (June 2005), available at <http://www.uwm.edu/Dept/ETI/barriers/DriversLicense.pdf>.

<sup>xv</sup> See Deanna Wrenn, *Three States Debate Requiring Voters to Show ID*, VENTURA COUNTY STAR, Mar. 31, 2005, at 6; Carlos Campos, *Photo ID Bus Gets Little Use*, ATLANTA J.-CONST., Dec. 19, 2005; Nancy Badertscher, *State Bus Will Roll for Voter IDs*, ATLANTA J.-CONST., Aug. 9, 2005; Sonji Jacobs, *Cox Lashes Out at Photo ID Plans*, ATLANTA J.-CONST., Mar. 19, 2005.

<sup>xvi</sup> Dawson Bell, *Court Jumps Into Dispute Over Voter ID Checks*, DETROIT FREE-PRESS, Apr. 27, 2006.

---

<sup>xvii</sup> Weinschenk v. Missouri, 203 S.W.3d 201, 206 (Mo. 2006).

<sup>xviii</sup> Sonji Jacobs & Megan Clarke, *No ID? Votes Cast Can Become Castoffs*, ATLANTA J.-CONST., Nov. 2, 2007; Nancy Badertscher, *22 Percent of Elderly Voters Lack Proper ID*, ATLANTA J.-CONST., June 24, 2006; *see also* M.V. Hood III & Charles S. Bullock, III, *Worth a Thousand Words?* (April 2007) (unpublished manuscript), at [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_50886.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_50886.pdf) (reviewing an estimate that 305,074 registered voters have no valid driver's license or state-issued photo ID card, and finding disproportionate impact on racial minorities and elderly voters).

<sup>xix</sup> *See generally* Brief of R. Michael Alvarez *et al.* as Amici Curiae in Support of Petitioners, at 10-14, Crawford v. Marion County Election Board, Nos. 07-21, 07-25 (U.S. Nov. 13, 2007); *see also* Jeffrey Milyo, *The Effects of Photographic Identification [sic] on Voter Turnout in Indiana: A County-Level Analysis* (Inst. of Pub. Pol'y, Univ. of Mo., Report 10-2007, 2007).

<sup>xx</sup> R. Michael Alvarez *et al.*, *The Effect of Voter Identification Laws on Turnout* (Caltech Soc. Sci. Working Paper No. 1267, 2007), at [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_50882.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_50882.pdf); Jason D. Mycoff *et al.*, *The Effect of Voter Identification Laws on Aggregate and Individual Level Turnout* (2007) (unpublished manuscript), at [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_50900.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_50900.pdf); Jeffrey Milyo, *The Effects of Photographic Identification [sic] on Voter Turnout in Indiana: A County-Level Analysis* (Inst. of Pub. Pol'y, Univ. of Mo., Report 10-2007, 2007).

<sup>xxi</sup> Stephen Ansolabehere & Nathaniel Persily, *Vote Fraud in the Eye of the Beholder* 19-22 (Columbia Law Sch. Pub. Law & Legal Theory Working Paper Group, Paper No. 08-170, 2008), *available at* <http://ssrn.com/abstract=1099056> (forthcoming HARV. L. REV. 2008). This research also reveals no support for the notion that the potential for in-person impersonation fraud will cause voters to refrain from voting. The study found no statistically significant correlation between the perception that impersonation fraud exists and the propensity to turn out to vote. *Id.* at 16-18.