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THE TRUTH  
ABOUT  
VOTER FRAUD

Justin Levitt

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# TABLE OF CONTENTS

About the Author	2
Acknowledgments	2
I. Introduction	3
II. What Is Voter Fraud?	4
III. The Research Landscape	5
IV. Voter Fraud and the Press for Photo ID	6
V. The Truth About Voter Fraud	7
<i>Clerical or Typographical Errors</i>	7
<i>Bad “Matching”</i>	8
<i>Jumping to Conclusions</i>	9
<i>Voter Mistakes</i>	11
VI. Types of “Voter Fraud”	12
<i>Allegations of Double Voting</i>	12
<i>Allegations of Dead Voters</i>	14
<i>Allegations of Fraudulent Addresses</i>	15
<i>Allegations of Voter Fraud by Persons with Felony Convictions</i>	16
<i>Allegations of Voter Fraud by Noncitizens</i>	18
<i>Allegations of Registration Fraud</i>	20
<i>Allegations of Voter Fraud by Dogs</i>	21
<i>Allegations of Vote-Buying</i>	22
<i>Allegations of Fraud by Election Officials</i>	22
VII. Appendix: Selected Case Studies	23
<i>Missouri</i>	24
<i>New Jersey</i>	27
<i>Wisconsin</i>	29
Endnotes	33

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# THE TRUTH ABOUT VOTER FRAUD

## I. INTRODUCTION

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

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

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

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

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

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

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

## II. WHAT IS VOTER FRAUD?

“Voter fraud” is fraud by voters.

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

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

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

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

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IT IS MORE LIKELY THAT AN INDIVIDUAL WILL  
BE STRUCK BY LIGHTNING THAN THAT HE WILL  
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to vote when no such requirement exists.<sup>4</sup> And some irregularities involve fraud or intentional misconduct perpetrated by actors other than individual voters: for example, flyers may spread misinformation about the proper locations or procedures for voting; thugs may be dispatched to intimidate voters at the polls; missing ballot boxes may mysteriously reappear. These are all problems with the election administration system ... but they are not “voter fraud.”

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

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

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

### III. THE RESEARCH LANDSCAPE

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

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

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

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

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

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

## IV. VOTER FRAUD AND THE PRESS FOR PHOTO ID

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

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

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

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

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

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

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

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

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

## V. THE TRUTH ABOUT VOTER FRAUD

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

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

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

### CLERICAL OR TYPOGRAPHICAL ERRORS

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

*Errors in the poll books.* In a jurisdiction of any significant size, it is unfortunately easy to make an entry in the poll book next to the wrong voter's name. For example, despite having died in 1997, Alan J. Mandel was alleged to have voted in 1998; upon further investigation, Alan J. Mandell (two "l"s), who was very much alive and voting at the time, explained that local election workers simply checked the wrong name off of the list.<sup>19</sup> The same problem may occur when information from a poll book is entered incorrectly into a county's computer system, as in Milwaukee in 2004.<sup>20</sup> Or voters — legitimate voters — may make a mistake: a 1994 investigation of fraud allegations in California, for example, revealed that voters accidentally signed the poll books on the wrong lines, next to the names of deceased voters.<sup>21</sup>

*Errors in registration records.* Simple typos may also infect voter records, changing a name or an identifying number or an address in a way that interferes with attempts to validate the voter's information against some other source. For example, in Washington State in 2006, Marina Petrienko tried to register to vote for the first time, but a county official mis-typed the year of her birth, entering "1976" into the database, instead of the year on her form: "1975."<sup>22</sup> First-time Illinois voters Mike and Sung Kim "had been mistakenly registered with Kim as their first names" in 2004.<sup>23</sup> And in Milwaukee, Victor Moy was listed on the rolls as living at 8183 W. Thurston Avenue, but actually resides at number 8153.<sup>24</sup> Because such typos may prevent registrations from being externally validated by information in other sources, officials and observers may believe that registrations are fraudulent when they are, in reality, entirely legitimate.

## BAD “MATCHING”

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

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

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

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

## JUMPING TO CONCLUSIONS

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

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

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

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

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

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

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

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

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

Mail sent to a listed registration address may also be returned as undeliverable because the voter has moved — even though the citizen remains wholly eligible to vote without re-registration. Each state has different rules determining when a voter who has moved must inform election officials of her new address. At a minimum, however, federal law provides that if a voter has moved within the same area covered by a given polling place — if, for example, a voter moves from one apartment to another within the same apartment complex, as a 2000 Oregon voter did<sup>48</sup> — she may legitimately vote at that polling place even if she has not yet notified a registrar of her move.<sup>49</sup> Similarly, a voter who has moved within the same registrar’s jurisdiction and Congressional district may return to vote at her former polling place without re-registering.<sup>50</sup> Especially in urban areas where there is high mobility within a particular neighborhood, undeliverable mail may simply reflect the recent move of a voter who remains fully eligible to vote.

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

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

## VOTER MISTAKES

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

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

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

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

## VI. TYPES OF “VOTER FRAUD”

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

### ALLEGATIONS OF DOUBLE VOTING

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

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

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

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

two list entries under the same name — even the same name and birthdate — indicate different individuals, as with two Kathleen Sullivans confused for each other in New Jersey in 2004.<sup>67</sup> The opportunity for error increases with the size of the attempted match: when allegations of fraud in 2000 were based on a *nationwide* attempt to match names and birthdates, it is not surprising that 3,273 alleged double voters were found — and not surprising that many, like those attributed to Martha Alexander, the chair of the North Carolina legislature’s panel on election laws, were based on flawed assumptions that two people with the same name and birthdate were the same individual.<sup>68</sup> Moreover, sometimes the lists themselves are flawed: because of the occasional clerical error by overworked and undertrained election workers, an individual is marked as voting when she did not in fact cast a ballot, as Missouri investigators discovered in 2004.<sup>69</sup>

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

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

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

## ALLEGATIONS OF DEAD VOTERS

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

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

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

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

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

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

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

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

- In New Jersey in 2004, 4,755 deceased voters were alleged to have cast a ballot. The allegations were premised on a flawed match of voter rolls to death lists. No follow-up investigation publicly documented any substantiated cases of fraud of which we are aware, and there were no reports that any of these allegedly deceased voters voted in 2005.<sup>96</sup>
- In New York in 2002 and 2004, 2,600 deceased voters were alleged to have cast a ballot, again based on a match of voter rolls to death lists. Journalists following up on seven cases found clerical errors and mistakes but no fraud, and no other evidence of fraud was reported.<sup>97</sup>

## ALLEGATIONS OF FRAUDULENT ADDRESSES

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

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

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

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

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

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

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

## ALLEGATIONS OF VOTER FRAUD BY PERSONS WITH FELONY CONVICTIONS

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

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

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

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

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

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

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

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

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

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

## ALLEGATIONS OF VOTER FRAUD BY NONCITIZENS

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

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

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

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

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

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

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

## ALLEGATIONS OF REGISTRATION FRAUD

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

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

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

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

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

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

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

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

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

## ALLEGATIONS OF VOTER FRAUD BY DOGS

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

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

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

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

## ALLEGATIONS OF VOTE-BUYING

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

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

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

## ALLEGATIONS OF FRAUD BY ELECTION OFFICIALS

Similarly, reporters and analysts should be wary of attempts to bootstrap fraud by election officials or other insiders into compendiums of alleged “voter fraud.” Election fraud by insiders has been an issue since Senators wore togas. Sadly, there are still occasional reports of wrongdoing by those who are employed to safeguard the process. For example, in 2004, election judge Leander Brooks was convicted of casting at least twenty ballots in others’ names in 2002 in East St. Louis, Illinois; his cousin Michael Collins, a former city councilman, had been convicted of registering acquaintances from outside his precinct to vote fraudulently from a neighbor’s address in 1995.<sup>164</sup>

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

## VII. APPENDIX

### SELECTED CASE STUDIES

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

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

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

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**Missouri** In some ways, the recent hunt for voter fraud began in Missouri in the 2000 election, the crucible that proved formative for Attorney General John Ashcroft and Senator Kit Bond, among others. Yet despite all the frenzy, the allegations yielded only six substantiated cases of Missouri votes cast by ineligible voters, knowingly or unknowingly, except for those votes permitted by court order. The six cases were double votes by four voters—two across state lines and two within Missouri—amounting to an overall rate of 0.0003%. None of these problems could have been resolved by requiring photo ID at the polls.

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**New Jersey** Just before the 2005 election, partisan actors attempted to probe the accuracy of New Jersey’s voter rolls by comparing election records for 2004 with death records and with the rolls of other states. The allegations yielded only eight substantiated cases of individuals knowingly casting invalid votes that counted—eight voters who voted twice. Given the number of votes cast in these elections, this amounts to a rate of 0.0004%. None of these problems could have been resolved by requiring photo ID at the polls.

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**Wisconsin** The 2004 election was hotly contested in Wisconsin, and various irregularities led to inflated claims of widespread fraud. The allegations yielded only seven substantiated cases of individuals knowingly casting invalid votes that counted—all persons with felony convictions. This amounts to a rate of 0.0025% within Milwaukee and 0.0002% within the state as a whole. None of these problems could have been resolved by requiring photo ID at the polls.

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## MISSOURI

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

### THE ALLEGATIONS:

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

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

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

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

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

#### ADDITIONAL ALLEGATIONS OF IRREGULARITIES UNCONNECTED TO INDIVIDUAL VOTER FRAUD:

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

## THE RATE OF SUBSTANTIATED VOTER FRAUD:

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

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

## COVERAGE BY EXISTING LAW:

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

## NEW JERSEY

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

### THE ALLEGATIONS:

- **Dead voters:** 4,755 votes were alleged to have been cast in the names of dead voters in 2004, based on an attempt to match the first and last name and date of birth from voting records to death records.<sup>183</sup> No follow-up investigation appears to have been published on the number of votes actually cast in the names of dead voters in 2004, if any. None of the allegedly dead voters actually voted in 2005.<sup>184</sup>
- **Double voters:** 4,397 individuals allegedly voted twice in New Jersey, and 6,572 individuals allegedly voted both in New Jersey and in either New York, Pennsylvania, Florida, North Carolina, or South Carolina, based on an attempt to match the first and last name and date of birth from one set of voting records to another.<sup>185</sup> Analysis of the list of alleged double voters within New Jersey showed that 2,305 of the entries had different middle names or suffixes, or an error in the date of birth.<sup>186</sup> Data errors in Middlesex county, and the statistical likelihood of finding two different individuals with the same name and birthdate, call into question much of the remainder of the list.<sup>187</sup> Ultimately, the existence of eight double voters was substantiated through original signatures on poll book materials.<sup>188</sup>

### THE RATE OF SUBSTANTIATED VOTER FRAUD:

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

#### COVERAGE BY EXISTING LAW:

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

## WISCONSIN

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

### THE ALLEGATIONS:

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

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

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

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

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

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

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

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

3 others were documented as voting while ineligible but have not been charged. An additional voter documented as ineligible was found in 2006.<sup>203</sup>

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

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

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

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

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

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

#### ADDITIONAL ALLEGATIONS OF IRREGULARITIES UNCONNECTED TO INDIVIDUAL VOTER FRAUD:

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

#### THE RATE OF SUBSTANTIATED VOTER FRAUD:

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

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

#### COVERAGE BY EXISTING LAW:

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

## ENDNOTES

- 1 See also MINNITE, THE POLITICS OF VOTER FRAUD, *supra* note 12, at 6 (offering a similar definition).
- 2 See Sec’y of State Robin Carnahan, Voters First: An Examination of the 2006 Midterm Election in Missouri 8, 9 (Winter 2007), at <http://www.sos.mo.gov/elections/VotersFirst/VotersFirst-FINAL.pdf> (technical malfunction, user error); Greg Borowski, *A New Push to Repair Elections*, MILWAUKEE J. SENTINEL, May 15, 2005 (technical malfunction); Arakawa Lynda, *Recount Confirms Results*, HONOLULU ADVERTISER, Mar. 16, 1999, at A1 (technical malfunction).
- 3 See, e.g., Janine Anderson, *4 Men Face Voter Fraud Charges*, JOURNAL-TIMES (Racine, Wis.), Sept. 11, 2007; *Scores of Felons Voted Illegally*, SEATTLE TIMES, Jan. 23, 2005.
- 4 See, e.g., Jake Wagman, *Secretary of State Blasts County on IDs*, ST. LOUIS POST-DISPATCH, Nov. 9, 2006, at D1.
- 5 See Richard L. Hasen, *The Fraudulent Fraud Squad*, SLATE, May 18, 2007; Rep. John Conyers, Jr., *The GOP’s Attack on Voting Rights*, TOMPAINE.COM, May 13, 2005, [http://www.tompaine.com/articles/2005/05/13/the\\_gops\\_attack\\_on\\_voting\\_rights.php](http://www.tompaine.com/articles/2005/05/13/the_gops_attack_on_voting_rights.php). See also Jo Mannies, *Voting Rights Group Disappears From Web*, ST. LOUIS POST-DISPATCH, June 14, 2007.
- 6 AMERICAN CENTER FOR VOTING RIGHTS, OHIO ELECTION ACTIVITIES AND OBSERVATIONS, Mar. 21, 2005, <http://web.archive.org/web/20050425104337/www.ac4vr.com/news/OhioElectionReport.pdf>; AMERICAN CENTER FOR VOTING RIGHTS, VOTE FRAUD, INTIMIDATION & SUPPRESSION IN THE 2004 PRESIDENTIAL ELECTION, Aug. 2, 2005, [http://www.foxnews.com/projects/pdf/Vote\\_Fraud\\_Intimidation\\_Suppression\\_2004\\_Pres\\_Election\\_v2.pdf](http://www.foxnews.com/projects/pdf/Vote_Fraud_Intimidation_Suppression_2004_Pres_Election_v2.pdf).
- 7 See sources cited in Brennan Center for Justice, Litigation, <http://www.truthaboutfraud.org/litigation/>.
- 8 See, e.g., JOHN FUND, STEALING ELECTIONS: HOW VOTER FRAUD THREATENS OUR DEMOCRACY (2004); John Fund, *Democracy Imperiled: America’s Election Problems*, NAT’L REV., Sept. 13, 2004.
- 9 TRACY CAMPBELL, DELIVER THE VOTE: A HISTORY OF ELECTION FRAUD, AN AMERICAN POLITICAL TRADITION — 1742-2004 (2005); LARRY J. SABATO & GLENN R. SIMPSON, DIRTY LITTLE SECRETS: THE PERSISTENCE OF CORRUPTION IN AMERICAN POLITICS (1996).
- 10 Hans A. von Spakovsky, *The Effect of Identification Requirements on Minority Voter Turnout*, 8 ENGAGE: THE JOURNAL OF THE FEDERALIST SOCIETY PRACTICE GROUPS 87 (2007), available at [http://www.fed-soc.org/doclib/20070322\\_Engage81Feb2007.pdf](http://www.fed-soc.org/doclib/20070322_Engage81Feb2007.pdf); Publius, *Securing the Integrity of American Elections: The Need for Change*, 9 TEX. REV. L. & POL. 2 (2005); see also Dan Eggen, *Official’s Article on Voting Law Spurs Outcry*, WASH. POST, Apr. 13, 2006, at A19.
- 11 Jingle Davis, *Even Death Can’t Stop Some Voters*, ATLANTA J.-CONST., Nov. 6, 2000; Russ Buettner, *Exposed: Scandal of Double Voters*, DAILY NEWS (N.Y.), Aug. 22, 2004.
- 12 LORI MINNITE & DAVID CALLAHAN, SECURING THE VOTE: AN ANALYSIS OF ELECTION FRAUD 39-43 (2003), at [http://www.demos.org/pubs/EDR\\_-\\_Securing\\_the\\_Vote.pdf](http://www.demos.org/pubs/EDR_-_Securing_the_Vote.pdf); MINNITE, *supra* note 1, at 22-35; see also Lorraine C. Minnite, *An Analysis of Voter Fraud in the U.S. (2007)* (adapted from SECURING THE VOTE, *supra*). Professor Minnite has examined the incidence of fraud specifically in states that permit Election Day Registration; this analysis confirms the lack of widespread voter fraud, but discusses few individual inflated allegations. Lorraine Minnite, *Election Day Registration: A Study of*

Voter Fraud Allegations and Findings on Voter Roll Security (2007), at [http://www.demos.org/pubs/edr\\_fraud\\_v2.pdf](http://www.demos.org/pubs/edr_fraud_v2.pdf). Professor Minnite is also working on a forthcoming book on the politics of electoral rules, tentatively titled *The Myth of Voter Fraud*. See *Current Fellows*, <http://www.demos.org/page247.cfm> (last visited Oct. 4, 2007).

- 13 SPENCER OVERTON, *STEALING DEMOCRACY: THE NEW POLITICS OF VOTER SUPPRESSION* (2006); see also Spencer Overton, *Voter Identification*, 105 MICH. L. REV. 631 (2007); BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW & SPENCER OVERTON, *RESPONSE TO THE REPORT OF THE 2005 COMMISSION ON FEDERAL ELECTION REFORM* (2005), at [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_47903.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_47903.pdf).
- 14 See sources cited at Brennan Center for Justice at NYU School of Law, *Voter Fraud Resources*, [http://www.truthaboutfraud.org/analysis\\_reports/](http://www.truthaboutfraud.org/analysis_reports/).
- 15 BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW, *INVESTIGATOR'S GUIDE TO "VOTER FRAUD"* (2006), <http://www.truthaboutfraud.org/pdf/Investigator%27s%20Guide%20to%20Voter%20Fraud.pdf>.
- 16 Most proposals to require photo identification of voters do not address the absentee voting process, where fraud through forgery or undue influence, often directly implicating candidates or their close associates, is far more of a threat. See, e.g., COMMISSION ON FEDERAL ELECTION REFORM, *BUILDING CONFIDENCE IN U.S. ELECTIONS* 46 (2005), available at [http://www.american.edu/ia/cfer/report/full\\_report.pdf](http://www.american.edu/ia/cfer/report/full_report.pdf); Becky Johnson, *Swain Voter Fraud Investigation Sent to Feds*, SMOKY MOUNTAIN NEWS (N.C.), Sept. 19, 2007; Stephanie Taylor, *2 Accused of Voter Fraud in Hale County*, TUSCALOOSA NEWS (Ala.), Aug. 18, 2007; Laura B. Martinez, *Potential For Fraud*, BROWNSVILLE HERALD (Tex.), July 22, 2007; Gary McElroy, *Former Candidate Faces Charges of Voter Fraud*, PRESS-REGISTER (Ala.), July 13, 2007; Rex Bowman, *Sentencing Postponed for Former Appalachia Mayor*, RICHMOND TIMES-DISPATCH, Jan. 19, 2007; Bill Theobald, *False Counts*, INDIANAPOLIS STAR, Nov. 5, 2000, at 1A; Marylynn Pitz, *Murphy Arraigned on Vote-Fraud Charges*, PITTSBURGH POST-GAZETTE, May 25, 1999, at B1. See also Minnite, *An Analysis of Voter Fraud in the U.S.*, *supra* note 12.
- 17 Kristen Mack, *In Trying to Win, Has Dewhurst Lost a Friend?*, HOUSTON CHRON., May 17, 2007.
- 18 42 U.S.C. § 1973i(c), (e); 42 U.S.C. § 1973gg-10.
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