VOTING RIGHTS ACT: SECTIONS 6 AND 8—THE FEDERAL EXAMINER AND OBSERVER PROGRAM

HEARING

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SUBCOMMITTEE ON THE CONSTITUTION

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HOUSE OF REPRESENTATIVES

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VOTING RIGHTS ACT: SECTIONS 6 AND 8—THE FEDERAL EXAMINER AND OBSERVER PROGRAM

TUESDAY, NOVEMBER 15, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 12:38 p.m., in Room 2141, Rayburn House Office Building, the Honorable Steve Chabot (Chair of the Subcommittee) presiding.

Mr. CHABOT. Every Chairman should have a gavel when it was missing. So now we have it, we can get started.

This is the Subcommittee on the Constitution. I'm Steve Chabot, the Chairman.

I want to thank you all for attending this afternoon. This is the Subcommittee, as I said, on the Constitution, and the ninth in a series of hearings this Committee has held in the last several weeks examining the impact and effectiveness of the Voting Rights Act.

I'd like to thank all my colleagues again for their assistance in making each of these hearings informative and thought provoking, as we continue our efforts to look closely at those provisions of the Voting Rights Act which are set to expire in 2007.

Today, we will focus our attention on sections 6, 7, and 8 of the Voting Rights Act, each of which is set, as I said, to expire in 2 years, in 2007, unless Congress acts otherwise and reauthorizes.

Section 6 authorizes the Attorney General to send Federal examiners to cover jurisdictions to register new voters.

Section 7 outlines the procedures to be followed by these examiners when registering new voters.

And section 8 authorizes the Attorney General to send Federal observers into these covered jurisdictions to ensure that the rights afforded by Federal law are protected.

We have another distinguished panel of witnesses with us here this afternoon, and we want to thank them all for being here, and we look very much forward to their testimony.

The assistance provided by Federal examiners and observers in the election process has played an instrumental role in increasing minority voter participation.

After almost a century of racial discrimination in voting and several unsuccessful attempts to curtail these pervasive practices, Congress enacted the Voting Rights Act back in 1965.

Among the many different tools provided by Congress is the intervention of Federal examiners and observers. This Federal oversight was deemed necessary as result of the failure on the part of covered jurisdictions to openly accept minority voters in the political process.

In the initial years after enactment of the Voting Rights Act, Federal examiners and observers were used in record numbers. The impact these provisions have had on minority voters is reflected in the increasing number of minority voters registering to vote.

Over 112,000 minority voters have been registered by Federal examiners over the life of the Voting Rights Act.

And while the number of examiners sent to jurisdictions has decreased in recent years, the importance of Federal oversight in protecting minority voters has not diminished.

In the last 25 years, Federal observers have been sent to over 98 covered counties to ensure that minority voters are protected.

In fact, the Department of Justice just last week sent Federal observers to 16 jurisdictions in 7 States to monitor elections, to ensure compliance with the Voting Rights Act and other Federal voting and election statutes.

Today, we will examine the impact that Federal examiners and observers have had on increasing minority participation in the political process and the continued need for these provisions in the future.

Again, we look forward to hearing from all our witnesses here this afternoon.

And at this time, I will recognize the distinguished Ranking Member of the full Committee, Mr. Conyers of Michigan, if he would like to make an opening statement.

Mr. CONYERS. Thank you, Mr. Chairman.

Before I begin, could I ask the Chair a question about the absence or withdrawal of the Department of Justice witness that was scheduled to have been here?

Mr. CHABOT. Yes. If the gentleman will yield?

Mr. CONYERS. And I'll yield.

Mr. CHABOT. We've been informed, and, in fact, I would note that the Department of Justice was scheduled to be our fourth witness today, but due to a scheduling conflict, they couldn't be here. They have submitted written testimony, and it's been made available to us, and they've offered to make themselves available at a later date, and to respond to any written questions that this Committee might have.

Mr. CONYERS. Thank you very much for making that clear because their presence is very critical in how many of us will proceed under these—this very important consideration.

Mr. CHABOT. Would the gentleman yield one more time, please?

Mr. CONYERS. Of course.

Mr. CHABOT. I thank the gentleman for yielding. I might note that Mr. Weinberg is a former attorney with the Justice Department, and may be able to answer some of the questions that would be answered if the Justice Department were here.

But again, they—we will be able to provide those questions to them in writing and maybe an appearance down the road as well.

Thank you.

Mr. CONYERS. Oh, you're more than welcome.

This is a very important part of extending the Voting Rights Act of 1965, and I'm very interested from hearing—in hearing from the witnesses about the relationships between the examiners and the observers.

We're—it seems to me, frankly, Mr. Chairman and Members of the Committee, that we may need to resort to a little rewriting of this section to clear up some parts of it.

The one thing I would love to hear commented on and maybe we'll do it in the questions is that we have a sent Members in for—we have sent either observers—people have been certified to come in to monitor elections, but it's usually about language barriers. It's not about racial exclusion or harassment or coercion or discouraging the vote.

For example, in the city—my city of Hamtramck, Michigan, in which there were some problems with Arab-Americans being harassed at the polls, and they—we sent in Federal observers, but in many parts of the country, where we really need somebody looking at some very fundamental questions, which leave it unnecessary for me to even discuss why we have to justify this extending and improving on these provisions 3 and 6 and 8. Every election cycle in our offices, we field numerous complaints involving election day mischief and worse from around the country—plenty of it.

As a matter of fact, we should write a report about it or Mr. Weinberg or Ms. Pew should write a book about it. Baltimore, 2002—intentions to confuse and suppress the voter turnout, where flyers misstated the date of the election and implied that overdue parking tickets, moving violations, behind in your rent were qualifications that could preclude you being allowed to vote.

Kentucky gubernatorial election, 2003—59 precincts with significant African-American populations targeted for vote challenges by local campaign officials.

May I have an additional minute, sir?

Mr. CHABOT. Without objection, so ordered.

Mr. CONYERS. Thank you.

In North Carolina, in 1990, the Department sued over postcards mailed to African-American voters designed to discourage them from coming to polls by providing misinformation about the voter requirements.

They finally—there was a consent decree.

Now, the failure—one of the problems that were corrected from 1957 to 1965 is that we were giving retrospective relief for interference with the right to vote.

What we needed was prospective relief, and that's what's up for renewal now, and I hope we can gather a hardcore congressional group of Members that realize that that's the heart of this—one of the hearts of the hearing that we're holding here today.

We've had an election day last week. The Department sent Federal observers and personnel into 16 jurisdictions in 7 States.

In 2004, the Department coordinated and sent 1,463 Federal observers and 533 Department personnel to monitor 163 elections in 105 jurisdictions and 29 States.

So we're here about something that is really fundamental to improving the voter process in America.

I cannot get it out of my head that we have had two presidential elections in a row where one State in each election determined the outcome of the election, and each time more election violations and accusations of violations occurred in they State that provided the winner of the election with the presidency.

And so I ask unanimous consent to revise and extend my remarks and to include it in the record.

Mr. CHABOT. The gentleman's time has expired, and so ordered.

I would just note—the Chairman would just take a very brief not necessarily rebuttal, but I would just note that in the most recent election, the State that the gentleman was referring to happens to be my State, the State of Ohio, and there were many accusations of problems at polling places and things, and study after study that's been done really indicated that it was a fair election and that the vote was accurate; and I believe it was 118,000 was the margin in Ohio. So it wasn't like Florida, where there were 500 or something that made the difference.

So, for the record, Mr. Conyers.

Mr. CONYERS. Well, for the record——

Mr. CHABOT. Yeah.

Mr. CONYERS. —there is a book out called "What Went Wrong in Ohio," based on a report by the minority staff of the Judiciary Committee that has not been rebutted to my knowledge.

Mr. CHABOT. Yeah. I would just note that I believe that's the minority's opinion on that particular book and isn't—so I'd. But we could get on and on about that. But I—the one thing we do agree on is that the Voting Rights Act is very important and has been significant in protecting the rights to vote for many people in this country, and we're looking seriously at reauthorizing this, and so I think we agree on most of what the gentleman said in his opening statement.

And so I thank the gentleman for that.

Mr. CONYERS. Thank you, Mr. Chairman.

Mr. CHABOT. The gentleman from Virginia, Mr. Scott, is recognized for five minutes.

Mr. SCOTT OF VIRGINIA. Thank you, Mr. Chairman.

Mr. Chairman, sections 6 through 8 of the Voting Rights Act contain the Federal Examiner and Observer provisions of the act, which allow Federal employees to observe polling place and voter counting activities and serve to document and deter inappropriate conduct.

Although these provisions are permanent, the primary way these provisions are utilized is through the section five preclearance coverage formula, which is set to expire in August 2007.

Federal observers have been deployed in every year, just about every year. From 1966 through December 8, 2003, almost 25,000 observers have been deployed in approximately a thousand elections.

While observer coverage in the early years was almost exclusively designed to protect the rights of Black voters in the Deep South, in recent years it has been approximately a 50–50 split between traditional election coverage and election coverage designed

to protect the rights of minority language voters in various areas of the country.

In addition, the Department has routinely deployed its own civil rights personnel to serve as civil rights monitors in jurisdictions not covered by the Voting Rights Act.

During the 2004 election, the Department of Justice sent approximately 840 Federal observers and more than 250 Civil Rights Division personnel to 86 jurisdictions in 25 States to monitor general election activities to ensure voters were free from harassment, intimidation, and other illegal activity.

Over the last 40 years, the nature of the Federal examiner has changed. The examiner now usually plays a more administrative role; whereas, the observer's role has become more central to protecting voting rights.

Observers monitor elections in any certified jurisdiction for the purpose of observing whether eligible voters are allowed to vote, and whether votes cast by eligible voters are properly being counted.

Observers essentially serve as witnesses for what occurs in the polling place and during the counting of the vote.

In the case *U.S. v. Berks County,* that case shows the value of observers in documenting problems within the polls. The United States won the case, based upon the court-appointed observers' substantial evidence of hostile and unequal treatment of Hispanic and Spanish-speaking voters by polling officials.

The *Berks* case also illustrates why observers have a deterrent effect, because poll workers, election officials, and others involved in the election process know that their actions are being observed and recorded, some individuals are going to be discouraged from engaging in inappropriate behavior.

Sections 6 and 8 and other expiring provisions are essential to ensuring the fairness of our political process and equal opportunity for minorities in American politics.

It's imperative that we work together to strengthen these provisions, and I look forward to the testimony of our witnesses.

I yield back.

Mr. CHABOT. I thank the gentleman for yielding back.

The gentleman from North Carolina, Mr. Watt, is recognized for the purpose of making an opening statement.

Mr. WATT. Thank you, Mr. Chairman, and thank the Chairman again and the Chairman of the full Committee for this series of hearings.

I think this is the ninth one we've had on the reauthorization.

Mr. CHABOT. That's correct.

Mr. WATT. And I think we're getting close to building the record that we need related to the expiring provisions and the necessity for their extension.

Today's hearing turns to the last set of provisions scheduled to expire in 2007. Although much of the media coverage and public interest in the Voting Rights Act has been focused largely on section 5 and section 203, the Federal Examiner and Observer Program has historically played an integral role in ensuring that voting rights are actually shielded from Election Day abuses and the violation of those rights are properly documented.

While there is some question about the necessity of the Federal examiner provisions going forward, the role and continued need of well-trained Federal observers assigned to monitor elections in certified jurisdictions is absolutely critical.

The value to the average citizen of a Federal presence at the polls in those jurisdictions with a pattern of voting irregularities and infractions is simply incalculable.

Voters feel more at ease and confident when the Government places a high priority on election monitoring.

Conversely, those who might otherwise commit fraud or harass or intimidate eligible voters are deterred from doing so.

Despite significant gains in preventing blatant acts of discrimination at the polls, intentional efforts to undermine racial and language minority voters persist.

Last week the Voting Rights Initiative of the University of Michigan Law School issued its final report entitled "Documenting Discrimination in Voting: Judicial Findings Under Section 2 of the Voting Rights Act Since 1982." And I'm going to ask unanimous consent that we enter this report in the record, Mr. Chairman.

Mr. CHABOT. Without objection, so ordered.

Mr. WATT. Combing through the over 700 court cases, the researchers document repeated and sometimes egregious evidence of intentional discrimination against Native Americans, elderly African-Americans, and others on election day.

Just last year, at the request of Ranking Member Conyers, Congressman Waxman and Senator Lieberman, the GAO reviewed the Department of Justice's activities to address—acknowledged election-related voting irregularities, including conduct prohibited by the Voting Rights Act in Florida and other jurisdictions during Election 2000, and I would ask unanimous consent that that report be entered into the record also.

Mr. CHABOT. Without objection, also so ordered.

Mr. WATT. Although a DOJ witness could not be here today, or at least not a current employee of the DOJ, I would encourage the continued deployment of DOJ attorneys and other professionals on a judicious and non-political basis to supplement, but not to replace the work of statutorily authorized observers.

Federal observers have statutory rights to access not shared by Department of Justice attorneys.

It is important that this access to the polling place be preserved to guarantee every voter's ability to cast their vote and to have their votes counted free of unlawful discrimination.

Finally, Mr. Chairman, one final thing I want to deal with—that's—really we haven't had a hearing on yet, but there's been some testimony about over the course of our hearings, and that's we need to make sure that the award of expert fees to prevailing parties in litigation is put into the reauthorization.

The fees of experts in these cases are just—have become a real burden for everybody. I understand that prior to the 1982 reauthorization, there was an agreement to put this provision in, and because of the crunch at the last minute, the provision actually just never got put into the law.

And I don't think there's really any controversy about it. Prior testimony has already established the incredible expense imposed

on *bona fide* victims of voting rights violations to assemble the necessary evidence to sustain their burden of proof in a private action.

By allowing expert fees to prevail in parties, we would bring the Voting Rights Act into conformity with other Civil Rights legislation and promote the continued partnership between individual and Government enforcement that has made the act the success it is today.

I thank you, Mr. Chairman, and yield back and look forward to the witnesses; welcome them and thank them for being here.

Mr. CHABOT. I thank the gentleman. The gentleman's time has expired.

The Chair would also note the presence of a distinguished Member of the House, Congressman David Scott of Georgia, whose attendance has been exemplary at these hearings. Not actually a Member of this Committee, but I'd ask unanimous consent that he be recognized and have all the rights of a Committee Member today and be allowed to make an opening statement should he chose to do so, and also be allowed to question witnesses.

The gentleman is recognized, if he'd like to make an opening statement.

Mr. SCOTT OF GEORGIA. Well, thank you, Mr. Chairman.

I would just like to associate my remarks with my distinguished Democratic colleagues who've spoken eloquently on the statements so far in the interest of time.

But there is—and my Republican colleague, the Chairman, quite naturally. Thank you, Mr. Chairman. I also recognize you first.

If it were not for your graciousness, I wouldn't be here with this excellent opportunity.

Mr. CHABOT. Thank you. I was listening. Thank you.

Mr. SCOTT OF GEORGIA. Well, I may add, I had already gone over and shaked [sic.] his hand and thanked him personally.

Mr. WATT. I just didn't want him to engage in that oversight, Mr. Chairman.

Mr. CHABOT. When all this goodwill is over. Yeah.

Mr. SCOTT OF GEORGIA. And only one point that I certainly want to—a point that I think we would—I'm interested in is the why Federal observers are—you think they are—Mr. Weinberg, especially I was reading over your testimony earlier today—and your point about why Federal observers are necessary, but Federal examiners are not, certainly begs for some good discussion. So I look forward to that.

Thank you, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time has expired.

I'd like to—before I introduce the panel—note that without objection all Members will have 5 legislative days to submit additional materials for the hearing record.

And I'd now like to introduce our very distinguished panel of witnesses here this afternoon. Our first witness will be Ms. Nancy Randa, Deputy Associate Director for Talent Services, Human Resources, Products, and Services Division, at the U.S. Department of Personnel Management.

As Deputy Associate Director, Ms. Randa oversees the services and support provided to Federal agencies in staffing and human re-

sources, organizational and individual assessment, training and management assistance, and technology services.

Included in her responsibilities is overseeing OPM's Voting Rights Program, which deploys observers to designated polling sites to monitor elections.

Prior to serving as Deputy Associate Director, Ms. Randa served as Acting Associate Director for Merit Systems Oversight and Effectiveness, where she spearheaded a variety of projects that support human capital management and accountability.

Ms. Randa is an active supporter of human resources workforce transformation efforts, working on HR curriculum efforts at the graduate school operated out of the U.S. Department of Agriculture, and with the Human Resources Management Council.

We welcome you here this afternoon, Ms. Randa.

Our second witness will be Ms. Penny Pew.

Ms. Pew has served as Apache County Elections Director since 2001. She has been a certified Elections Officer with the Arizona Secretary of State's Office since 2001, as well as Arizona's League of Cities and Towns.

In 2003, Ms. Pew successfully completed the Southwest Leadership Program for Local and State Government from the University of Arizona Institute for Public Policy and Management.

In 2004, Ms. Pew partnered with the Navajo Nation Office of the Speaker on the successful Get Out the Vote 2004 Campaign. She most recently served as a panelist for the National Commission on the Voting Rights Act. We welcome you here this afternoon, Ms. Pew.

And our third and final witness will be Mr. Barry Weinberg.

Mr. Weinberg is a former Deputy Chief and Acting Chief of the Voting Section at the U.S. Department of Justice.

From 1965 until 2000, Mr. Weinberg served in many key roles at the Department, including supervising investigations and litigation under the Voting Rights Act.

In December 1999, the Barry H. Weinberg Award was established by the Department of Justice, recognizing an individual who has made an outstanding contribution to the effectiveness of the Federal Observer Program for monitoring polling place procedures under the Voting Rights Act.

Mr. Weinberg is the author of numerous articles on the Voting Rights Act, including a 2002 law review article, co-authored with Lynne Utrecht, titled "Problems in America's Polling Places: How They Can be Stopped."

Welcome, Mr. Weinberg, as well, as all the panelists. And I would—as I had noted before, the—for the record, the Department of Justice was scheduled to be our fourth witness here today, but due to a scheduling conflict, they were unable to be here.

The Department of Justice has submitted written testimony, which has been made available to us, and has offered to make themselves available at a later date and to respond to any written questions that this Committee might have, and those could be submitted to the Department of Justice.

A couple of other items I just need to mention is some of you have testified before; some of you may not be aware of this. We have what's called a 5 minute rule. There are two sets of lights

there. They'll go for 5 minutes. For 4 minutes, they'll be green. When there's 1 minute left, it'll turn yellow, and red light will come on when your 5 minutes is up.

I won't gavel you down immediately at that time, but we'd ask within reason to try to stay within that 5 minutes as much as possible.

It's also the practice of the Committee to swear in all witnesses appearing before it, so if you wouldn't mind, if you could each stand and raise your right hand.

[Witnesses sworn.]

Mr. CHABOT. Each witness has indicated in the affirmative. Thank you.

And we'll now hear from our first witness. Ms. Randa, you're recognized for 5 minutes.

TESTIMONY OF NANCY RANDA, DEPUTY ASSOCIATE DIRECTOR FOR HUMAN RESOURCES PRODUCTS AND SERVICES, U.S. OFFICE OF PERSONNEL MANAGEMENT

Ms. RANDA. Thank you, Mr. Chairman and Members of the Subcommittee. I am pleased to be here this afternoon to discuss the Office of Personnel Management's role in carrying out sections of the Voting Rights Act of 1965.

OPM works closely with the Department of Justice, specifically the Voting Section of the Civil Rights Division to assign voting rights observers to locations designated by the Department.

OPM's ultimate success with this program depends on its ability to recruit, train, deploy, and supervise observers of Election Day procedures.

Under the Voting Rights Act, at the request of a U.S. District Court or the U.S. Attorney General, OPM provides for appointment of 1: examiners, to examine and register qualified individuals denied the right to register in covered jurisdictions; 2: hearing officers, to entertain challenges to the actions of examiners; 3: support staff; and 4: observers to monitor actual polling places on Election Day and the subsequent tabulation of the votes.

Since 1966, we have deployed over 26,000 observers in a total of 22 States. Prior to 1976, we sent observers to only five States—Alabama, Georgia, Louisiana, Mississippi, and South Carolina.

However, in the past 10 years, as more jurisdictions have been subject to coverage under the Minority Language provisions of the act, we sent the next largest number of observers after Mississippi to these States: Arizona, New Mexico, New Jersey, California, Michigan, Pennsylvania, and New York.

Voting Rights observers serve as neutral monitors, witnesses, who do not intervene if there are violations. They only watch, listen, and record events that occur at particular polling sites on election days.

At present, we have a pool of approximately 900 intermittent employees, called into service on an as needed basis, who come from all walks of life, including Federal employees and retirees, students, and other public and private sector workers.

We schedule 1-day classroom sessions for observers to provide in-depth training on the overall process, on specific observer responsibilities, and on administrative issues.

We also provide refresher training during pre-briefing sessions on the day before the election. Whenever possible, we do role playing in the training to demonstrate to the observers the proper way of handling themselves at the polling sites.

In brief, the deployment process works this way: Prior to an election, the Department of Justice notifies OPM as to when and where it will need observers.

OPM then assigns a Voting Rights Coordinator to work with Justice's lead attorney to allocate observers to polling sites, coordinate logistics, and assign a captain to oversee the execution of the deployment.

The day before an election, a Department attorney briefs the observers, specifying issues of concern and activities to be reported. Throughout the day, observers report such information to the captain, who passes this information to a Department attorney. Only the Department of Justice determines if intervention is necessary, and only the Department of Justice takes action.

Toward the end of election day, the attorney determines when to call back the observers. The observers then return to their staging site and prepare a written report, one for each polling site, to document what they saw and heard throughout the day.

This is the bulk of what OPM does. But the statute also calls on OPM to have an examiner for each jurisdiction where observers will be assigned.

Originally, these examiners prepared a Federally-maintained list of voters who were denied the right to register in covered jurisdictions and they received calls from citizens regarding election day issues or incidents.

This function, however, has changed over the years. No voters have been added to the Federally-maintained list since 1983, as registration barriers have largely been eliminated.

Moreover, since there have been no challenges to registration decisions in the past 30 years, there has been no need for hearing officers.

Also due to advances in technology, toll-free numbers now allow citizens to report incidents and information to these examiners remotely in real time and 24 hours a day during the election period.

Under the act, OPM is required to publish voter registration qualifications of each covered State in the Federal Register, as well as to publish the list of examiners, places for voter registration, and examiner assignments.

However, these publications requirements may no longer be necessary since they are now covered nationwide by provisions of the Help America Vote Act and the National Voter Registration Act, which set out Federal standards for voter registration.

That concludes my testimony, and I would be pleased to respond to any questions the Subcommittee may have.

[The prepared statement of Ms. Randa follows:]

PREPARED STATEMENT OF NANCY RANDA

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here this afternoon to discuss the Office of Personnel Management's (OPM) role in carrying out sections 3, 6, 7, 8, 9, and 12 of the Voting Rights Act of 1965 (the Act).

Currently, implementation of the Voting Rights Act at OPM is managed by the Division for Human Resources Products and Services in the Center for Talent Services. This office works closely with the Department of Justice (the Department), specifically the Voting Section of the Civil Rights Division, to assign Voting Rights observers to locations designated by the Department. OPM's ultimate success with this program depends on its ability to recruit, train, deploy, and supervise observers of election-day procedures.

With regard to responsibilities assigned to OPM (prior to 1979, the U.S. Civil Service Commission), the Voting Rights Act provides, at the request of a U.S. District Court or the Attorney General of the United States, for the appointment of examiners to interview, ascertain qualifications, and register, if appropriate, qualified individuals denied the right to register by State and local officials in covered jurisdictions; hearing officers to entertain appeals and challenges to the actions of examiners; support staff as necessary to allow these individuals to perform their responsibilities; and observers to monitor actual polling places on election day and the subsequent tabulation of the votes. These provisions have not materially changed since initial passage of the Act in 1965. The Voting Rights Act also requires OPM to promulgate regulations on procedures for challenging the actions of examiners and to publish in the Federal Register individual State registration qualifications.

Since 1966, we have deployed over 26,000 observers in a total of 22 States. Prior to 1976, we sent observers to only 5 States: Alabama, Georgia, Louisiana, Mississippi, and South Carolina. In the past 10 years, as more jurisdictions have been subject to coverage under the minority language provisions of the Act, we sent the next largest number of observers, after Mississippi, to these States (in this order): Arizona, New Mexico, New Jersey, California, Michigan, Pennsylvania, and New York.

Voting Rights observers serve as neutral monitors, who do not intervene if there are violations. They only watch, listen, and record events that occur at particular polling sites on election days. At present, we have a pool of approximately 900 intermittent employees—called into service on an as-needed basis—who come from all walks of life, including Federal retirees, students, other public- and private-sector workers, and some full-time employees of various Federal agencies.

We schedule one-day classroom sessions for observers to provide in-depth training on the overall process, specific observer responsibilities, and administrative issues. We also provide refresher training during pre-briefing sessions on the day before the election. Whenever possible, we do role-playing in the training to demonstrate to the observers the proper way of handling themselves at the polling sites.

In brief, the deployment process works this way: Prior to an election, the Department notifies OPM as to when and where it will need observers. OPM then assigns a Voting Rights Coordinator to (1) work with Justice's lead attorney to allocate observers to polling sites; (2) coordinate logistics, such as arranging hotel meeting space and sleeping rooms for observers, leasing mobile phones, and making rental car and airline reservations to transport observers; and (3) assign a captain to oversee the execution of the deployment.

The day before an election, a Department attorney briefs the observers, specifying issues of concern and activities to report. For example, if a jurisdiction has been suspected of hampering non-English speakers' right to have interpreters or of not providing ballots in other languages as directed by consent decrees or court orders, the Department's attorney may ask that observers witness the provided assistance and/or make note of how many voters received language assistance. Observers may also be asked to note how many non-English speakers were turned away from polling sites or were given provisional ballots. Throughout the day, observers report such information to the captain, who passes this information to a Department attorney. Only the Department determines if intervention is necessary, and only the Department takes action. Toward the end of an election day, the Department determines when to call observers back. The observers then return to their staging site and prepare written reports—one for each polling site—to document what they saw and heard throughout the day.

That is the bulk of what OPM does. The statute also calls on OPM to have an examiner for each jurisdiction where observers will be assigned. Originally, examiners prepared a Federally maintained list of voters who were denied the right to register by State and local officials in covered jurisdictions, and they received calls from citizens regarding election-day issues or incidents. This function, however, has changed over the years. No voters have been added to the Federally maintained list since 1983 as registration barriers have been eliminated. Moreover, since there have been no challenges to registration decisions in the past 30 years, there has been no need for hearing officers. Also, due to advances in technology, toll-free numbers

allow citizens to report incidents and information to examiners remotely, in real time, and 24 hours a day during the election period.

Under the Act, OPM is required to publish voter registration qualifications of each covered State in the Federal Register. It has also been required to publish the list of examiners, places for voter registration, and examiner assignments. However, these publication requirements may no longer be necessary, since they are now covered nationwide by provisions of the Help America Vote Act (HAVA) and "Motor-Voter" statute (National Voter Registration Act), which set out Federal standards for voter registration.

OPM's Voting Rights Program costs have ranged from under $1 million in earlier years to a high of $4 million in the Fiscal Year that included the 2004 general election. Putting aside the expected increase in 2004, the overall trend has been for an increase in program coverage and cost, particularly for minority-language coverage.

That concludes my testimony, and I would be pleased to respond to any questions the subcommittee may have.

Mr. CHABOT. Thank you very much. Ms. Pew, you're recognized for 5 minutes.

TESTIMONY OF PENNY L. PEW, ELECTIONS DIRECTOR, APACHE COUNTY, ARIZONA

Ms. PEW. Thank you, Mr. Chairman, Members of the Subcommittee, for the opportunity to testify today for the reauthorization of section 6 and section 8, as they relate to section 203 of the Voting Rights Act.

As stated before, my name is Penny Pew, and I've been the Elections Director in Apache County since 2001.

And one of our primary focuses has been providing the minority and prospective voters the necessary election materials to ensure that each vote cast is an informed vote.

While this education began in the 1990's as a mandate, we continue to provide these services to our electors so that the rewarding changes that we have experienced will continue.

I would like to speak to the Federal Observer Program, which I believe was implemented following guidelines from the consent decree.

The Observer Program has successfully functioned as a check and balance feature in the translator program. One of the three-member teams sent to the 33 precincts on the Navajo Nation speaks Navajo, who I view as a partner.

During the day, these observers are able to witness poll workers and translators assisting the voters as they impart ballot information. The observers ask voters if they may observe the process. They do not interfere with the process and have never, to my knowledge, given any instruction to improve or to correct a process.

The observers note different scenarios occurring during the course of the day to ensure that fraudulent information is not given to voters. In some instances, the observers report happenings to their DOJ central contact, who I meet with on each Federal Election Day.

We are able to discuss the information relating to the day's events at the polling places. This is absolutely the best way for me to know instantaneously of situations that can be rectified in a very timely manner.

I explain to those poll workers that the individuals have been invited to help us do our duties. Observers are greeted by the inspector of the polling place in an attempt to put all parties at ease and

to assure the poll workers that the observers should not be viewed as hostile.

Identification is presented and worn by each observer throughout the day. Due to the rural area of Apache County and in an attempt to minimize their presence, observers are requested to dress casual to better fit their surroundings.

In follow-up post-election meetings, these notes are discussed, and, if necessary, changes are made in personnel or training procedures to ensure that no repeat incidents occur.

As you are aware, the Navajo language is unique and could be very easily misinterpreted. Translators who serve on these election boards attend exclusive training classes, which are taught by full-time outreach workers, using written copies, flip charts, cassette recordings.

During these classes, members are asked to read aloud the information together as a whole group. Open questions and clarifications are given by the outreach workers to ensure that each translator is uniform in their ballot translation, voter to voter, precinct to precinct.

In 2004, Apache County extended partnership to include the Navajo Nation Office of the Speaker. We provided various educational materials through chapter meetings, community forums, fair booths, and frankly anywhere there were voters.

I am pleased to report that this was a worthwhile project. As it turned out, Navajo Nation increased to 17,955 voters, comparatively to 14,277 voters in 2000. Additionally, the numbers increased in a precinct on the White Mountain Apache land from 44 voters in 2000 to 62 in 2004.

Now, as an Election Director, I've spent untold hours developing a program that is indigenous to Apache County. I've spent time in the polls and in the communities listening to these voters, learning what we as election directors can do to ensure that the most fundamental right as citizens of this great nation enjoy the right to an informed vote, with the knowledge that it will be counted without worry of fraudulent actions in or out of the polling place.

In closing, I fervently believe that is incumbent upon this Committee to use the expertise of each witness to further the Voting Rights Act, sections 6 and 8, Federal Examiner and Observer provision; and continuing programs such as the one used in Apache County.

The observer program has proven successful for us, and has given us insight to the happenings at each polling place that would otherwise go unnoticed.

For these and other additional reasons, which are stated in my written testimony, the reauthorization of these sections is critical to maintaining the robust program in Apache County.

And, again, thank you for your—for this opportunity.

[The prepared statement of Ms. Pew follows:]

PREPARED STATEMENT OF PENNY L. PEW

Thank you Mr. Chairman and committee members for the opportunity to testify before you today regarding the reauthorization of Section 6 and Section 8 as they relate to Section 203 of the Voting Rights Act, 42 U.S.C. 1973c.

My name is Penny L. Pew, and I am the elections director of Apache County in northeastern Arizona. I have had the pleasure of this position since June of 2001.

My primary focus has been on providing the minority and prospective voters, the necessary election materials to ensure that each vote cast is an informed vote. While this education began in 1982 as a mandate, we continue to provide services to our electors so that the rewarding changes that we have experienced will continue.

FEDERAL OBSERVER PROGRAM

Following a lawsuit charging Apache County with discrimination against Native Americans, as it related to election procedures and materials, a 1989 Consent Decree was entered establishing the Navajo Language Election Information Program. A portion of this program was the observer program which has successfully functioned as a check and balance feature to this program.

According to the 2000 census, the total population of Apache County is 69,423 persons, of whom 53,375 are Native American (76.9%). The voting age population of 42,692 persons, of whom 31,470 are Native American (73.7%); and that of all Native Americans of voting age, over one-third are limited-English proficient (11,377 persons).

Most of the 3 member teams sent to the 33 precincts located on the Navajo Nation have at least one Navajo speaking member, who I view as a "partner". During the day, these observers are able to witness poll workers and translators assisting the voters as they impart ballot information. The observers ask voters if they may observe the process. They do not interfere with the process and have never to my knowledge given any instruction to correct or improve a process. The observers note different scenarios occurring during the course of the day to ensure that fraudulent information is not given to voters. In some instances, the observers report happenings to their DOJ central contact, who I meet with on Election Day. We are able to discuss the information relating to the days events at the polling places. This is absolutely the best way for me to know instantaneously of situations that can be rectified in a timely manner.

I explain to the poll workers that these individuals have been 'invited' to help us as we do our duties. Observers are greeted by the Inspector of the polling place in an attempt to put all parties at ease and assure the poll workers that the observers should not be viewed as hostile. Identification is presented and worn by each observer throughout the day. Due to the rural area of Apache County and in an attempt to minimize their presence, observers are requested to dress casual to better fit their surroundings.

In a follow-up post election meeting, these notes are discussed and if necessary, changes are made in personnel or training procedures to ensure no repeat incidents.

Translators who serve on the election boards attend extensive training classes which are taught by full-time outreach workers using Power Point presentations, flip charts, cassette recordings as well as written copies, of the ballot information. Each translator and Inspector (lead poll worker) are provided a cassette and also written ballot information. During the training classes, each member is asked to read aloud the information. This is accomplished in a relaxed atmosphere where the class participates as a whole. Open questions and clarification are given by the outreach workers to ensure that each translator is uniform in their ballot translation, voter to voter, precinct to precinct.

VOTER OUTREACH AND EDUCATION

Advertisements

Apache County has provided bulletin boards to each chapter house facility where upcoming election information is posted and kept current. Voters have learned to use this tool in gaining the necessary election information. Periodic checks are done to ensure that only current information is posted.

Radio stations and newspapers have been instrumental in distributing the necessary election information. This was originally outlined in the Consent Decree 1989 with many additional measures added for further enrichment.

Language Training

As each of you are aware, the Navajo language is unique and without extensive linguistic training, could be misinterpreted. A Navajo Language Election Glossary has been developed over the years with input from outreach workers in Arizona, New Mexico, Utah, and the Navajo Nation in an effort to make the election terminology used county to county and state to state as uniform as possible. As times and technology change, the glossary is updated through proper approval.

The outreach workers use this glossary to translate ballot issues in a Tri-County forum to further ensure uniformity. This is imperative, as many precincts lie on

county lines where voters may see more than one county ballot, radio or newspaper ads or other informational materials.

Translators/Poll workers

Poll workers are given a detailed manual to use as a guide in fulfilling their obligations on Election Day, in a uniform manner. Additional items are distributed to ensure that the poll worker has all the tools necessary to assist the voter. In an effort to further educate, role playing was implemented and has proven to be a valuable tool in explaining ballot measures, as they are often very complicated.

Due to the extensive land area of over 11,000 square miles, training classes are held in various locations throughout the county to allow the poll workers and translators easier access to training. Each individual is compensated for their time to attend these classes.

After the training class, poll workers are encouraged to listen to their audio cassette and practice the issues. Many mentioned that they didn't have access to a player. So, in 2003, we established a cassette player library for workers to check out a player to listen and study the information. This was well received and the post election remarks indicated improvement; additionally, all cassette players were returned to the county library.

State and County Monitoring of Effectiveness

Meetings are schedules on Tri-State and Tri-County levels to discuss any issues that may need to be remedied. Any/all issues are handled by each county official to keep uniformity in the informational disbursement process. Tri-county personnel work closely on translations and exchanges of information to better ensure uniformity in the disbursed information. NEA officials are invited and usually attend these meetings with valuable input on the issues.

NEA (Navajo Election Administration)

All information is approved by the NEA prior to distribution including but not limited to announcements (radio and print), ballot translations, audio tapes, and any other training information. All training schedules are provided to the NEA and an open invitation to attend any/all class.

The following is taken from a letter written to me by Kimmeth Yazzie, Navajo Nation Program Coordinator/Language contact:

> "The purpose of the minority language Consent Decrees has generated a much greater cooperation and assistance to provide the necessary election and voter registration services to the Navajo Nation within the counties, much more than was anticipated from the beginning. Although the Consent Decree specific to Apache County expired in 1992, the county and the Navajo Nation continue to strive forward to this day to make voter registration and elections easier for the citizens in Apache County. Such services as situating outreach offices and Navajo speaking personnel in local areas with additional personnel when it becomes necessary, has made voting easier for the people of Apache County. An example, the development of the Navajo Glossary has opened doors to better communication with the Navajo Nation citizens as well as other tribes seeking development of the same methods of outreach. Developments of graphic materials and video and audio recordings provide our people with a better understanding of the elections. Bringing voter registration to the local area eliminates the long distance travels just to register to vote for outlying areas. Setting up and coordinating events together with the Navajo Nation and the county provides voters with two services at one location and a better understanding of the two distinctive elections. The clearance of all materials and information through the Navajo Election Administration provides assurance to the Navajo Nation that the proper and sufficient election information is provided to the people of the Navajo Nation, thus developing trust and alliance. Ideas to better provide services are always being exchanged between the county and the Navajo Nation. We learn from each other. Since the expiration of the Consent Decree in 1992, the relationship between the tribe and the county has grown and advanced beyond the bounds of the Consent Decree requirements.
>
> In closing, I can honestly say that the language program has been positive for our county in educating and promoting our most fundamental right . . . the power of our vote."

Outreach/Satellite Offices

Apache County has two county district offices which are on Reservation Land; District I in Chinle houses a satellite office. District II in Ganado houses a second

office. Voters and residents of surrounding areas visit to check voter registration and to receive any election updates.

Regular meetings are scheduled and appear on agendas for the chapter visits at which time presentations are given using flip charts, PowerPoint presentations, audio aids as well as other means to convey the necessary information. Presentations are given in the Navajo language.

All political views of the outreach workers are kept unbiased and neutral at all times. Implementation to 'piggy-back' with the jurisdictions has been effective in that the outreach worker gives factual ballot information and the jurisdictions are available to answer any additional questions that the public may have.

Deputy Registrars

Deputy Registrars have proven valuable in assisting the voters in the ongoing voter registration and education process. Each Deputy Registrar is trained in current procedures. Each chapter office, Navajo Election Office and other Navajo Nation officials are trained and have provided further election information. Each chapter maintains a current voter listing, voter registration forms and during election cycles, early voting request forms.

Collect Phone Calls

Apache County happily accepts collect calls to assist the caller in election-related information. In an effort to better serve the people, an '800' number is advertised on all out-going materials and advertisements as well as the website.

Voter Education

Numerous items with voter information in distributed to spark interest in what has been viewed as boring in the past. Colorful brochures and interactive community meetings have been the focus in gaining voter recognition. For instance, during the Presidential Preference Election, February, 2004, in an effort to better explain who may vote, an informational brochure was produced in English, receiving positive input. A mirror copy was then distributed in the Navajo language. This helped gain further notice among the voters, with the outreach workers receiving community comments for further ideas in education. We also provide "I Voted" stickers in the Navajo language and it has been spectacular.

VOTER TURNOUT

In 2004 Apache County extended partnership to include the Navajo Nation Office of the Speaker in an effort known as "Get the Vote Out". Due to the low voter turnout experienced in past elections, we provided various educational materials at chapter meetings, community forums, fair booths, and anywhere there were going to be voters. I am pleased to report that this was a worthwhile project as turnout in precincts on the Navajo Nation increased to 17,955 voters casting ballots in 2004, comparatively 14,277 voters participated in 2000. Additionally, on the White Mountain Apache Lands, Apache County has one precinct where 44 voters participated in 2000, rising in 2004 to 62. This is due in part to the education at school and community meetings.

Political Protocol

During the 2002 election cycle, a non-Native American entered several polling places without the proper clearance. While inside the polling place, he intimidated the poll workers and voters, creating chaos as he progressed to various polls. For this reason alone, we implemented a Political Protocol presentation and accompanying brochure. The brochure is included in each candidate packet and a personal invitation to attend a short meeting outlining the proper protocol when campaigning on Native Lands. This is sent to each candidate, county, state or federal. We had great success and I am pleased to report that during the five elections which were held in Apache County in 2004, we had no reported violations in or around the polling places.

Early Voting

Ballot request forms are given to the Chapter Officials, County District offices on the Navajo Nation, State offices and the NEA. Outreach workers keep forms with them at all times while traveling and presenting throughout the county. These forms can also be accessed using the website *www.co.apache.az.us/recorder.*

Early Voting drives are unique in Apache County. After specified advertisements in newspaper and on radio, a trailer which has been painted in a patriotic motif travels to scheduled locations throughout the rural areas. This trailer can be found many places such as on fence lines, shopping lots, trading posts, and post offices to name a few.

Election Day

Apache County employs trained bilingual poll workers at each of the polling places on Native Lands. These poll workers are recruited with the help of chapter officials, postings and word of mouth.

Where joint elections are held between the Navajo Nation and the County, where polling places are shared, all efforts are made to make certain that the poll workers are trained and that a good working relationship is established between the Navajo Nation and the County officials to provide an enjoyable election day. The NEA and the County exchange poll worker lists to ensure that no candidate or close relative appears on either ballot.

Each polling place is monitored for effectiveness by a 'Troubleshooter.' This person is a county employee who has received training in the election process and is able to identify and correct irregularities on-the-spot. This person is the liaison between the county elections director and the polling place.

CLOSING COMMENTS

As election director, I have spent untold hours developing a program that is indigenous to Apache County. I have spent time in the polls and in the communities listening to the voters, learning what we as election directors can do to ensure that the most fundamental right as citizens of this great nation enjoy . . . the right to an informed vote with the knowledge that it will be counted without worry of fraudulent actions in or out of the polling place.

In closing, I fervently believe that it is incumbent upon this Committee to use the expertise of each witness to further The Voting Rights Act: Sections 6 and 8—Federal Examiner and Observer Provisions, in continuing programs such as the one used in Apache County, Arizona as it relates to the Native Americans. The observer program has proven successful for us and has given us insight to the happenings at each polling place that may otherwise go unnoticed. For these and other additional reasons, which are stated in my written testimony, the reauthorization of these sections is critical to maintaining the robust program in Apache County. Again, I thank you for this opportunity.

Mr. CHABOT. Thank you very much, Ms. Pew.

Mr. Weinberg, you're recognized for 5 minutes.

TESTIMONY OF BARRY H. WEINBERG, FORMER DEPUTY CHIEF AND ACTING CHIEF, VOTING SECTION, CIVIL RIGHTS DIVISION, U.S. DEPARTMENT OF JUSTICE

Mr. WEINBERG. Thank you very much, and thank you for asking me to come here.

I may be one of the few witnesses that you have who is not connected with any office or organization, and probably one of the fewer witnesses that you're going to have that was there at the inception of the Voting Rights Act and saw the Federal examiners listing people to vote and saw the Federal observers when they first started.

But I know I'm the only one here among the witnesses who was a supervisor of the Federal Examiner and Observer Program in the Justice Department for 25 years, and it's from that vantage point that it seems to me that there are at least three questions that ought to be addressed now when we're thinking about the reauthorization of these provisions.

The first question is whether the provisions for Federal observers and Federal examiners are still needed. I think that the answer to that question is that the provisions for the Federal observers are crucial to the enforcement of the Voting Rights Act, and need to be reauthorized, maybe even made permanent; but the provisions for the Federal examiners not so much.

The Federal examiners' functions—most of them are outdated. The procedures are cumbersome and archaic, and I don't think they

serve any real purpose anymore. And so my conclusion would be that they're not needed anymore in the Voting Rights Act as it stands today.

The second question I think is whether there should remain a link between the certification of a county for Federal examiners and the later assignment of Federal observers to the county.

Under the Voting Rights Act, the certification of a county for Federal examiners is a prerequisite to the assignment of Federal observers.

But the functions that they perform, the link that they had, doesn't exist anymore. When Federal examiners first registered people to vote, those people had to go to polling places where there were hostile election officials. You had African-American voters facing hostile White polling place workers and voters for the first time in many, many rural areas across the South. The Federal observers were written into the act to watch what happened to those newly enfranchised voters and to allow the Justice Department to take action to assure their safety in the polling places. That situation just doesn't exist anymore, and I think the linkage is cumbersome and ought not to exist either.

The third question I think is whether the Federal observers ought to be continued as a law enforcement function under the Voting Rights Act, which is what they perform; or whether it's possible to make the reports and information from the Federal observers public after the election, as is done overseas.

I just got back last week from being an international observer in an election in Azerbaijan, and I've done that a few other times. The organizations that do that kind of work do it in order to publicize the information that they get from the polls immediately after the election.

But I think that would be a real mistake. I think that the use of Federal observers in law enforcement is important and ought to be continued and the publication of the information they get immediately would be detrimental.

All this revolves around what I consider the most important point, which is that the existence of Federal observers is crucial, and it's irreplaceable in the Voting Rights Act. After all, there's no other way for the law enforcement function of the Justice Department to be able to be performed with regard to harassment and intimidation and disenfranchisement of racial and language minority group members in the polling place on Election Day. And that's because State laws are written to keep other people, including Federal investigators out of the polls.

State laws, almost all of them—and they vary, but invariably they allow in the polls on Election Day the voters and the polling place officials, and they keep everybody else out. They allow police in if there's a disturbance, but mainly it's to have this safe harbor for voters on Election Day. But the effect of that, from a law enforcement point of view, is it keeps the law enforcement officers out. There is no way that the Justice Department lawyers could know about this harassment and this intimidation without the Federal observers, because the Voting Rights Act allows the Federal observers in. Federal observers are witnesses. They are the eyes

and the ears of the Justice Department attorneys in the polling places.

Without them, the law, the enforcement of the Voting Rights Act would be much abused, and so I would—my conclusion is that the observer provision is necessary. It ought to be reauthorized. It ought to be continued, and I think there should be some consideration given to making it permanent, taking it out of the special provisions and making it adjunct to sections 2 and 203 of the Voting Rights Act.

[The prepared statement of Mr. Weinberg follows:]

PREPARED STATEMENT OF BARRY H. WEINBERG

Statement of

Barry H. Weinberg

Before the

Subcommittee on the Constitution
Committee on the Judiciary
United States House of Representatives

Concerning

The Voting Rights Act: Sections 6, 7 and 8– Federal Examiner and Observer Provisions

November 15, 2005

Chairman Chabot, Ranking Member Nadler, distinguished members of the Subcommittee:

Thank you for inviting me to talk this afternoon about the federal examiner and federal observer provisions of the Voting Rights Act.

There are three central questions on the retention of the federal examiner and federal observer provisions of the Voting Rights Act:

1. Are the federal examiner and federal observer provisions still needed?

   The federal observer provision is still needed. Most of the federal examiner provisions are no longer are needed.

2. Should the initial assignment of federal observers to a jurisdiction remain dependent on the certification of the jurisdiction for federal examiners?

   No, but a certification-like decision should be required when federal observers are initially assigned to a jurisdiction.

3. Should the federal observer provision remain solely as a law enforcement tool, or should the findings of the observers be made immediately available to the public?

   The federal observer provision should remain as a law enforcement function. Publication of the observers' findings would be detrimental to that function.

The following is an overview of the federal examiner and federal observer provisions of the Voting Rights Act, my experience with them, and the reasons why I

have answered the questions as I have. This recitation is followed by a detailed explanation of the Voting Rights Act's provisions for federal examiners and observers—Sections 6, 7 and 8 of the Voting Rights Act—and fact situations and federal court cases that demonstrate why the federal observer provisions are still needed.

The federal examiner and federal observer provisions had a real impact on African Americans in the South.

I was a lawyer in the United States Justice Department's Civil Rights Division from 1966 until my retirement in January 2000. Beginning in 1973 I was partly, and shortly thereafter, wholly in charge of the Justice Department's responsibilities for the federal examiner and federal observer programs. But I began working in the Civil Rights Division as a law clerk in the summer of 1965, and I was there on August 6, 1965, when the Voting Rights Act became law. Shortly after the Act was passed I was assigned to accompany the many other employees of the Civil Rights Division who were working out of an office set up in the federal building in Selma, Alabama. Our primary job was to investigate the beatings suffered by people who earlier that year attempted to march from Selma to Montgomery, Alabama, to protest the disenfranchisement of African Americans in Alabama.

I traveled with Civil Rights Division lawyers from county to county in West Central Alabama to determine the identity of the victims of those beatings and to interview them. As we traveled, we also got information on possible violations of the provisions of the Civil Rights Act of 1964, and we stopped into the offices where federal examiners were giving African Americans their first easy, safe and fair opportunity to register vote. (Local voter registration hours and locations were so restrictive that some white people took advantage of the easy federal voter registration opportunities too.)

Those events gave rise to the issues we are addressing now, 40 years later. A discussion of these issues can easily get blurred by a numbing recitation of legal statutes, provisions and clauses, because that is how the Voting Rights Act is written. I will set out those citations later in my statement by providing sections of an article my wife and I published in the Spring 2002 edition of the Temple Political and Civil Rights Law Review. But first I want to review the federal examiner and federal observer provisions of the Voting Rights Act as they applied to people and voting in the real world.

Under the structure of the Voting Rights Act, a federal examiner can be assigned to any site in the states and counties that are specially covered under the Act's formulae in Section 4, after the county has been certified by the Attorney General of the United States (or in any county certified by court order). Of course, under the structure of the Voting Rights Act, the federal examiners do not technically register people to vote: they examine applicants as to their eligibility under state voter registration laws that are otherwise Constitutional, and then put those applicants who are found to be eligible on a list. The list is given to the local county voter registrar who is required by the Voting Rights Act to enter the eligible applicants' names on the local voter registration rolls.

In the summer and fall of 1965 people were lined up day after day to take advantage of their first opportunity to register to vote. The federal examiners were Civil Service Commission investigators who had been pulled off of the routine jobs they had been doing and sent to sites in Alabama and other Southern states that had been designated by the U.S. Attorney General for federal listing. Besides listing voter applicants, the examiners were available to take complaints about listed people who had not been placed on the county voter registration rolls.

Those examiners were not, on the whole, a happy group. Their presence in small groups of two or three was obvious in town, and their work was opposed by many of white people there. In the main, they ate alone, walked alone and talked mostly to each other. The examiners were eager to know from us, on our rounds, when they would be able to go home. Still, they persevered, and in the end they accounted for the registration of tens of thousands of people who had been discriminatorily kept off of the voter registration rolls. From 1965 to 1972 federal examiners were responsible for the registration of over 170,000 voters. They achieved a signal victory in the fight against racial discrimination in voting.

As the Voting Rights Act is structured, federally registered voters have continuing protection against attempts at keeping them from voting. In any county that has been certified for a federal examiner, the Voting Rights Act authorizes the United States Office of Personnel Management (the successor to the United States Civil Rights Commission) to assign federal observers to polling places as requested by the U.S. Attorney General, to watch voting and vote counting procedures. (Note that the certification of a county for federal examiners is a prerequisite for the assignment of federal observers, but the presence of federally listed voters in the county is not.)

That protection was badly needed in the mid-1960s for newly registered African American voters as they entered the polling places and weathered the stares of white voters and the hostility of the polling place officials. Some examples of the humiliations they faced are set out later in my statement. But for now it is enough to know that they, too, persevered, and under the protective presence of the federal observers, they cast their ballots and participated in the political life of the county for the first time.

The federal observers' job is to watch and take notes. If polling place officials choose to violate their own procedures in order to humiliate racial or minority language voters, or intimidate them, or refuse to allow them the same voting privileges in the polls as the white voters, the federal observers cannot intervene. The observers in a county have co-captains who travel from polling place to polling place, checking with the observers and getting information from them. Those observer co-captains call regularly to a central office established by the Office of Personnel Management. Originally, and for many years, this central office was known as the examiner's office, which had been established for the examiner to take complaints as is required by Section 12(e) of the Voting Rights Act. In the examiner's office there also was a lawyer from the Justice Department's Civil Rights Division (usually from the Voting Section, *nee* Voting and Public Accommodations Section). Today, since the examiner has little or no function,

especially in a county where there are no federally registered voters, the office used in the county on election day is referred to as the captain's office. The observer captain along with a Civil Rights Division attorney are there to receive the calls and the information from the observer co-captains.

When irregularities arise the Division lawyer relays the information about the irregularities to the county official in charge of the election, and allows the county official to take action to correct the irregularities. Where corrective action is not taken or is inadequate, a civil action can be filed later under the Voting Rights Act. A civil action, such as the one described below involving Conecuh County, Alabama, can use the reports of federal observers as effective and unassailable evidence of racially discriminatory actions of polling place officials. After the election the observers provide their reports to the federal examiner, the Attorney General and, if appropriate, to a federal court (if the county is certified for an examiner by a court).

The work of the federal observers as described here continued in the South largely unchanged through the 1990s. These procedures apply too, to the work of federal observers in other areas of the country with important modifications to deal with geographical differences and activities in polling places involving minority language voters.

Federal observers are necessary, federal examiners are not necessary.

Violations of the Voting Rights Act continue to happen in polling places throughout the United States. The need for federal observers to document discriminatory treatment of racial and language minority voters in the polls has not waned. The use of a thousand or more federal observers at election after election beginning in 1965 decreased to the use of hundreds of observers at elections after the early 1980s as a result of the effective enforcement of the Voting Rights Act in Southern states. But the enforcement of the language minority provisions of the Voting Rights Act, added in 1975, has required the use of hundreds more federal observers to disclose to Justice Department attorneys evidence of harassment of members of language minority groups, and instances where ballots and other election material and procedures are not available to those voters in a language they can understand. The result is that between 300 and 600 federal observers continued to be needed annually from 1984 to 2000.

The facts supplied by federal observers to Civil Rights Division attorneys are crucial and irreplaceable in the enforcement of the Voting Rights Act. Most parts of the voting process are open to the public, and the evidence of Voting Rights Act violations that are involved in the voting process can be obtained by Justice Department lawyers through routine investigations. But most state laws limit access to polling places on election day, allowing only voters and polling place officials to remain in the polls (police are allowed too when called to deal with disturbances). Thus, unless an exception is made in these rules to allow federal investigators to get special access to the polls, the harassment of racial and minority language voters and other violations of the Voting Rights Act inside the polling places would go unseen and unchecked.

Federal observers have special access to polling places under the authority of the Voting Rights Act even where access to Justice Department attorneys is otherwise barred. Federal observers thus become the attorneys' eyes and ears. The discriminatory treatment of racial and minority language voters witnessed by the federal observers, as discussed in detail below, runs the gamut from actions that make those voters feel uncomfortable by talking rudely to them, or ridiculing their need for assistance in casting their ballot, to actions that bar them from voting, such as failing to find their names on the lists of registered voters and refusing to allow them to vote on provisional ballots, or misdirecting them to other polling places.

Minority language voters suffer additional discriminatory treatment when people who speak only English are assigned as polling place workers in areas populated by minority language voters. The polling place workers fail to communicate the voting rules and procedures to the voters, or fail to respond to the voters' questions. In some instances, qualified registered voters have been told that they are not permitted to vote because they have not furnished necessary information, such as their address, even when they have provided the information; the poll worker was unable to understand what the voters were saying, but a speaker of the minority language would have understood.

Civil Rights Division lawyers who receive facts from federal observers about violations of the Voting Rights Act provide those facts directly to the election officials in the jurisdictions involved, allowing them to take corrective action in compliance with the Act. In other instances, those facts are used to secure court orders requiring that the jurisdictions involved to comply with the dictates of the Voting Rights Act. In either approach, the end result fulfills the goal of the Voting Rights Act to allow United States citizens to cast their ballots on election day freely and fairly, without distinction because of their race or membership in a language minority group.

That the work of the federal observers is a part of a law enforcement effort—the enforcement of the Voting Rights Act—is especially true where the information from the federal observers is provided in the context of a lawsuit, where a court has certified a county that was not specially covered under the Voting Rights Act. In that situation, the information is given to the court and affects the position of the parties (the Justice Department and the county) with respect to the actions the jurisdiction must take to comply with the Act (the relief that is ordered in the case). Some local election officials have come to welcome the information obtained by federal observers as an additional source showing the extent to which the county's polling place officials are complying with the provisions of the Voting Rights Act.

However, the initial assignment of federal observers to a county today remains dependant on the certification of the county for the assignment of federal examiners even though federal examiners are largely unnecessary any more for listing voter applicants. There has been no federal listing of voters since the 1970s, apart from an isolated flurry of voter listing in Georgia in 1982 and another isolated flurry in Mississippi in 1983. Discriminatory actions against racial and language minority group members are not

caused by their status as federally registered voters. And examiners no longer receive complaints on election day with respect to federally listed voters. I do not recall any complaints that were received centering on mistreatment of federally listed voters over the last 20 years of my supervision of the federal observer and examiner programs, and few, if any such complaints before that. (Complaints about other matters are made to the examiner, but they routinely involve matters for which the federal observers have been assigned to the county, and are just as easily, and more effectively fielded by the federal observer captain in the county.) Moreover, the enforcement of the Voting Rights Act and the enactment of new easy voter registration laws, such as the National Voter Registration Act (the motor voter law), have made the possibility of future listings by federal examiners highly unlikely.

Further, the Office of Personnel Management must continue to keep the lists of federally listed voters up to date regarding changes of name, changes of address and, as the years have gone by, of deaths. Those voters cannot be removed from the voter rolls without the approval of the Office of Personnel Management, and the lists continued to be provided for election day use by those counties where there are federally listed voters. In fact, these lists are no longer used for any practical purpose, and their maintenance should be discontinued.

It is possible that federal examiners may be needed in the future for voter listing in a situation where the dictates of the Voting Rights Act are met, so the Voting Rights Act's authorization for federal examiners to conduct listing activity should be retained. But there is no reason to continue to tie the assignment of federal observers to the appointment of a federal examiner. I believe that, apart from the possible need for listing voters, the federal examiner provisions are outdated and are no longer needed in the Voting Rights Act, especially the requirement that an examiner be appointed as a prerequisite for the assignment of federal observers to a county.

But the procedure for the certification of a county for federal examiners under Section 6 of the Act serves an important purpose: it requires the Justice Department to conduct an intensive investigation to support the certification, and thus makes the federal government responsible for taking action regarding local election procedures only on the basis of complete and compelling facts. I believe that some manner of certification should remain a prerequisite for the initial assignment of federal observers to a county and, once certified, that a county would remain certified, as is now the case, until it acted to eliminate the certification (the formula under Section 13 for terminating certification would be changed).

If such a new certification procedure would be instituted, the requirement that the United States Attorney General personally must sign the certification, as is now the case, would be unnecessary. This authority for executing a certification should be allowed to be delegated to the Assistant Attorney General for Civil Rights. To my recollection, the Attorney General has signed every certification that has been recommended by the Assistant Attorney General for Civil Rights. Nor would the Attorney General's signature be needed any more to assure the importance of the certification if the only consequence

of a certification would be simply to allow federal observers to witness polling place procedures. The delegation to the Assistant Attorney General for Civil Rights of the responsibility for a certifying a county for the presence of federal observers would be similar to the delegation of authority to the Assistant Attorney General to object to changes in voting practices and procedures under Section 5 of the Voting Rights Act.

The purpose of the present requirement in the Voting Rights Act that the Attorney General's certification of a county be published in the Federal Register is to give notice of the location of the federal examiner's office. Since it no longer will be necessary to have an office for a federal examiner when federal observers are assigned, the publication of the location of that office also will be unnecessary. Those who will most need to know of the assignment of federal observers—county officials and minority group representatives—always are informed personally by Civil Rights Division attorneys, and other members of the community easily learn of the observers' presence from Division attorneys, local press reporting and word of mouth.

Accordingly, I believe that the federal observer provision is still necessary to the enforcement of the Voting Rights Act, but the Voting Rights Act no longer should tie the assignment of federal observers to the appointment of a federal examiner. The Act should allow a certification function, newly directed only to the assignment of federal observers, to be delegated to the Assistant Attorney General for Civil Rights. The requirement for publication of the certification in the Federal Register—an adjunct of the federal examiner function—should be eliminated as a prerequisite to the initial assignment of federal observers.

Federal observers' work should continue to be a law enforcement function.

I also recommend that the function of the federal observers remain as it is: as witnesses in a law enforcement function. The question arises because, since my retirement, I have been an observer four times in other countries as a part of an international observer corps assembled by the Organization for Security and Cooperation in Europe (OSEC) under its Office for Democratic Institutions and Human Rights (ODIHR). The forms these observers use list polling place procedures and have a place for the observer's rating from good to bad (1 to 3, or 1 to 5) for each procedure. There are separate forms for the opening of the polls, for voting during the day, and for the closing of the polls. A fourth form allows for fuller explanation of any item or event.

The object of the observation by ODIHR is to report information for public consumption as quickly as possible. During election day the observers send their forms to ODIHR headquarters in the country's capitol at mid-morning, shortly after noon, and just before the polls close; the remaining forms are dropped off when the observers return from the vote count to their regional lodging sites throughout the country. This way, by the afternoon of election day OSCE/ODHIR knows how the election is going, whether there are serious problems, and if so, what they are and where they are. Then, on the morning after the election, OSCE issues its judgment on whether the election was conducted according to international standards or was marred by irregularities.

But OSCE is not a law enforcement organization, and its approach would not be appropriate to the job of the Justice Department. Some of the irregularities that the federal observers can witness are not dissimilar from the kind of procedural irregularities that are common to elections held in emerging democracies. The extra identification steps required of Arab Americans in Hamtramck, Michigan, and the harassment they encountered, described below, are an example. But the similarity of some situations to those addressed by international observer groups such as the OSCE does not argue for redesigning the federal observer program under the Voting Rights Act to resemble those organizations' efforts.

In fact, the federal observer program is an effective law enforcement program as it is now constituted. If observers are desired to watch polling place activities for other purposes, those functions should be performed by other observers serving other functions. "Domestic" observers in other countries are allowed into the polling places to get information for their candidates, or political parties, or organizations, and routinely publicize the activities they witness. Those countries' elections, however, are conducted centrally, by a central (in the U.S. it would be a federal) election commission, and the observers' activities are under that central control. The laws of those countries specifically allow domestic as well as international observers into the polling places. The observers are granted permission to be in the polls and are issued identification tags for that purpose by the central or district election commissions, which can withdraw that permission at any time.

This kind of observation is not a matter within the purview of existing federal legislation in this country, and to have federal legislation allowing these kinds of observers in polling places a record would have to be established by the United States Congress justifying their presence in connection with federal elections. On the other hand, in the United States access to the polling places is controlled by state law, and some states allow such observers into the polling places now. States routinely also allow the press into the polls to witness the activities there. Finally, redacted versions of the federal observers' report forms may be obtained under the Freedom of Information Act (FOIA) subject to the FOIA rules and the Privacy Act.

The following analysis provides the specific support for my conclusion that the federal observer provision of the Voting Rights Act should be continued because it is clearly needed to provide the Justice Department with evidence of violations of the Voting Rights Act's prohibitions against discrimination in the polling places against racial and language minority group members. This analysis is taken from an article my wife and I wrote for the Temple Political and Civil Rights Law Review, Spring 2002 edition, Vol. 2, Number 11.

The special provisions of the Voting Rights Act were compelled by resistance to African Americans' voting rights.

> Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims.

South Carolina v. Katzenbach, supra at 328.

The Voting Rights Act (the "Act") cut through the protective barrier of federalism with two important sections. Section 5 of the Act, 42 U.S.C. § 1973c (the "preclearance" provision), required federal review of any new voting procedures that states and counties might adopt. This prohibited the adoption of new discriminatory practices when a jurisdiction's present practices were found to be unlawful. And Section 4 of the Act, 42 U.S.C. § 1973b, instantly led to the enfranchisement of thousands of people by suspending the use of literacy tests and similar discriminatorily applied barriers to the registration of African Americans in the Deep South.[1] Some states, such as Virginia, immediately stopped using literacy tests. In other Southern states, federal examiners were appointed under Section 6 of the Act, 42 U.S.C. § 1973d, assigned to counties to conduct fair voter registration under Section 7 of the Act, 42 U.S.C. § 1973e, when white county officials refused to stop their racially discriminatory voter registration practices.[2] This was no small task, as over 170,000 people were registered between 1965 and 1972 through the efforts of the federal examiners, mostly in Alabama, Georgia, Louisiana, and Mississippi. *Semiannual Report of Cumulative Totals on Voting Rights Examining as of*

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[1] These "tests or devices" were suspended in states and counties determined by a formula in Section 4 of the Voting Rights Act, 42 U.S.C. § 1973b, based on the use of literacy tests and other pre-application devices (such as having current voters vouch for your good moral character), and low voter turnout. Later, this provision was made permanent and nationwide. 42 U.S.C. § 1973aa. Originally, states and counties covered under the formula in Section 4 of the Act could terminate their special coverage ("bail out") after five years by showing in a lawsuit before a three-judge court in the federal district court for the District of Columbia, that no test or device had been used to deprive anyone of the right to vote during that period. Since the Act itself suspended those tests or devices for only 5 years, it was thought that it would be relatively simple for states and counties who complied with the suspension to bail out after the 5-year period. In 1970 the time period in Section 4 was extended to 10 years, in 1975 it was extended to 17 years. In 1982 the approach was changed, and the special coverage under Section 4 will expire 25 years after August 5, 1984, the effective date of the 1982 Amendments, 42 U.S.C. § 1973b(a)(8). In 1982 the bail-out provisions were amended substantially to allow individual counties within a fully covered state to bail out, and to set out a number of specific qualifications that a jurisdiction needs to meet in order to bail out. 42 U.S.C. § 1973b(a)(1)-(3).

[2] The examiners are commonly referred to as federal registrars. These were people appointed by the head of the Civil Service Commission, now the Office of Personnel Management, to examine voter applicants as to their qualifications under state law. If the applicants satisfied the state requirements, their names were put on a list that was given to the county registrar, who then had to add them to the county voter registration rolls. In this way, some semblance of state authority over the voter registration process was preserved: registrants satisfied state requirements, and a state-authorized official put the voters' names on the rolls. 42 U.S.C. § 1973e(b). To safeguard against discriminatory purges of those newly enfranchised voters, their names cannot be purged from the voter rolls without the approval of the Office of Personnel Management. 42 U.S.C. § 1973e(d).

December 31, 2000, Prepared by the Office of Workforce Information, Office of Merit Systems Oversight and Effectiveness, U.S. Office of Personnel Management. See Appendix A for the number of people, by state, registered by federal examiners.

Further, in order to allow the U.S. Attorney General to know whether discriminatory action was taken against the newly enfranchised voters in the polling places on election day, Section 8 of the Act allowed that, whenever an examiner has been appointed,

> [T]he Director of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election…for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election…for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.

42 U.S.C. § 1973f.

Thus, the use of federal observers in polling places initially was directed at protecting the rights of new voters who had been registered by federal examiners. Even though federal voter registration was rare after 1972, the predicate under the Voting Rights Act for assigning federal observers has not changed: federal observers continued to be allowed only in counties that had been certified by the U.S. Attorney General for federal examiners. As a result, to allow the assignment of federal observers to a county, the county had to be certified by the U.S. Attorney General or a federal court (under Section 3(c) of the Act, 42 U.S.C. § 1973a(c)) for federal examiners.[3] The assignment of federal observers continues to be a cornerstone of the enforcement of the Voting Rights Act. Over 23,000 federal observers have been assigned to monitor polling place procedures since 1966, 4,393 since 1990 alone.[4] See Appendix B, Assignment of Federal Observers Under Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f, by Year and State.

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[3] Since the federal examiner and federal observer provisions of the Voting Rights Act focus on political subdivisions, which ordinarily are counties, a county must be certified for federal examiners even if the object is to assign federal observers to monitor polling places during a city or other election, such as a school board election, within the county. See 42 U.S.C. §§ 1973d, l(c)(2).

[4] There were 4,698 federal observers assigned to polling places in 5 states from 1966 through 1969; 7,034 federal observers were assigned to 9 states in the 1970s; 6,598 federal observers were assigned to 11 states in the 1980s, and 3,753 federal observers were assigned to 13 states in the 1990s. In 2000, 640 federal observers were assigned to 11 states. See, Appendix B.

Federal observers witnessed clear racial discrimination at the polls.

Federal observers were able to note and document a wide variety of discriminatory actions that were taken against African Americans in the polls. Some of these actions were insulting and direct, as are reflected in the United States' responses to interrogatories in *United States v. Conecuh County, Alabama*, Civil Action No. 83-1201-H (S.D. Ala., Jun 12, 1984).[5] See Appendix C.

> While providing assistance to a black voter, white poll official Albrest asked, "Do you want to vote for white or niggers?" The voter stated that he wanted to give everyone a fair chance. Albrest proceeded to point out the black candidates and, with respect to one white candidate, stated, "This is who the blacks are voting for." Poll official Albrest made further reference to black citizens as "niggers" in the presence of federal observers, including a statement that "niggers don't have principle enough to vote and they shouldn't be allowed. The government lets them do anything."

Plaintiff's Response to Interrogatories and Request for Production of Documents, p. 6.

White poll workers treated African American voters very differently from the respectful, helpful way in which they treated white voters. When questions arose about the voter registration data for a white person, such as a person's address or date of registration, or when a white person's name was not immediately found on the poll books, the voter was addressed as Mister or Misses, was treated with respect, and the matter was resolved on the spot. If the voter's name was not found, often he or she either was allowed to vote anyway, with his or her name added to the poll book, or the person was allowed to vote a provisional or challenged ballot, which would be counted later if the person were found to be properly registered. If, however, the voter was black, the voter was addressed by his or her first name and either was sent away from the polls without voting, or told to stand aside until the white people in line had voted. African American voters were not allowed to take sample ballots into the polls, and were made to vote without those aids (it was claimed by white officials that the sample ballots were campaign material which was prohibited inside the polls).

African American voters who were unable to read and write, due in large part to inferior segregated schools and the need to go to work in the fields at an early age, were refused their request to have someone help them mark their ballot, notwithstanding the Voting Rights Act's bar on literacy tests. In some instances, white poll workers would loudly announce the African American voter's inability to read or write, embarrassing the

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[5] The federal observers' reports are not public documents, so there are very few examples on the public record of the facts that the observers have witnessed. One such public document is the Plaintiff's Response to Interrogatories and Request for Production of Documents in *United States v. Conecuh County, Alabama*, supra. Some of the specific examples of the kind of discriminatory treatment that was afforded African American voters described in the text that follows are taken from the excerpts of the *Conecuh County* responses at Appendix C, while others are based on the author's first-hand knowledge.

voter in front of his or her neighbors. Some white poll workers went so far as to bring a magnifying glass to the polls, and give it to African American voters, challenging the voter to read using the magnifying glass in front of everyone present at the polling place. Illiterate white voters, on the other hand, were allowed assistance by a person of their choice without comment. White couples routinely were allowed to enter the voting booth together to mark their ballots.

In instances where African American voters were allowed an assistor in the booth, arbitrary rules were concocted that limited the number of voters an assistor could help, or made the assistor wait outside the polling place, requiring the voter to enter the polls alone and negotiate alone the sign-in procedures administered by unfriendly white poll workers, before being allowed to ask that the assistor be allowed to help.[6] All too often, when the voter said he or she needed assistance the white poll worker would proceed to help the voter, and not give the voter a chance to ask for the assistor the voter wanted; the voter did not know if the poll worker cast the ballot as the voter desired, and had no confidence that the ballot was cast correctly.

Moreover, racial discrimination in the polls is not limited to African Americans, and is not limited to the South. On November 2, 1999, in the City of Hamtramck, Michigan, the qualifications of more than 40 voters were challenged on grounds that they were not citizens. They were challenged by members of a group known as Citizens for a Better Hamtramck (CCBH), organized to keep elections pure. As described in the Consent Order and Decree in *United States v. City of Hamtramck*, Civil Action No. 00-73541 (E.D. Mich, Aug 7, 2000),

> 6. ...Some voters were challenged before they signed their applications to vote. Other voters were challenged after they had signed their applications and their names had been announced. The challenged voters had dark skin and distinctly Arabic names, such as Mohamed, Ahmed, and Ali. The challengers did not appear to possess or consult any papers or lists to determine whom to challenge.
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> 7. Once challenged, the city election inspectors required the challenged voters to swear that they were American citizens before permitting them to vote. Voters who were not challenged were not required to do so. The city election inspectors did not evaluate the propriety of merit of the challenges. Some dark-skinned voters produced their American passports to identify themselves to election officials. Nevertheless, these persons were challenged by CCBH, and the election inspectors required them to take a citizenship oath as a prerequisite to

[6] After the Voting Rights Act enabled African Americans in the Deep South to register to vote, it became common for civil rights workers and local African American residents to drive the new voters to the polls and to give assistance to those who needed it. This was a natural outgrowth of the organizing required during the civil rights movement to achieve voter registration for black people. It provided transportation—many people did not have cars—and gave confidence and protection to these newly enfranchised voters at the polling places from which they had so recently been excluded by white poll workers and voters who did not want them there. This tradition of "hauling" voters to the polls and giving assistance to voters who need it continues today, especially in many rural areas.

> voting. No white voters were challenged for citizenship. No white voters were required to take a citizenship oath prior to voting.

at p. 4.

The consent decree also states that city officials were apprised of the incidents, that they consulted with state election officials who were present in Hamtramck on election day, but neither the state nor the city election officials prevented the baseless challenges from continuing. It was claimed that other Arab-American citizens may have heard about the incidents and decided not to go to the polls to vote that day.

Federal observers witnessed clear discrimination against language minority group members at the polls.

Besides discriminatory treatment of citizens based on race, citizens who speak English poorly, or not at all, have faced obstacles to voter registration and voting. In 1975 Congress took note of discrimination against people who have only a limited ability to speak English. For them, printing or providing information only in English as effective as a literacy test in keeping them from registering to vote or casting an effective ballot. Such disenfranchisement was outlawed when the Voting Rights Act was amended and expanded in 1975. The terms of Section 4 of the Act, containing the formula for applying special coverage to counties, were changed to include among prohibited tests and devices,

> [T]he practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance or other material or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority.

42 U.S.C. § 1973b(f)(3). Language minorities are defined in the Voting Rights Act as American Indian, Asian American, Alaskan Natives, and people of Spanish heritage. 42 U.S.C. § 1973l(c)(3). Political subdivisions as defined in the Act usually are counties. 42 U.S.C. § 1973l(c)(2).[7]

The 1975 amendments to the Act required that when the newly covered jurisdiction

> …provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language…

[7] The jurisdictions subject to the special provisions of the Voting Rights Act are listed in the Appendix to 28 U.S.C. Part 51.

42 U.S.C. § 1973b(f)(4)[8]

Counties in Arizona, New Mexico and Utah were certified for federal examiners, and federal observers were assigned to document the extent to which the English language was used in areas where many of the voters spoke Native American languages but understood English only marginally. Similarly, federal observers have been assigned to polling places in Spanish language areas of Arizona, Texas, New Jersey and New York City, and Chinese language areas of New York City, and San Francisco and Oakland, California.[9] In all these areas minority language citizens were allowed to register to vote, but the use of the English language instead of the voters' first language prevented them from understanding the voting instructions and the ballot. Polling place workers either were not able to speak the language of the voters, or if they could, were not trained to translate the documents and procedures into the language of the voters. By the 1990s federal observers were assigned to monitor discrimination against language minority group members in numbers equal to the federal observers assigned to monitor non-language racial discrimination.[10]

The need for the language minority provisions of the Voting Right Act continues to be demonstrated in areas of the country where English is not persons' primary language. Normally one would assume that polling place workers would be chosen from the population where the polling place is located, and that they would speak another language in addition to English with the same frequency as the voters. In many instances, however, this did not happen. For example, in ethnically changing neighborhoods in New York City, the choices of the political party apparatus resulted in the repeated appointment of English-speaking poll workers where a large portion of the new voters in a precinct were Spanish-speaking Puerto Ricans. In Passaic, New Jersey, English-speaking poll workers were unable to find the names of Spanish-speaking voters

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[8] A parallel requirement was added in Section 203 of the Voting Rights Act in 1975 for counties determined by different formula. 42 U.S.C. § 1973aa-1a. Section 203 of the Act does not include the other special provisions of Section 4, such as the preclearance, federal examiner and federal observer provisions. Lawsuits under Section 203 must be brought before a three-judge court. As a result of amendments since 1975, coverage under Section 203 now applies to counties that have more than 5 percent of voting age citizens who are members of a single language minority and are limited-English proficient; have more than 10,000 voting age citizens who are members of a single language minority and are limited-English proficient; or have a part of an Indian reservation, and more than 5 percent of the American Indian or Alaska Native voting age citizens are members of a single language minority and are limited-English proficient; and the illiteracy rate of the language minority group citizens is higher than the national illiteracy rate. 42 U.S.C. § 1973aa-1(a)(2). The counties covered under the language minority provisions of Sections 4 and 203 are listed in the Appendix to 28 U.S.C. Part 55.

[9] Counties in Arizona, New York and Texas were certified by the U.S. Attorney General. Counties in California, New Mexico and Utah were certified by federal district courts under Section 3(c) of the Act, 42 U.S.C. § 1973a(c). Section 3(c) provides for certification in a lawsuit brought "under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment…(1) as part of any interlocutory order…or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred..."

[10] From 1990 through 2000, there were 2,449 federal observers assigned to elections in the states of the Deep South, very few of which involved discrimination against language minority group members, and there were 2,215 federal observers assigned to monitor elections in other areas of the country, most of which involved discrimination against language minority group members. *See* Appendix B.

in the polls books because the poll workers did not know that the voters' family name traditionally was the second of three names they used. Some voters were denied the ballot because they identified their street name according to common Spanish usage rather than the formal English name.[11] In Texas and Southern Arizona polling places Hispanic voters were admonished not to use Spanish when talking in the polling places and when giving assistance to voters who needed help when voting. Moreover, the citizenship of Hispanic voters was questioned at the polls, with voters being required to somehow provide on-the-spot evidence of their citizenship before being given a ballot; such evidence was not required of Anglo voters.[12]

Evidence of other kinds of discriminatory behavior of polling place workers and others toward Spanish language voters inside the polls is provided in the reports of the Independent Elections Monitor appointed in September 2000 by the court in a consent decree in *United States v. Passaic City, New Jersey, and Passaic County, New Jersey*, Civil Action No. 99-2544 (NHP) (D.N.J., Sep. 5, 2000)(three-judge court).

> At P.S. 6, observers called to report that the challenger was making racist remarks about Hispanics. At the Ukrainian school, challengers became very aggressive and were yelling at voters, stating that they did not live in the country and should not vote. Ironically, many of these challenged voters were off-duty Passaic City police officers. Angel Casabona, Jr. was one such challenged police officer who avoided confrontation and properly came to Passaic City Hall to have his voting status clarified. Escorted by the City Clerk and investigators from the prosecutor's office, Mr. Casabona reentered the polling site and was permitted to exercise his vote. The brazen challenger was reprimanded and board workers were reminded that challengers should not be interacting with voters.

Walter F. Timpone, Office of the Election Monitor, Fifth Report, June 15, 2001, pgs. 3-4.

> The most disturbing incident of the [June 26, 2001 municipal primary election] occurred at the polling place at St. Mary's School in Passaic. Someone allegedly stole the flag from outside the polling place. The police were called. An officer responded and caught the purported perpetrator. The Officer entered the polling place and asked who had called the police. No one responded. The officer barked comments in substance to the poll workers as follows, "Can't you read? What country do you come from?" When a municipal worker of Indian origin came to see what the problem was, the officer then asked, "And what country do you come from?" When a Latino federal observer tried to explain the

[11] Mail addressed to streets using the Spanish nickname was delivered because the postal personnel were familiar with the local Spanish language usages, as the poll workers were not.

[12] Anglo candidates compiled lists of Hispanic voters' names for their poll watchers to challenge at the polls on the ground that the voters were not citizens. United States citizenship is required by every state as a qualification to register to vote in state and federal elections. But in order to avoid discriminatory treatment of voters at the polls and disrupting the polling places with election-day challenges, persons who, before an election, have evidence that a registered voter is not a U.S. citizen should be required to present that information to the voter registrar, and to desist from interposing challenges at the polls to voters whose qualifications have been upheld by the register.

> dictates of the consent decree, the officer asked for credentials. When the observer showed his credentials, the officer found them inadequate because they lacked a picture and detained the observer. The Officer told the observer, "I could arrest you for this." Upon being alerted to the controversy, I asked investigators from the Passaic County Prosecutors Office and Deputy Chief of the Passaic County Police Department to intercede. When a Sergeant from the Passaic Police department responded at the scene and learned what had happened, he apologized to the federal observer and told him he thought some sensitivity training might be in order for the officer. Notably, this discriminatory behavior took place in a city where the Latino population is at 62%. Intolerance in the city is still existent and hiding under color of official right.

Walter F. Timpone, Office of the Election Monitor, Sixth Report, July 27, 2001, pp. 6-7.

The use of English rather than Chinese in polling places in Chinese neighborhoods of San Francisco and Oakland (Alameda County), California, and New York City left voters confused about procedures, and ignorant of ballot propositions and contested offices. As was noted in the Settlement Agreement and Order in *United States v. Alameda County, California,* C95 1266 (N.D. Cal, Jan 22, 1996)(three-judge court),

> According to the 1990 Census, the population of Alameda County includes 68,184 Chinese Americans and 30,120 Chinese American citizens of voting age. The 1990 Census reports that 11,394 persons, or 37.83 percent of the Chinese citizen voting age population in Alameda County, and 1.3 percent of the total citizen voting age population in Alameda County do not speak English well enough to participate effectively in English language elections. Thus, over 11,000 Chinese American citizens in Alameda County cannot function effectively in the electoral process except in the Chinese language.

at p. 4.

Problems were compounded in Native American areas of Arizona, New Mexico and Utah. The problems faced by Native Americans in these areas are illustrated in Cibola County, New Mexico, which contains the Ramah Chapter of the Navajo Reservation and the Acoma and Laguna Pueblos. The Stipulation and Order in *United States v. Cibola County, New Mexico,* No. Civ 93 1134 LH/LFG, (D.N.M., Apr 21, 1994)(three-judge court), states that,

> 5. According to the 1990 Census, 57.8 percent of the Navajo voting age population and 18.1 percent of the Pueblo voting age population in Cibola County do not speak English well enough to participate effectively in English language elections. Thus, a significant proportion of the Native American population of Cibola County, and a significant majority of Navajos, cannot function in the electoral process except in the Navajo or Keresan languages.

> 6. The Navajo and Keres populations of Cibola County live in circumstances of significant isolation from the non-Native American population of the county. Cibola County is unusually large in physical terms, and covers a geographic area roughly the size of the State of Connecticut. Over four-fifths of the non-Native American population lives clustered within or near the adjacent incorporated communities of Grants and Milan, close to the county courthouse. The Acoma and Laguna population centers are between 25 and 50 miles away from Grants, the county seat, while the Ramah Chapter House is approximately 50 miles from Grants. The isolation of the Native American population of Cibola County burdens their access to the franchise.
>
> 8. Native American citizens living within Cibola County, suffer from a history of discrimination touching their right to register, to vote, and otherwise to participate in the political process. Until 1948, Native American citizens of New Mexico were not permitted to vote in state and local elections. Trujillo. V. Garley, C.A. No. 1350 (D.N.M., August 11, 1948). In 1984, the court in Sanchez v. King, C.A. No. 82-0067-M (D.N.M. 1984) held that the New Mexico state legislative redistricting plan discriminated against Native Americans.
>
> 9. The level of political participation by Native American citizens of Cibola County is depressed. Voter registration rates in the predominantly Native American precincts have been less than half the rate in non-Native American precincts, and Native Americans are affected disproportionately by voter purge procedures. Although Native Americans comprise over 38 percent of the county population, fewer than eight percent of all absentee ballots have been from the predominantly Native American precincts. There is a need for election information in the Navajo and Keresan languages, and a need for publicity concerning all phases of the election process for voters in Ramah, Acoma and Laguna. The rate of participation by Native Americans on such issues is less than one third of the participation rate among non-Native Americans. There is a need for polling places staffed with trained translators conveniently situated for the Native American population.

at pages 5-7.

The remedy for this unlawful disparity is complicated by the facts that (1) the Navajo and Pueblo languages are oral, not written, and (2) there are no equivalent terms in the Navajo and Pueblo languages for many words and phrases in the election process.

Native American polling place workers in reservation precincts faced a more difficult task than white poll workers in getting to the training session for poll workers that were held many miles away in county seats where most white people lived. At the training sessions Native American poll workers were given little or no instruction about how to translate ballots and propositions, and many of their attempts to do so on election day resulted in the most rudimentary references. For example, poll workers assisting voters at the polls would refer to the office of secretary of state as someone who works in

the state capitol, and bond levies for education were said simply to be increases in taxes. Many times the Native American poll workers found it so difficult to figure out how to explain items on the ballot they just instructed the voters to skip the offices or propositions. Moreover, Native American voters who had been purged from the voter rolls because they failed to respond to written notices they either did not receive[13] or did not understand, were turned away from the polls with no explanation of why they were not able to vote, and were given no opportunity to re-register there.[14]

Pre-election investigation can pinpoint where federal observers should be assigned.

The task of assuring compliance by polling place workers with appropriate polling place procedures requires (1) knowledge of what is happening in the polling places, and (2) the authority to correct actions that are in violation of the prescribed procedures. For over 35 years DOJ has been determining, before each election, what will happen in specific polling places in particular counties in states far from Washington, D.C. Based on this information DOJ determined at which polling places discriminatory activity would take place, and the exact number of federal observers needed at each particular polling place, from among the hundreds of counties in the 16 states that are fully or partially covered under Section 4 of the Voting Rights Act,[15] and the 10 additional jurisdictions in other states that have been and remain certified by courts under Section 3 of the Act.[16]

This DOJ effort, known as a pre-election survey, is conducted by the Voting Section of DOJ's Civil Rights Division. Pre-election surveys began right after the Voting Rights Act was enacted, as a tool for determining where and how many federal observers would need to be assigned under Section 8 of the Voting Rights Act. Through the years

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[13] Residences on the Navajo reservation often are miles apart, with no paved roads, and many homes have no telephones. It is not unusual for reservation residents to pick up their mail periodically at a store or other place far from their homes.

[14] Voters were confused because they voted in tribal elections without problem, and were not told, for example, that under state law they had been purged from the county voter rolls because they did not vote with some particular frequency and in particular elections, such as every two or four years in general elections. To add to the confusion, in many areas the tribal elections and the state elections were held on different dates but at the same locations. Prior to the National Voter Registration Act, 42 U.S.C. § 1973gg et seq., voter registration in many counties in Indian country was conducted in the county seat, far from reservation housing, until, in some instances, litigation required that deputy registrars be made available at reservation sites, and that voter purge procedures be modified to allow fair notice to Native American voters. *United States v. State of Arizona*, CIV 88-1989 PHX EHC (D. Ariz., May 22, 1989), pgs. 6-11; First Amended Consent Decree, Jan. 3, 1994, pgs. 5-10.

[15] Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina and Texas are fully covered under the Voting Rights Act's special provisions by the formula in Section 4 of the Act, 42 U.S.C. § 1973b. One or more counties are specially covered under Section 4 in California, Florida, Michigan, New Hampshire, New York, North Carolina, South Dakota and Virginia. All jurisdictions covered under Section 4 of the Act are listed in the Appendix to 28 CFR Part 55.

[16] Certification under Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973b(a), is for a particular term as defined by the court. Certification by the U.S. Attorney General under Section 6 of the Voting Rights Act, 42 U.S.C. § 1973f, is for an unlimited time. Jurisdictions certified under Section 6 can seek to have their certification terminated under Section 13 of the Voting Rights Act, 42 U.S.C. § 1973k. Appendix D is a list of the jurisdictions that have been certified for examiners by court order under Section 3(a) of the Act.

the pre-election surveys have remained relatively unchanged for determining where racially discriminatory actions (as contrasted with language-based difficulties) would occur in the polling places of the Deep South. This process is instructive on a broad level because it can be used, with variations, by states throughout the country to determine, prior to election day, where problems will occur on election day in polling places across the state.

The DOJ focus during the pre-election surveys is to find circumstances that are likely to lead to actions that will disadvantage voters in the polls on election day. To allow black voters to vote without interference in the South, the Voting Section focuses on counties where black candidates are facing white candidates. Those are the circumstances where experience has shown that polling place workers are more apt to take actions that deprive African American of their right to vote. Moreover, the inclination of polling place workers to take discriminatory action against African American voters is more likely when the black candidates have a real chance of beating white opponents. (For concerns about other kinds of problems at the polls, the pre-election survey would focus on the facts and antipathies relating to those problems.)

The surveys consist of two rounds of telephone calls and a field investigation. The first round of phone calls begins about six weeks before the election, which is a time when candidate qualifying has been completed and campaigning has been in progress. The Voting Section contacts the election director in each county where the minority population is about 20% or more, since a relatively small but concentrated portion of a county's population can be a significant proportion of a single election district in a county. The Voting Section determines a number of facts from each county election official they contact, including the name and race of the candidates, the office each is contesting, which candidates are incumbents, the county's procedures for appointing polling place workers, and the county's procedures for responding to problems that arise on election day. The second round of telephone calls is made to at least two African American people in each county who are familiar with the way elections have been conducted in the county during recent elections, who know who the candidates are and how the candidates have been conducting their campaigns, and who are knowledgeable about relationships between the races in the county and whether there have been any recent racial incidents in the county.

Voting Section attorneys then travel to the counties where the facts from the two rounds of telephone calls indicate that the assignment of federal observers is needed because poll workers will make it difficult for black voters to cast their ballots for the candidates of their choice. The attorneys interview the county election officials, the county sheriff (or chief of police, if a city election is in issue), African American county residents, including people associated with community and civil rights organizations, and candidates. The attorneys relay their information and their recommendation as to whether federal observers should be assigned for the election, and, if so, number and placement of federal observers that will be needed on election day, to a Voting Section

supervisor who coordinates the survey.[17] The polling places that are selected for the assignment of observers are (1) those at which the facts show that African American voters are likely to be victimized on election day, where (2) the county has no effective way to either know what is happening in the polls, or for responding to problems that occur at the polls, or both.

During the pre-election surveys the Voting Section supervising attorney talks frequently with the Voting Rights Coordinator at the Office of Personnel Management (OPM) who recruits and supervises the people who serve as observers.[18] Thus, OPM is aware of the identity of the counties that are the subject of field investigations, and of the recommendations of the attorneys for the assignment, numbers and poll location of federal observers. Because of the ongoing coordination between the Voting Section and OPM, the federal observers are chosen and are ready to depart for their assigned location the moment a final decision is made by the Assistant Attorney General for Civil Rights as to the numbers and placement of the observers.[19]

Information from federal observers is obtained quickly and effectively on election day.

The pre-election process not only gives DOJ information it needs to determine where and how many federal observers will be needed on election day, it puts DOJ lawyers in contact with county election officials before the election, and the DOJ lawyers inform the county officials of the problems that DOJ has found out may occur in the county's polls on election day. This contact continues during the election, as the DOJ lawyers provide the county election officials with information the lawyers get from the observers.

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[17] The Voting Section is headed by a chief and four deputy chiefs. There also are special counsels who are senior attorneys assigned to perform particular duties. The pre-election work for a particular jurisdiction is overseen by a deputy chief if the jurisdiction is a defendant in recent litigation. Otherwise, the pre-election supervision is handled by the special litigation counsel for elections.

[18] Federal observers are assigned and supervised by the Office of Personnel Management. *See* 42 U.S.C. § 1973f. OPM centralized the observer program in the OPM office in Atlanta, Georgia, over the past several years. Beginning in 2002 the program will be centralized in the OPM office in Denver, Colorado.

There is no standing group of people who are federal observers. Rather, the people chosen to serve as federal observers at a particular election are volunteers, usually from among the OPM nationwide staff except when special abilities are required, such as Native American language ability. General training sessions are held for observers and observer supervisors at selected sites during the year. Often people will volunteer to serve as observers in election after election, but they are not always available because of the demands of their regular work assignments and prior obligations. Because of the need to recruit observers for each election, and the logistical requirements of transportation (airplane tickets, rental car) and lodging, the OPM coordinator and the Voting Section supervising attorney are in contact throughout the year to discuss observer needs in upcoming elections.

[19] If a county for which federal observers is recommended has not been certified yet for federal examiners, a separate recommendation for certification of the county is made to the U.S. Attorney General, and a certification form is prepared for the U.S. Attorney General's signature. Also, because certifications are effective upon publication in the Federal Register, 42 U.S.C. § 1973b(b), arrangements are made for publication as soon as possible after the U.S. Attorney General signs the certification. Similar arrangements are made by OPM which must publish in the Federal Register a location for an examiner's office. 42 U.S.C. § 1973e(a).

The observers are briefed by DOJ attorneys and the observer captain on the day before the election. The observers get to their assigned polling place one-half hour before the poll opens, and usually will remain until the last person leaves the poll. They have pre-printed forms on which to record the activity in the polls. Observers usually also attend the ballot count and record the number of votes received by each candidate.

During election day an observer supervisor makes repeated visits to the polling places where federal observers are stationed, and remains in constant telephone contact with the DOJ attorney who is in the county. This gives the DOJ attorney in the county a constant flow of information throughout the day about activities that transpire inside the polls.[20] When the federal observers inform the DOJ attorney of actions of polling place officials that the attorney concludes are interfering with the voting rights of African Americans, the DOJ attorney gives the facts to the local official in charge of the election, which allows him or her to stop the discriminatory activity. Local officials also can use this information after the election to take steps to prevent the incidents from happening again.

Similar steps are taken on election day when federal observers are used to determine compliance with the language minority provisions of the Voting Rights Act, but normally the pre-election preparation is different. The inability or lack of desire of poll workers to provide information to non-English speaking voters usually does not depend on the identity of the candidates or the issues involved in a particular election. Thus, the information obtained in one election will allow a determination of whether federal observers will be needed in the next election.[21]

The reports of these federal observers have their primary emphasis on the language aspects of polling place procedures and the actions of polling place workers. (The federal observers assigned to a particular polling place speak the minority language that is used by the voters at that polling place.) It usually is not important that the observers arrive at the opening of the polls, nor that they stay all day, since the goal is to have the observers attend the polls for a sufficient length of time to witness a number of minority language voters go through the voting process. This will give the observers sufficient facts to allow the DOJ attorneys to analyze the county's compliance with the law.

We should emphasize that the federal observers do not interfere with the election process. Their limited function, to pass along information to their OPM supervisors and

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[20] In addition, the DOJ attorney in each county calls the supervising attorney often during the day: when the polls open, and every hour after that until it is clear that correct procedures are being followed at the polls in that county, unless continuing problems and their resolution make it necessary to continue frequent contact. This coordination between the supervising attorney and the attorney in the field begins on the day before the election, and does not end until the attorney leaves the county to return to Washington, D.C., on the day after the election or later.

[21] Initial facts indicating possible violations of the Voting Rights Act most often come to DOJ through complaints by telephone, by mail, or in conversation with DOJ attorneys, paralegals and analysts in the performance of their routine duties.

the DOJ attorneys, is in accord with the dictates of Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f. The observers must not give instructions to poll workers, must not give help to voters, and must not share their observations, judgments or opinions with individuals in the polls. They are eyes and ears. They are paid witnesses.[22]

The federal observers' reports allow Justice Department attorneys to require counties to comply with their states' rules.

In its enforcement of all federal civil rights laws the Department of Justice (DOJ) attempts to obtain voluntary compliance from prospective defendants. This has been especially true of the enforcement of the Voting Rights Act where the prospective defendants are officials of state and local governments.

From the beginning of DOJ's enforcement of the Voting Rights Act DOJ lawyers personally conducted investigations in each county before examiners or observers were assigned, regularly checked on the progress of examiners while voter registration was conducted, and on election day a DOJ attorney was and continues to be present in each county to which federal observers are assigned to obtain information from the observers during election day, and debrief the observers immediately after the election. During their presence in the counties the DOJ lawyers have continuing contact with county officials, and give them the information the lawyers gain as part of their pre-election investigation in the county, and from the federal observers. Those local officials, faced with the immediate and continuing presence of DOJ lawyers, usually instruct the head worker at the polling place to follow the appropriate procedures.

The federal observers inside the polling place witness the cessation of the discriminatory action, or if the discriminatory action continues, the DOJ lawyer again brings the information from the observers to the attention of the county election official to get further corrective action. Thus, federal observers function both to gather evidence of discriminatory activities in the polling place for future legal action, and for the elimination of discriminatory actions on the spot. At times, the mere presence of federal observers at the polls serves to inhibit the tendency of many polling place workers to take discriminatory action against African American voters.

Court-ordered remedies require counties to do their job in the South.

Some compulsive action is needed when county election administrators do not address outstanding problems in the polls, and do not follow proper election day procedures. A primary reason for the mistreatment of African American voters was and

[22] It is of utmost importance that observers stick to their role at the polls, because they are able to be in the polling places only by the authority of Section 8 of the Voting Rights Act. 42 U.S.C. § 1973f. States have laws about who can enter the polls. Usually those individuals include poll workers, voters, voters' assistors, peace officers when called, and candidates' or political parties' poll watchers. Others will be inside the polls in violation of law unless specifically authorized to be there by the appropriate local election official. Moreover, under Section 8 of the Voting Rights Act the federal observers are able to be in the polls only to perform the tasks noted above.

continues to be the failure of local election officials to appoint African Americans as polling place workers. The evidence of mistreatment that this discriminatory policy had on African American voters has provided a firm basis for court orders that required the defendants to take specific steps to recruit and hire African Americans to work in the polls. One good example of this result is the consent decree in *United States v. Conecuh County, Alabama*, supra, which required the defendant political party executive committees (responsible for nominating people to serve as poll workers) to "engage in affirmative recruitment efforts aimed at ensuring that the pool of persons from which nominations are made fully reflects the availability of all qualified persons in Conecuh County who are interested in serving as election officials, without regard to their race or color." at pp. 3-4.

Those recruitment efforts were required to include encouraging candidates to "seek out and propose for nomination black citizens," and "sending notices to local organizations comprised predominantly of black citizens…to advise them that the party intends to nominate persons to serve as election officials and encourage them to have interested persons notify the chairperson of the respective political party executive committee of their willingness to serve as election officials," at p. 4.

A 1993 consent order in *United States v. Johnson County, Georgia*, CV393-45 (S.D. Ga, Sept 14, 1993) stated that,

> 1. According to the 1990 Census, the total population in Johnson County is 34 percent black and the total voting age population is 29.2 percent black.
>
> * * * * *
>
> 7. Of the one hundred thirty one individuals who were employed by Johnson County to serve as poll officials between 1988 and August 1992, eighteen (14%) were black. There were no black poll workers during this period at seven of the twelve polling places.
>
> 8. Only eight (12%) of the Sixty-six poll officials employed by Johnson County for the July 21, 1992 primary election were black. There were no black poll workers at eight of the twelve polling places.
>
> 9. Of the one hundred and six poll officials employed by Johnson County for the November 3, 1992 general election, only sixteen (15%) were black. There were no black poll workers at six of the twelve polling places.
>
> 10. No black person has ever served as a managing poll officer or an assistant managing poll officer at any of the county's polling places.

At pages 2-3.

Included in the *Johnson County* consent decree among the steps the defendant county commission and supervisor of election must take to have African Americans fairly represented among the polling place workers are, "sending written notices to local organizations comprised predominantly of black citizens …to advise them that the county

intends to appoint black persons to serve as poll workers and poll managers;" and "contacting black candidates and members of the political parties…to ascertain the names, addresses and telephone numbers of black citizens who are qualified and available to serve as poll officers." Id. at 6. In addition, the defendants must publicize in local newspapers, on radio, on television and on posters their policy of conducting elections free of racial discrimination. They also must train the poll workers on how to perform their duties in a racially nondiscriminatory manner, and, with specificity, on how to deal with voters who need assistance.

Even with the specific steps set out in the 15 page *Johnson County* consent decree, the reports of federal observers showed that African American citizens of the Johnson County were continuing to be excluded from among the ranks of those appointed to work at the polls because the supervisor of elections did not adhere to the terms of the decree. After further discussions between the county and DOJ, in lieu of DOJ pursuing contempt of court proceedings the county appointed a biracial committee formed of county residents to perform the preliminary poll worker recruitment and nomination functions previously performed by the election supervisor, leaving her with her statutory duty of formally appointing the poll workers. (This change in practice was reviewed and precleared under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c.) As a result, African Americans were fairly appointed among those who worked at the polls, and discrimination against African American voters at the polls abated in Johnson County, Georgia.

Both the *Conecuh County* and *Johnson County* cases show how information gathered by observers can serve as the evidentiary basis for litigation, how particular individuals at the county level can persist in discriminatory procedures in spite of state law and federal litigation, and how the identity and training of the people working inside the polling places is of primary importance in eliminating injustice from the polls. It should be remembered that in both instances the DOJ lawyers first shared their information with state and local election officials in an attempt to allow those officials to eliminate the discriminatory treatment of voters. These efforts provided the election officials with something they could obtain by themselves, but did not: information about what went wrong in their polls. The need for the resulting litigation demonstrated that those officials were not willing to stop the discriminatory conduct.

Court-ordered remedies require counties to do their jobs for language minorities.

Even after the Voting Rights Act was amended in 1975 to require that areas designated under a formula must provide information and ballots in languages other than English, inadequate training of polling place workers continued to disadvantage minority language voters. The reports of federal observers gave the attorneys from the Department of Justice the information they needed to prove to county officials that violations of the Voting Rights Act had occurred, and to obtain consent decrees that set out specific steps that the counties would take to effectively provide and translate election information to Native American citizens.

Most of the consent decrees to cure discriminatory actions in Indian country under the language minority provisions of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, were lengthy and set out in detail the procedures that election officials had to follow for voter education, voter registration, translation and balloting.[23] It is significant that the great majority of the provisions in the consent decrees focused on the counties' administrative responsibilities, including hiring additional county personnel, to try to give Native American voters equivalent access to information about an election and voting procedures as white people got as a matter of course, since all information was provided in English and in areas near the county seats.

Thus, the Stipulation and Order in *United States v. Cibola County, New Mexico,* No. Civ 93 1134 LH/LFG, (D.N.M., Apr. 21, 1994)(three-judge court), is 44 pages long, 33 pages of which is a Native American Election Information Program. This program provides that, "Cibola County shall employ at least three Native American Voting Rights Coordinators who will coordinate the Native American Election Information Program in Cibola County…" These coordinators have to be bilingual in either Navajo or Keres and English, they are to be hired only after the county consults with the tribes, they are to be trained in all aspects of the election process, they are to attend and make presentations at chapter and tribal council meetings, and perform numerous, specifically described functions that would provide election information to the Native American citizens of Cibola County.

It was and remains difficult, however, to compel obdurate county clerks and other county election administrators to perform the myriad election-connected functions in a way that meets the requirements of the court orders.[24] These cases argue persuasively for continuing the practice of seeking lengthy, detailed court orders that can be enforced through contempt proceedings.

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[23] For example, the Consent Agreement is 36 pages long in *United States v. Socorro County, New Mexico,* Civil Action No. 93-1244-JP (D.N.M. Apr. 13, 1994) (three-judge court); in *United States v. State of New Mexico and Sandoval County, New Mexico*, Civil Action 88-1457-SC (D.N.M. Mar. 28, 1990) (three-judge court), is 12 pages long, and the accompanying Native American Election Information Program filed on April 30, 1990, is 24 pages long; the First Amended Settlement and Order in *United States v. San Juan County, Utah,* Civil Action No. C-83-1287 (D. Utah, Aug. 24, 1990) (three-judge court), is 21 pages; the First Amended Consent Decree and Order in *United States v. McKinley County, New Mexico*, Civil Action No. 86-0028-M (D.N.M., Jul. 20, 1990) (three-judge court), is 23 pages: and the Consent Decree in *United States v. State of Arizona*, CIV 88-1989 PHX EHC (D. Ariz, May 22, 1989), affecting Apache and Navajo Counties, is 24 pages, while the First Amended Consent Decree in that case (Jan. 3, 1994) is 28 pages long.

[24] A letter of understanding was developed between DOJ and San Juan County, New Mexico, which required the county to adopt a manual of procedures to comply with the language minority requirements of the Voting Rights Act. The manual would become final after review and concurrence by DOJ. Changes in the procedures would become effective upon the concurrence of DOJ. Letters of understanding have not been widely used by DOJ in its Voting Rights Act enforcement. The letters have the advantage of getting a fast remedy and avoiding the uncertainties of litigation. The main disadvantage of using a letter of understanding is the inability to seek contempt of court sanctions if the county does not follow the steps in the letter or the county's manual of procedures. If the actions that the county fails to take are significant, a legal action would need to be filed at that time, prolonging the time for obtaining a remedy.

An alternative approach was taken in a consent decree between DOJ and Bernalillo County, New Mexico, where the court order was accompanied by a manual of procedures to comply with the language minority requirements of the Voting Rights Act. *United States v. Bernalillo County, New Mexico*, CV-98-156 BB/LCS (D.N.M. Apr 27, 1998). The consent decree required that the county hire a native language coordinator who is bilingual in Navajo and English, and specifically noted that, "The primary responsibility of the [native language coordinator], a full-time employee of Bernalillo County, shall be to carry out the county's Navajo language election procedures, publicity and assistance, including assisting the county to carry out the procedures in the manual..." at p. 4. The consent decree also required the county to establish a travel, supply, and telephone call budget for the native language coordinator, and subjected the county to the preclearance provision in Section 3(c) of the Voting Rights Act, 42 U.S.C. § 1973a(c), which allows the county to make changes in the manual and for DOJ to review those changes to determine that they are nondiscriminatory before they can be implemented. This approach has the benefit of allowing the county to tailor its administrative procedures to its particular personnel and office situation, and of allowing practical changes to be made in the administrative procedures when necessary without having to request the three-judge court for an amendment to the court order.

Conclusion.

The federal observer provision of the Voting Rights Act continues to be extraordinarily effective in allowing the United States Department of Justice to enforce the Voting Rights Act. That provision should be extended.

The federal examiner provisions of the Voting Rights Act have accomplished their goal of allowing African American voter access to the voter rolls in areas where official resistance kept them from becoming registered voters. Those provisions have done their job and should be eliminated, especially insofar as they are prerequisites for the assignment of federal observers.

The federal observer provision of the Voting Rights Act performs an effective law enforcement function as it is written and applied. That provision should not be altered.

APPENDIX A

NUMBER OF PERSONS LISTED BY FEDERAL EXAMINERS
UNDER SECTION 7 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973e
1965 - 2000[25]

State	Total People Listed	Non-white People Listed	White People Listed
Alabama[26]	66,539	61,239	5,300
Georgia[27]	3,557	3,541	16
Louisiana[28]	26,978	25,136	1,842
Mississippi[29]	70,448	67,685	2,763
South Carolina[30]	4,654	4,638	16
Total	172,176	162,239	9,937

[25] This information is extracted from the Semiannual Report of Cumulative Totals on Voting Rights Examining as of December 31, 2000, Prepared by the Office of Workforce Information, Office of Merit Systems Oversight and Effectiveness, U.S. Office of Personnel Management, Washington, D.C. 20415.
[26] People were listed in Autauga, Dallas, Elmore, Greene, Hale, Jefferson, Lowndes, Marengo, Montgomery, Perry, Sumter and Wilcox Counties.
[27] People were listed in Butts, Lee, Screven and Terrell Counties.
[28] People were listed in Bossier, Caddo, DeSoto, East Carroll, East Feliciana, Madison, Ouachita, Plaquemines and West Feliciana Parishes.
[29] People were listed in Amite, Benton, Bolivar, Carroll, Claiborne, Clay, Coahoma, DeSoto, Forrest, Franklin, Grenada, Hinds, Holmes, Humphreys, Issaquena, Jasper, Jefferson, Jefferson Davis, Jones, LeFlore, Madison, Marshall, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Quitman, Rankin, Sharkey, Simpson, Sunflower, Tallahatchie, Walthall, Warren, Wilkenson, and Winston Counties.
[30] People were listed in Clarendon and Dorchester Counties.

APPENDIX B

ASSIGNMENT OF FEDERAL OBSERVERS
UNDER SECTION 8 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973f
BY YEAR AND STATE, 1966 - 2000[31]

Year	AL	GA	LA	MS	NC	SC	AZ	CA	IL	MI	NJ	NM	NV	NY	TX	UT	WI	TOTAL
1966	823	22	397	470		158												1,870
1967			215	1,108														1,323
1968	252	138	125	507		152												1,174
1969	44		20	325														389
1970	403	6	16	126		19												570
1971			54	960														1,014
1972	140	44	60	146		105												495
1973																		0
1974	234	64	56	100														454
1975		11	116	1,252														1,379
1976	181	67	33	132											193			606
1977				89														89
1978	598	4		31		67		146					3		90		6	945
1979			130	1,212				140										1,482
1980	272	156	12	274											19			733
1981				72														72
1982	973	58	23	37														1,091
1983	187		3	1,288														1,478
1984	260	137		439	70	158									10			1,074
1985		19		152		7								107				285

[31] This information is extracted from the summary of federal observer activity by calendar year, United States Department of Justice, Civil Rights Division, Voting Section. Southern states are listed first in this chart because federal observers were assigned only to Southern states for the first years shown.

Year	AL	GA	LA	MS	NC	SC	AZ	CA	IL	MI	NJ	NM	NV	NY	TX	UT	WI	
1986	149	15		155			40					65						424
1987	51			490								12			15			568
1988	127	65		124	39	45	150					89			31	23		693
1989	13			13								22		132				180
1990	61	72			36	67	145					72				25		478
1991		12		345		40	3					38		19				457
1992	53	151		23			181					87		17	5	13		530
1993	11	84		124		20	25					36		230				530
1994	95	18	11	35	45		109					147		55		18		533
1995			19	104								29						152
1996	39	76		121		72	108	39				89		36	24	17		621
1997	5			174				7				5		28				219
1998	29	6					109	20				129		12		19		324
1999		5	56	342							50	6						459
2000	44	42	8	24			105	23		68	128	140		23	16	19		640
TOTAL	5,044	1,272	1,354	10,794	190	2,046	975	375	0	68	178	966	3	659	403	134	6	23,331

APPENDIX C

EXCERPTS FROM PLAINTIFF'S RESPONSE TO INERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS, *United States v. Conecuh County, Alabama*, Civil Action No. 83-1201-H (S.D. Ala., Jun 12, 1984).

> A white voter waiting in line to vote stated to white poll official John P. Bewley that she was unable to obtain a yellow sample ballot distributed by the Alabama Democratic Conference. The black voter standing next in line had such a ballot. Mr. Bewley stated, "You ain't [sic] of the right color." During the same day, Mr. Bewley stated to federal observer Riddle, "See, the niggers bring in these yellow marked ballots. The nigger preachers run the niggers down here, you know. They tell them how to vote. I don't think that's right."

P. 7.

> Poll officials instructed white registered voters to confirm their registration status in the office of the Probate Judge. Black voters whose names were not on the list were in each instance simply told that they could not vote, and were given no instruction by poll officials. White voter Salter's name did not appear on the list, and Ms. Salter acknowledged that she resided in a rural precinct and not in box 11-1. Ms. Salter nevertheless was allowed to vote an unchallenged ballot directly on the machine.

Pp. 8-9.

> Ms. Lewis, who required assistance because of a vision problem, signed the poll list and stated that she wished for her companion (unidentified) to provide assistance in voting for her. White poll official Windham stated, "Can't nobody go in there with you." After a pause, Mr. Windham stated to Ms. Lewis, "you can fill out an affidavit and then she can go in with you. Can't you [read]?" Mr. Windham's tone and manner were sufficiently abrasive that Ms. Lewis left the voting place. Some moments later she was observed to remark to a companion, who was trying to persuade her to make another attempt to vote, "I've done had trouble with them twice before and I'm not begging them any more. I'm not scared but I'm not begging anybody." Ms. Lewis returned accompanied by Mr. Richard Rabb, at that time the Chair of the Conecuh county Branch of the Alabama Democratic Conference. Ms. Lewis was allowed to vote, and the poll officials provided necessary assistance with the affidavit. Ms. Lewis remind very upset and remarked, "Why couldn't they have let me vote to begin with?"

Pp. 16-17.

> Black voters at box 9-1 (Old Town) were told throughout the day of the October 12, 1982 special run-off election, that no more than two voters were allowed in

the polling place at one time. This restriction was imposed on 30-35 occasions. In no instance were white voters required to conform to this procedure, and the poll officials allowed a many as five white voters in the polling place at a time.

P. 21.

Ms. Stacey enforced the limitation on the amount of time a voter could spend in the booth in a random and discriminatory fashion. She enforced the limitation against black voters more frequently than against white voters. During the last hour of voting the requirement was applied exclusively against black persons. On at least two occasions she told black voters that their time had elapsed when, in fact, it had not.

P. 24

During the course of the day, poll officials addressed all black voters by their first names. Older white voters were addressed by the courtesy titles of Mr. and Ms.

P. 35

White poll official James Ellis initiated new procedures for assistance of black voters. Without notice to any person, Mr. Ellis required assistors accompanying voters into the polling place to remain 30 feet outside the polls until Mr. Ellis had finished interviewing the voter and summoned the assistor.

Pp. 36-37.

Poll officials who assisted black voters did not read the ballot to the voters or otherwise advice the voters of the contests and the candidates. They simply asked the voters, "Who do you want to vote for?

* * * * *

Poll official Lois Stacey marked the ballot for a voter she was assisting in contests in which the voter did not express a preference.

* * * * *

Poll officials frequently served as assistors without asking voters receiving assistance who they wanted to assist them. On a number of occasions, poll officials serving as assistors did not read the complete ballot to the voters.

P.40

APPENDIX D

JURISTICTIONS CERTIFIED FOR FEDERAL EXAMINERS
UNDER SECTION 3(A) OF THE VOTING RIGHTS ACT AS OF 2000[32]

State	Jurisdiction	Term of certification
Illinois	Town of Cicero	October 23, 2000 order, effective until December 31, 2005
Louisiana	St. Landry Parish	December 5, 1979 order, effective until further order of the court
Michigan	City of Hamtramck	August 7, 2000 order, effective until December 31, 2003
New Jersey	Passaic County	June 2, 1999 order, effective until December 31, 2003
New Mexico	Bernalillo County	April 27, 1998 order, effective until June 30, 2003
	Cibola County	April 21, 1994 order, effective until April 21, 2004 (originally certified by December 17, 1984 order)
	Sandoval County	September 9, 1994 order, effective until at least September 9, 2004 (originally certified by December 17, 1984 order)
	Socorro County	April 11, 1994 order, effective until April 11, 2004
Utah	San Juan County	December 31, 1998 order, effective until December 31, 2002 (originally certified by January 11, 1984 order)

[32] Information obtained from *Jurisdictions Currently Eligible for Federal Observers as a Result of Orders Under Section 3(a) of the Voting Rights Act*, United States Department of Justice, Civil Rights Division, Voting Section, October 22, 2001.

Mr. CHABOT. Okay. Thank you. The gentleman's time has expired.

The panel up here is bound by the same rule as the witness panel is, and it's a 5 minute rule, so we will each have 5 minutes to ask questions at this time, and the Chair recognizes himself for that purpose.

And the question I'm going to ask—I'll just go down the line and let each of you deal with it.

And some of you have already touched on this in your testimonies obviously, but much of what we're doing is setting a record here, and so some repeating I think is probably good. It's been suggested in some of the written testimonies that the Federal Examiner Program may no longer be necessary.

Mr. Weinberg's written testimony further suggested that Congress should amend section 8 to make certification for the deployment of Federal observers independent of Federal examiners. Would each of you comment on the Federal Examiner and Observer Program and why the assistance of Federal observers is still necessary or not.

Ms. Randa?

Ms. RANDA. Thank you, Mr. Chairman. We play—we at OPM play a very limited support role to the Department of Justice in this program, and I have testified to the fact that the role of Examiner has evolved over the years and changed. But beyond that, I would think we would defer to the Department of Justice to make any decisions about exactly what changes should be made in the future.

Mr. CHABOT. Okay. Thank you. Ms. Pew?

Ms. PEW. I can speak to the Federal Observer Program and believe that it is well worth the time spent. It is my—those are my eyes and ears inside the polling places. I have very limited examiner contact. But I can speak to the Federal Observer Program; that it has been absolutely phenomenal. It's been a great boon in our county.

Mr. CHABOT. Thank you. Mr. Weinberg?

Mr. WEINBERG. Thank you. I mean I think Ms. Pew's response is somewhat indicative. She's been intimately involved as a county election official with the results of the work of the Federal observers, and has no knowledge of what the Federal examiners do.

And I think that's not her fault. It's because the Federal examiners just don't do much anymore. I think OPM, if we were being candid in the back room, would say they have to maintain all these lists of federally registered voters. They have to keep them current, keep the addresses up. Mostly now, they're removing people's names from those lists of federally registered voters, because they're dying.

Yet, the counties can't take those voters off their voting rolls without an okay from the Office of Personnel Management. I mean I think to some extent it is now getting—what were protections are now getting in the way of several functions, and I think they're not needed.

As far as the certification, and you know I think observers are important. As far as how to get them into a county the first time, I do think a certification procedure is important. I think it assures

everyone that there is a need for this law enforcement function to go on.

But as it stands now, the Attorney General has to personally sign the certifications. I think that's unnecessary. I think that function could be delegated to the Assistant Attorney General, much the same way as the Assistant Attorney General has authority delegated to object to voting changes under section 5 of the act, and I think that it could go on as a provision on its own.

I think it should.

Mr. CHABOT. Thank you. And my second question, Mr. Weinberg and Ms. Randa, if you want to comment on it, you could as well.

How does the Department of Justice determine whether Federal observers are necessary?

Mr. WEINBERG. There's sort of two tracks on that. And, you know, I must qualify everything I say by saying I haven't been at the Justice Department for almost 6 years. I don't know what's changed and what's not. I doubt that it has changed very much.

One track is where there's an investigation before the election that starts 6 weeks before an election, and is described in some detail in my extended remarks. It's an investigation. It starts out with telephone calls to local officials, to minorities who are knowledgeable in the area about election matters and devolves down to field investigation by attorneys who relay information up to a central person in the Voting Section of the Civil Rights Division, who then combines the information; is talking with OPM; puts together a memorandum setting out the facts for each site, and recommending how many observers are needed.

So it's a very intensive, a very detailed law enforcement investigation. That's how it usually works in Southern areas. Where the concern is with language minority provisions of the Voting Rights Act, it's a little bit different. There still is an investigation, but because the problems involved with violations of the Language Minority provisions of the Voting Rights Act usually are systemic and do not depend on any particular election contest in a city, county, or school district——

Mr. CHABOT. Do you do that before each election?

Mr. WEINBERG. Yes.

Mr. CHABOT. Okay. Thank you.

Mr. WEINBERG. In the specially covered areas.

Mr. CHABOT. Okay.

Mr. WEINBERG. Yes.

Mr. CHABOT. Thank you. You can continue.

Mr. WEINBERG. Because of the language violations of the Language Minority provisions usually are more systemic, an initial investigation is what's needed. Usually, these days, there's litigation that results and a court certifies the county. So you have everything you would have leading up to litigation, which is a lot of work and a very intensive effort.

After that, the first election, however, the observers could be assigned again and again without repeated investigations. It's the information really one gets out of the polling places for the language minority coverage that would recommend going or not going again to the next election.

Mr. CHABOT. Okay. Thank you very much. My time has expired, but, Ms. Randa, is there anything that you want to——

Ms. RANDA. I would just confirm what Mr. Weinberg said that our involvement is to coordinate on the number sent to each polling site.

Mr. CHABOT. Okay. Thank you very much. My time has expired.

The Ranking Member of the overall Committee, Mr. Conyers, is recognized for 5 minutes.

Mr. CONYERS. Thank you, Chairman Chabot.

Three considerations. I start with Mr. Weinberg. There's been only one certification by the Attorney General to section 6, Titus County, Texas. Does that mean a lot are coming through the courts under section 3 or does it mean there need to be a lot more?

My second consideration—and I'll go over these again—is this linkage between certification of observers and its validity.

And then finally, I had one of the witnesses tell me that Federal observers are kept out of the polls by State law, so it's frequently hard for them to see anything that's happening. It's hard to be an observer if you can't get into the polls under State law.

Can you help put some of these things into context?

Mr. WEINBERG. I can help with some of them I think.

Taking the last one first, State law would keep most people out of the polling places, but Federal observers get to in the polling places because the Voting Rights Act lets them. It's the authorization of the Voting Rights Act that lets Federal observers in. Otherwise, the Federal observers are like people off the street, and just can't walk into a polling place on Election Day.

As far as the certifications go, as I haven't been involved in that, I don't know. I went onto the Justice Department website a couple days ago to see if I could tell what's been going on in the last few years, and there have been a lot of court certifications it looks like as a result of litigation under the Language Minority provisions of the Voting Rights Act. And observers are being assigned to watch elections in those areas.

I don't know why there have been few, if any, certifications by the Attorney General of counties.

Mr. CONYERS. Well, from everything I've been hearing, you know we've got piles of complaints that come in. Unless all of them are invalid, I mean this doesn't add up, Mr. Weinberg.

Let me put it like this: Are attorneys who are Federal observers precluded from coming into the voting booths?

Mr. WEINBERG. The Justice Department attorneys in most States would be precluded from going into the polling places because they're neither registered voters there nor polling place officials.

The Federal observers, however, can go into polling place where they're assigned—any county jurisdiction that's been certified.

Mr. CONYERS. Ms. Pew, do you or Ms. Randa, want to add anything to this discussion.

Ms. PEW. I will add that in Arizona, observers, with prior approval, are welcome into our polling places. We ask that they submit something in writing to me by the Friday prior to the election, so that I can send that to the poll workers.

Given that a lot of them are non-Native American, and then poses a threat. We did have an incident in 2000 that prompted

quite a chaotic sense in about 17 of our precincts, and, for that reason, we began a political protocol that is mandatory for our observers.

Mr. CONYERS. Could you get a little outdated considering the way the process is working now?

Ms. PEW. I can't respond to that, because in our county the Recorder's Office and the Elections Office are separate. The Recorder's Office maintains the voter rolls, as far as purging those, as Mr. Weinberg has spoken to, so I can't respond to that.

Mr. CHABOT. Ms. Randa?

Ms. RANDA. I wouldn't want to hazard a conclusion about whether it should or how it should change, but I will confirm what Mr. Weinberg said about there having been very little activity other than removing names from the list of registered voters. So that part of the role is what has evolved.

Mr. CONYERS. Thank you, all. Thank you, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time has expired.

The gentleman from Virginia, Mr. Scott, is recognized for 5 minutes.

Mr. SCOTT OF VIRGINIA. Thank you. Thank you, Mr. Chairman.

Mr. Weinberg, let me ask you a little more specifically, just from a practical point of view, if a local civic organization suspects problems in a certain area, how do they get an observer into that area now, and how would you propose changing that mechanism?

Mr. WEINBERG. Getting in touch with the Justice Department about the need for Federal observers is the easiest thing on earth. All you need to do is call. A telephone call will do it.

In fact, the Justice Department attorneys rely very, very greatly on information and input from people who are in the counties, whether they are victims or witnesses or just concerned citizens.

We always were open to those kinds of contacts. If somebody has a particular problem in any county, we always encouraged to call us, let us know what the concern is, and we will investigate.

If the investigation reveals facts that show violations of the Voting Rights Act and need for observers, the observers will be sent.

Now, in Virginia, there are no certified counties, so that whole certification process we were talking about before, where there has to be an investigation, and then a recommendation to the Attorney General to sign a piece of—he actually signs a piece of paper that says I hereby certify, and then that's published in the Federal Register before Federal observers can be assigned.

Mr. SCOTT OF VIRGINIA. And that's the process now?

Mr. WEINBERG. Yes.

Mr. SCOTT OF VIRGINIA. And are you proposing any change to that process?

Mr. WEINBERG. Yes. I'm proposing that in my imagined the new process there would be an investigation and the Assistant Attorney General would agree to a recommendation and then sign a piece of paper that says that Federal observers would be needed to watch proceedings in the polling place in order to enforce the Voting Rights Act.

Mr. SCOTT OF VIRGINIA. Now, how long does that certification stay active?

Mr. WEINBERG. Now, it stays active forever. A jurisdiction can petition under section 13 of the Voting Rights Act to stop the Federal examiner appointment. I don't think anybody ever has.

Mr. SCOTT OF VIRGINIA. Do the observers have any specific qualifications?

Mr. WEINBERG. Observers, by and large, OPM, as I understand it tries to have observers be OPM personnel where that's possible; in some instances, where language minority voters are concerned, there may not be sufficient numbers of OPM personnel who speak that language, especially in Indian country. And so people from other agencies are taken in.

But the Federal observers are personnel who are trained. There are periodic trainings through the year, and then there are on-site trainings that are specific and briefings of the observer before the election.

Mr. SCOTT OF VIRGINIA. If you didn't have the observers, how would you investigate complaints?

Mr. WEINBERG. When I started in the Justice Department, I was law clerk in the summer of 1965. The Voting Rights Act passed in early August, but we still had many lawsuits that were pending. They were terribly cumbersome. They're very difficult to investigate. The records alone are very difficult to get, and I think the Court, in *South Carolina v. Katzenbach*, which found the Voting Rights Act special provisions constitutional, recognized how difficult it is to mount a standard garden variety lawsuit against violations of the Voting Rights Act.

So, absent the Federal observers, it would be terribly, terribly difficult.

Mr. SCOTT OF VIRGINIA. Thank you, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time has expired.

I'd ask unanimous consent that the gentleman be given one additional minute, if he would yield to me for a moment?

Would the gentleman from Virginia yield to me?

Mr. SCOTT OF VIRGINIA. Yes.

Mr. CHABOT. Okay. I just wanted to follow up with one question, Mr. Weinberg. What criteria would you envision for certification of observers?

Mr. WEINBERG. I think the criteria would be that there is evidence of probable violations of the Voting Rights Act. I mean I don't know that one needs much more.

The certification procedure now is just about that. It's—for examiners. It's not a detailed certification.

Mr. CHABOT. Okay.

Mr. WEINBERG. And I would think it shouldn't—certainly not be more detailed and possibly a little less. But it would be keyed to possible violations of the Voting Rights Act.

Mr. SCOTT OF VIRGINIA. Well, Mr. Chairman.

Mr. CHABOT. I yield back.

Mr. SCOTT OF VIRGINIA. Reclaiming my time, when do they certify it now?

Mr. WEINBERG. They certify—now the certification is it's necessary to enforce the 14th and 15th amendments.

Mr. CHABOT. If the gentleman would yield? Isn't it also or 20 written complaints?

Mr. WEINBERG. Yes. There's an alternative that if you get 20 written complaints. That, however, triggers the Attorney General's consideration. And so it all devolves pretty much to the same point, which is we in the Justice Department had to figure out that there were violations of the law that were probable and usually were happening and persuade the Attorney General of that.

Mr. CHABOT. Thank you. The gentleman's time has expired.

The gentleman from North Carolina, Mr. Watt, is recognized for 5 minutes.

Mr. WATT. Mr. Chairman, let me defer to Mr. Scott, if I can. I'm trying to see whether there are any things I need to question about.

Mr. CHABOT. Okay. All right. We'll just start from scratch here then, and yield to the gentleman from Georgia. Mr. Scott is recognized for 5 minutes, and then we'll come back to Mr. Watt.

Mr. SCOTT OF GEORGIA. Thank you, Mr. Chairman.

Mr. Weinberg, I wanted just start for a moment with your suggestion that we move away from the Federal examiners, because I—given your history, you were there at the beginning. You understand the whole make up and need for both examiners and observers. I'm not quite convinced, just from my own preliminary investigation of this that we may need to do away with examiners.

And your reason for saying we may need to modify or do away with the examiners was that the link doesn't exist. And I think your meaning of the link that I got was your quote was that there were no more hostile elected officials.

Can you elaborate on that, because there is still, in my estimation, hostile elected officials in various pockets of the South, and, a matter of fact, all across this nation. And if that is the link that you think doesn't exist, I am here to assure you that it does still exist.

I'm always of the opinion that we move with and err on the side of caution. In Georgia, for example, there are still 300,000 eligible African-Americans that are unregistered to vote, and time after time and case after case, we have documented hostility. Crosses are still being burned. In some of these areas, voters are being intimated.

So I'm very concerned about doing away with that, and especially in view of the fact that the Federal examiners are used as the trigger to determine whether or not to send these observers in. So how do we replace that trigger? But would you mind elaborating on that linkage?

Mr. WEINBERG. Sure. I'd be happy to.

I agree with you a hundred percent that there are hostile polling place officials throughout the country, and that's one of the reasons that I think the Federal Observer provision is so important.

The link I was talking about is it was a specific link to newly federally registered voters, as it existed between 1965 and 1972 in the South. As the Voting Rights Act was constructed, the observers were to watch specifically to see if those particular voters were being hostilely treated in the polls. And the complaint structure of the Federal examiners was as to complaints as to the mistreatment of those newly enfranchised voters.

The passage of time has taken care of many of those situations. Certainly, some of those same areas are areas where Federal observers still would be assigned.

But it's not because those African-American voters have just been put on the roles by a Federal examiner. The problem is both broader and deeper than that. And I think Federal observers are necessary for that.

The Federal Examiner function for registering voters, however, has been—it hasn't been used in 30 years. There were a couple of isolated instances of Federal registration in 1982 and 1993, but apart from that, it hasn't been used since the 1970's, in some part because of the success of the Voting Rights Act, but also because of the enactment of new laws that make voter registration a lot easier—the restrictive hours and locations that people were faced with in the '60's. Now, you can register by mail.

So there are improvements in the voter registration process, and it is the voter registration process and the maintenance of the names of those people who were listed in 1965 to 1972 that the examiner provisions of the Voting Rights Act are geared to.

So it has nothing to do with the need for Federal observers to get information on violations in the polling places—discrimination against racial or language group members. That's going on nationwide, and I think the observers are necessary for that.

Mr. SCOTT OF GEORGIA. Mr. Weinberg, why are then—why was the Federal Examiner certification a prerequisite for bringing in the observers in the first place?

Mr. CHABOT. The gentleman's time has expired, but you can answer the question.

Mr. WEINBERG. All right. The Voting Rights Act after the Selma to Montgomery March brought everything to a head in early 1965. The big focus was on getting people registered to vote. It was—we were talking total disenfranchisement. And so we needed to allow people to get on the voting rolls, and the way that the Voting Rights Act is constructed, if you read the sections 6 and 7, you'll see a very, very intricate pattern of getting people to—into the examiners, to list them, to turn the lists over, and this was a big deal because you were taking a Federal employee, a Federal examiner, and inserting that Federal examiner into what is a State and local process, which is voter registration. The principles of federalism were very, very strong, and this was an extraordinary remedy, the first time ever in this country, that you had these Federal officials coming in and just taking over, just taking over and without a court order. It was just an administrative decision. In order to make that administrative decision have the import that it needed to insert those Federal people into the State function, the Voting Rights Act drafters had the Attorney General personally sign a certification that this was necessary to enforce the 14th amendment and 15th amendment.

And that's how this came to be. The reason they're linked is because the drafters then thought, well, we have all these newly enfranchised voters coming into these terribly hostile polling places, we can't just let them wander in there. But what are we going to do? They say, well, we'll have authorized Federal observers to watch what happens and get the information back to the Attorney

General so the Justice Department could take action if it was needed.

Mr. SCOTT OF GEORGIA. Thank you, Mr. Chairman.

Mr. CHABOT. The gentleman's time has expired. The gentleman from North Carolina, Mr. Watt, is recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

Ms. Randa, when observers are sent out—have been sent out in the past, has there a history of anybody complaining about the observers. And, if so, what do those complaints normally consist of and who normally makes them?

Ms. RANDA. Any incidents or issues that come up during a given exercise or observation would be put in the report and it is then passed to Department of Justice, who maintains that and decides whether to take any action on it.

We don't actually maintain that information, historically, so I couldn't speak to the record on that. I know anecdotally, years ago, there were sometimes issues getting access and getting friendly treatment. But I don't believe that's been a problem in recent years.

Mr. WATT. Mr. Weinberg, to some extent, what you are proposing is constructing a new model for sending out observers, which I think probably is a reasonably good idea. The prior model applied that the observers to cover jurisdictions, select jurisdictions for sending observers to; isn't that right?

Mr. WEINBERG. Right. The observers in all the specially covered jurisdictions.

Mr. WATT. Is there—in the construction of the new model that you are proposing, if you were constructing a new model that didn't apply only to covered jurisdictions—it applied in some triggering fashion that triggered based on complaints or suspicions, how would you articulate what the standard would be? You said at one point I think in your testimony that you thought maybe the observer provisions ought to be applied nationally. But how would you articulate the standards that you would use to trigger it?

Mr. WEINBERG. Yes. My idea would be to keep the Federal observers tied to the Voting Rights Act enforcement. And you would need a finding by the Justice Department that the provisions of the Voting Rights Act are being violated or actions are happening which would constitute violations of the Voting Rights Act. You need that finding before——

Mr. WATT. Are being violated or—I mean it's too late after they've been violated. The election is taking place. So you'd—I mean you'd have to be looking at some imminent danger.

We presumed under the old framework that there was imminent danger because there was a history, and we know that there is some imminent danger going forward, because people are engaging in this—or appear to be engaging in some conduct. But I'm just trying to figure out how you would articulate what the standard would be for the Justice Department to trigger the observer provisions?

Mr. WEINBERG. Yes. The law now talks about circumstances that appear to be reasonably attributed to violations of the 14th and 15th amendments.

All along, before a certification can be made and even now, before Federal observers are assigned, the Justice Department makes a determination that racial and language minority group members are facing circumstances in the polling place that would violate the Voting Rights Act. We get that information by conducting investigations, conducting interviews in the normal way one would investigate a possible violation of a Federal law.

When you reach that conclusion, you don't have to have proof by a preponderance of the evidence in a structured way that the violations have occurred. What you need is information that indicates that those violations are occurring, and that's basically what happens.

Mr. WATT. So it would be some kind of good faith determination by the Justice Department that a violation of the 14th or 15th amendment has or is about to occur?

Mr. WEINBERG. Right.

Mr. CHABOT. The gentleman's——

Mr. WATT. May I ask unanimous consent for one additional minute——

Mr. CHABOT. Without objection, so ordered.

Mr. WATT. —just to ask one additional question of Mr. Weinberg.

The reports of the observers—you testified you don't think they ought to be made public, published, unlike when we're observing elections in other countries.

What's done with those reports now?

Mr. WEINBERG. Those reports are used by the Justice Department attorneys to determine whether more legal action is needed, if there's already a lawsuit pending or if there's no lawsuit, whether a legal action is needed. And I should say also that these reports are not always kept from public view. They're—the redacted versions have been released under the Freedom of Information Act. I mean there are ways to see them. Often, they're not all that illuminating since they're——

Mr. WATT. But wouldn't it serve some deterrent effect for—to future voting rights violations to publish the reports of the observers?

Mr. WEINBERG. Yes. I think the deterrent effect is in the legal action by the Justice Department, and I think that's been shown to be very effective.

And since these reports often are also used if a court has certified a county, the report goes to the court. And the reports are used in those instances to determine liability of the defendant or the county and whether the relief has been adequate. So they are in that sense used right away, and I think the deterrent effect is really adequate the way it exists now.

Mr. CHABOT. The gentleman's time has expired.

The Chair, in light of the fact that this is the ninth hearing in this—on the Voting Rights Act and we have more to come at some future point has been avoiding second rounds. However, the Chair would like to ask one question. And it's my understanding the Ranking Member has an additional question as well, so I would recognize myself for a minute.

And if I could, Ms. Pew, ask you a question, and this is again establishing—one of our principal goals here is to establish a record

in light of the fact that this may well be before the Supreme Court some day.

Let me ask you what types of discrimination do minorities sometimes continue to experience in polling places that you're aware of?

Ms. PEW. Well, it's my experience that given the outline and the guideline that was given to us in the consent decree that we've complied with and continue to, even though it is now outdated and we're not made to do that, we continue to do that, and we're not seeing discrimination. We are—we've got a robust program that is reaching out and based on the numbers of the voters that are increasing, we're not seeing the discrimination.

Mr. CHABOT. Yeah. What were the discriminations based upon in the consent decree that you——

Ms. PEW. They were based on denial. They weren't able to read the ballot. They weren't able to understand the ballot. Things were posted in the newspapers by statute, but they couldn't understand them, and that's definitely a disadvantage to someone who is not only maybe language non-speaking, but very language limited as far as even in their cultural, their native language. They don't read Navajo a lot of them.

And so it is a verbal language. It is important that all of these things be looked at. And I believe that given the outline we have in the consent decree and the things that we're still following that it needs to continue.

Mr. CHABOT. Okay. All right. Thank you very much.

The gentleman from Michigan is recognized for two additional minutes.

Mr. CONYERS. Thank you, Mr. Chairman.

Mr. Weinberg, you've noted that there haven't been any complaints regarding federally listed voters over the last 20 years. But do we need new tools to deal with the sometimes large-scale purges of eligible voters from the voting rolls? How do we keep voters on the voter rolls if we eliminate examiners and observers—as I understand are only at the polls on election day.

Mr. WEINBERG. The Federal Observer provisions don't address all of the violations that could occur with regard to voter registration and voting. It's really—it really has to do with what happens inside the polling places on election day. But the law certainly is adequate as it stands to deal with other discriminatory actions and that would include discriminatory purges of the rolls.

Mr. CONYERS. Who would do it?

Mr. WEINBERG. The Justice Department could do it.

Mr. CONYERS. But they wouldn't have to be observers?

Mr. WEINBERG. No. No.

Mr. CONYERS. They would be what kind of personnel?

Mr. WEINBERG. It would be investigations in the normal course of business at the Justice Department, investigations by attorneys, by the FBI. That's how it works.

Mr. CONYERS. Okay. Thank you, Mr. Chairman.

Mr. CHABOT. Thank you very much, Mr. Conyers.

That concludes this hearing, and I want to thank the witnesses again for their testimony. It has been very, very helpful.

If there's no further business to come before this Committee, we're adjourned. Thank you.

[Whereupon, at 2:03 p.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR. A REPRESENTATIVE IN CONGRESS FROM THE STATE IF MICHIGAN AND MEMBER, SUBCOMMITTEE ON THE CONSTITUTION

Despite the optimistic tone struck by our witnesses and members of this Committee, racial and language minorities still face serious obstacles to equal participation in the electoral process. During every election cycle, my staff fields numerous complaints involving election day mischief from around the country. While many simply involve hardball campaign tactics, a troubling number cross the line into questionable race politics that raises the issue of systematic suppression of the minority vote.

During the 2002 election, I referred a complaint to the Department of Justice concerning fliers circulated in African-American areas of Baltimore, Maryland, that were intended to confuse and suppress voter turnout in those communities. The flier misstated the date of election day and implied that payment of overdue parking tickets, moving violations and rents were qualifications for voting. Similarly, During the 2003 Kentucky gubernatorial election, I referred a complaint to the Department concerning reports that 59 precincts with significant African-American populations had been targeted for vote challenges by local campaign officials.

These kind of tactics have been the target of injunctive relief by the Department under provisions of the Voting Rights Act of 1957. For example, in 1990, the Department sued over a so-called "ballot security" program in North Carolina, where postcards were mailed to African- American voters that were designed to discourage them from coming to the polls by providing misinformation about the requirements for voters. As a remedy to these allegations of voter intimidation, the parties entered into a consent decree, but the damage was done, with the major African-American candidate losing a close election./1/

The failure of the 1957 Act to bring prospective relief for interference with the right to vote was the main reason behind the enactment of Sections 3, 6 & 8 for the Voting Rights Act of 1965. These provisions give the federal courts and the Attorney General the authority to monitor the procedures in polling places and at sites where ballots are counted to enforce the voting guarantees of the fourteenth or fifteenth amendments. Unlike, mere attorney coverage or election monitoring by the advocacy community, these provisions give federal monitors the legal authority to enter all polling places, and even the voting booths themselves, to provide the closest scrutiny of the elections process.

To date, a total of 148 counties and parishes in 9 states have been certified by the Attorney General for election monitoring pursuant to Section 6./2/ In addition, 19 political subdivisions in 12 states are currently certified for election monitoring by federal court order, pursuant to Section 3./3/

On election day last week, the Department sent federal observers and Justice Department personnel to 16 jurisdictions in seven states to monitor elections, including Hamtramck, Michigan, a jurisdiction partly within my district which had an ugly episode of discrimination against Arab-Americans at th polls in 1999. In 2004, the

/1/ Consent Decree in *United States of America v. North Carolina Republican Party*, No. 91–161-CIV-5-F (Feb. 27, 1992).

/2/ Alabama (22 counties), Arizona (3), Georgia (29), Louisiana (12), Mississippi (50), New York (3), North Carolina (1), South Carolina (11) and Texas (17).

/3/ California (6), Illinois (1), Louisiana (1), Massachusetts (1), Michigan (1), New Jersey (1), New Mexico (2), New York (3), Pennsylvania (1), South Dakota (1), Texas (1), and Washington (1).

Department coordinated and sent 1,463 federal observers and 533 Department personnel to monitor 163 elections in 105 jurisdictions in 29 states.

I believe that the monitoring of elections by federal observers is an important aspect of the Voting Rights Act that should be reauthorized. As prior witness testimony has clearly shown, discrimination at the polls remains a problem. Where jurisdictions have a record of discrimination or current threats exist to ballot access, minority voters should not have to wait for federal assistance to come after the fact.

Monitors play the important role of addressing concerns about racial discrimination and ensuring compliance, so that voters can rely on a fair process now, rather than waiting for litigation later.

Given the fact that the Department has trumpeted its "voter protection" programs, I am disappointed that they did not appear today at today's hearing. In numerous press releases, the Department has appeared to express a strong commitment to the monitoring program, especially in the area of Section 203's bilingual election requirements. There are questions, however, about the rising emphasis on attorney coverage, the limited number of certifications under Section 6, and whether there has been a shift in enforcement priorities. While Mr. Weinberg can act as an able proxy for the Department in most areas, only the Department can definitively respond to these questions.

Before closing, I must commend the work of the Office of Personnel Management, whose efforts at recruiting, training, and supervising election monitors is the key to the program's success. Ms. Randa, I look forward to your testimony and hope that you address ways of improving the long-term viability of the monitoring program.

If you have further questions, please contact (800) 361-4402 or (928) 337-7537. We would be happy to assist you in any way.

You may also access this information by logging on to our Website at: www.co.apache.az.us

POLITICAL OBSERVER PROTOCOL

Apache County

Any person violating any provision of this notice is guilty of a class 2 misdemeanor.

Protocol Guidelines:

Apache County Elections are conducted pursuant to the guidelines set forth under the Federal Voting Rights Act of 1965.

Political Observer Protocol:
A.R.S. § 16-590

Statute allows for a political observer and an alternate to be appointed by the County Chairman of each party that has a candidate on the ballot for each polling place in the County.

The Apache County Elections Department in their efforts to carry out this law, feel the importance of establishing polling place protocol for Voters, Election Board Workers and Observers.

This will insure that questions or issues, no matter where or when they may occur during Election Day, are handled as quickly and efficiently as possible with minimal disruption to the voter and to the Election Board.

Political Appointment

If you have been appointed as a Political Observer you **must** have in hand your signed appointment when entering the Polling Place to show to the Inspector, Marshal or other member of the Election Board.

Questions or Concerns

If you have questions or concerns, please use the following procedure. If you are observing in a Reservation Precinct, your first point of contact needs to be the "Troubleshooter" for that precinct.

The Troubleshooter

This person has been appointed by the Elections Department to oversee all processes in that precinct.

The Troubleshooter has been instructed to contact our office with your concern(s).

Contact Us Direct

If for some reason, you are unable to contact that person, please call the Elections Department **directly** at 1(800)361-4402 or (928)337-7537 and asl for Margaret A. Coalter, Recorder or Penny L. Pew, Elections Director. We would ask that you not contact the Precinc Inspector.

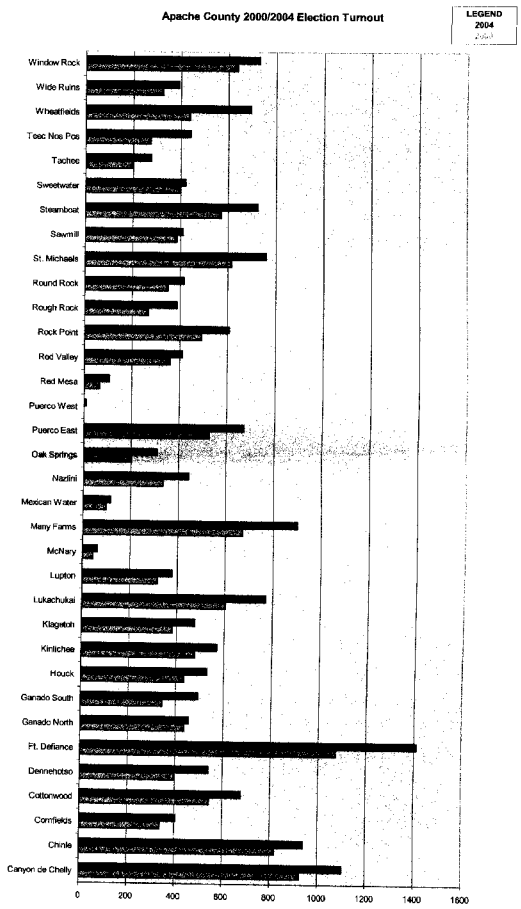
Polling Place Etiquette

A number of polling places will be ver crowded, therefore we ask that yo conduct your observing as quietly as possible. You may not **enter a votin booth**, unless it is your precinct and you are entering the voting booth to mar your ballot.

Please Don't Touch the Ballots

While you are allowed by law to observ many processes or areas where ballots are being handled, you are **not allowed to touch any ballot(s) or votin equipment.**

"no person shall be allowed to remain inside these limits while the polls are open, *except for the purpose of voting*, and except the election officials, [and] *representatives(s)...who have been appointed by the county chairman...and the challengers allowed by law.*" *[A.R.S. §§ 16-515(A), 16-1017(2), 16-1018(H)]*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St. Michaels
Round Rock
Rough Rock
Rock Point
Red Valley
Red Mesa
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Nazlini
Mexican Water
Many Farms
McNary
Lupton
Lukachukai
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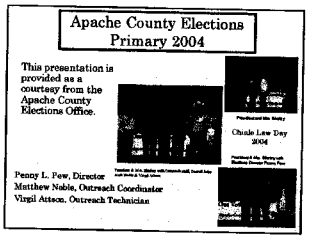
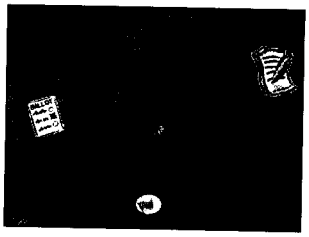
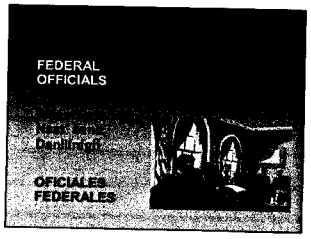

Apache County Elections
Primary 2004
This presentation is provided as a courtesy from the Apache County Elections Office.
Chinle Law Day
2004
Penny L. Few, Director
Matthew Noble, Outreach Coordinator
Virgil Atteen, Outreach Technician

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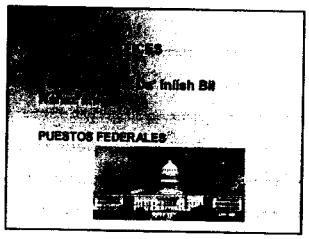
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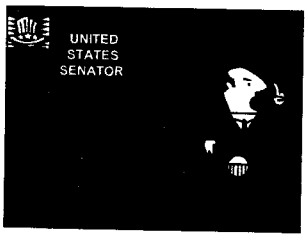
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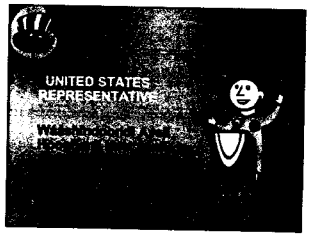
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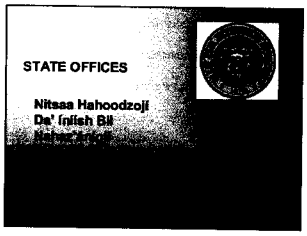
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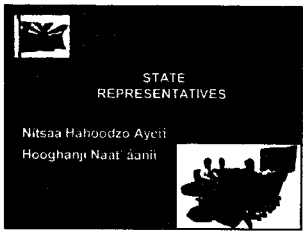
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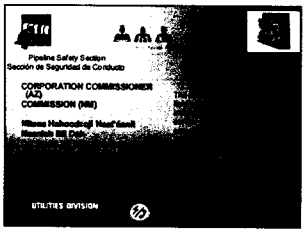
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COMMISSION (NM)
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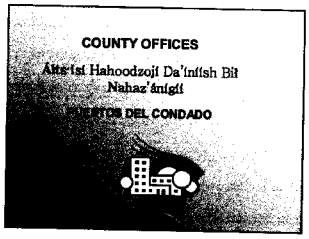
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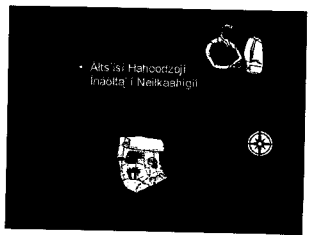
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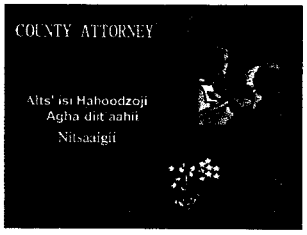
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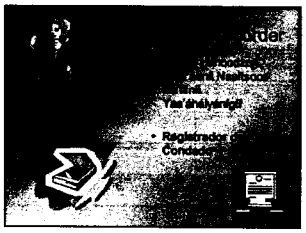

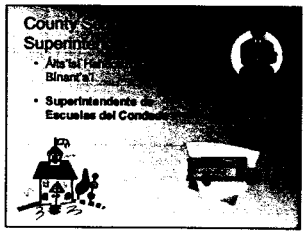
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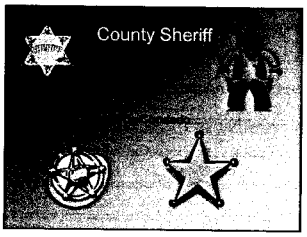
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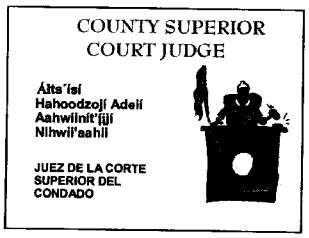
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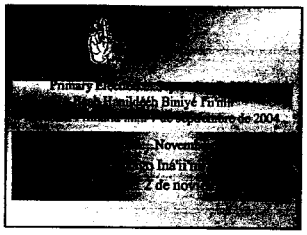
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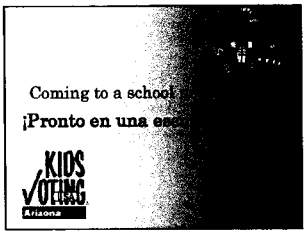
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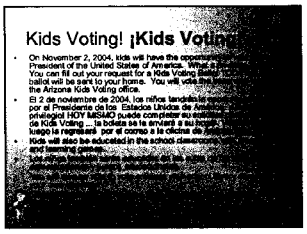
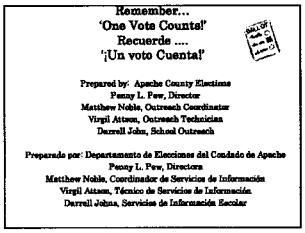
¡Pronto en una es
KIDS VOTING
Arizona


Kids Voting! ¡Kids Voting
On November 2, 2004, kids will have the opport
President of the United States of America. What
You can fill out your request for a Kids Voting Ballot
ballot will be sent to your home. You will vote the
the Arizona Kids Voting office.
El 2 de noviembre de 2004, los niños tendrán
por el Presidente de los Estados Unidos de Am
phélegid HOY MISMO puede completar su solicitud
de Kids Voting ... la boleta se le enviará a su hogar
luego la regresará por el correo a la oficina de
Kids will also be educated in the school classroom
and learning games.


Remember...
'One Vote Counts!'
Recuerde ....
'¡Un voto Cuenta!'
BALLOT
Prepared by: Apache County Elections
Penny L. Pew, Director
Matthew Noble, Outreach Coordinator
Virgil Attson, Outreach Technician
Darrell John, School Outreach
Preparado por: Departamento de Elecciones del Condado de Apache
Penny L. Pew, Directora
Matthew Noble, Coordinador de Servicios de Información
Virgil Attson, Técnico de Servicios de Información
Darrell Johns, Servicios de Información Escolar

APACHE COUNTY GENERAL ELECTION
TRAINING MANUAL

PENNY L. PEW
ELECTIONS DIRECTOR

MATTHEW NOBLE
OUTREACH COORDINATOR

VIRGIL ATTSON
OUTREACH TECHNICIAN

_____ ELECTION
CERTIFICATE OF QUALIFICATION
_____
DATE

I, PENNY L. PEW, Elections Director for Apache County, Arizona, do hereby certify that:

_____
(Print Board Worker's Name)

was provided with a course of instruction in the applicable election laws pertaining to polling place procedures and in the operating procedures for the Accu-Vote Optical Scan Voting System and is therefore fully qualified to serve as an election board official.

Penny L. Pew, Elections Director

USE OF A RED PEN IS LIMITED TO:

- PLACING AN EV IN THE SIGNATURE ROSTER FOR THOSE VOTERS THAT REQUESTED AN EARLY BALLOT.

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INTRODUCTION

This training manual has been prepared, printed and delivered to you by the Apache County Elections Department. Through this training manual, your attendance in a training class and the help of your fellow Polling Place Workers on Election Day, we are sure that you will be successful in assisting us in carrying out our mission, a successful election. If at anytime you feel the need to ask questions, feel free to contact the Elections Office at 337-7537 or the Hotline (800) 361-4402 on Election Day.

DUTIES OF BOARD MEMBERS

You will find the various positions that you might be assigned to here in the next few paragraphs, be sure to familiarize yourself with all of them - You never know which job you will end up doing on Election Day.

INSPECTOR

1. Arranges with custodian or chapter official for access to polling place for the Monday meeting and Election Day. **Be sure to ask for alternate phone numbers!! At 5:30 in the morning on Election Day a phone number to the secretary's desk will not do anybody any good, make sure you get a pager/cell phone number or a home phone number.**
2. Calls the rest of your Board to let them know when the set-up meeting will take place.
3. Conducts the Monday pre-election meeting.
4. Is responsible for instructing the Clerks, Marshals and Judges in their duties.
5. Fills any vacancy on the board which exists at the opening of the polls at 6:00 a.m., or which may occur during the day. In filling vacancies, the Inspector shall appoint a qualified elector.
6. Is Chairman of the election board and must be consulted regarding procedures.
7. Assigns duties to board members.
8. Along with 2 Judges, makes up the official voting election board and votes on challenges.
9. Oversees the Accu-Vote procedures. **Never leave the Accu-Vote unattended!**
10. Completes and signs the certification on the cover of the Signature Roster after the polls close.
11. Shall deliver the ballots and materials to the designated receiving site along with one of the Judges of the opposite party affiliation (if applicable).
12. Responsible for duties of the Marshal, if a Marshal is not appointed.
13. Oversees Provisional Ballot procedure.

14. May transmit results over a phone line to a Central Computer site.
15. Is responsible for **completion and accountability** of the **Precinct Ballot Raport.**
16. Is responsible for official ballot security.
17. Shall make sure the Troubleshooter takes the Accu-Vote Memory Pack to Election Central in St. Johns.

JUDGE

1. Verify voter's name on Signature Roster.
2. Issue ballots and demonstrates marking the ballot.
3. Monitors Accu-Vote.
4. Is a voting member of the Election Board.
5. May accompany the Inspector when delivering the ballots to the designated receiving site.
6. Is assigned to do Provisional Ballots.
7. **Any other duty assigned by the Inspector.**

CLERK

1. Enters names on the Poll List and checks for accuracy.
2. **Any other duty assigned by the Inspector.**

MARSHAL

1. Preserves order; acts as constable during the time the polls are open.
2. Performs as relief person for other board members.
3. Announces the opening of the polls, and, at 5 different times, the closing of the polls.
4. Post signs before the polls open.
5. Ensures all voters in line at 7:00 P.M. are allowed to vote.
6. May assist in the delivery of Accu-Vote to regional computer site after polls have closed.
7. Directs voters in line with "voted" Early Ballots to step out of the line and deposit their ballots into the side slot of the Black Ballot Box.
8. **Any other duty assigned by the Inspector.**

MONITOR

1. Help voters find their address in the alpha-listing to determine residence. Assist the voter in any questions he/she may have regarding elections. Keeps a log of questions.

TRANSLATOR

Verbally read the ballot in the Navajo language so that the voter understands the ballot information.

DO NOT TELL THEM HOW TO VOTE ON THE ISSUES

TROUBLESHOOTER IS THE LIAISON BETWEEN THE POLLING PLACE AND ELECTION CENTRAL. PLEASE UTILIZE THEIR HELP AS NEEDED.

PRE-ELECTION WEEK

TROUBLESHOOTERS:

There will be a Troubleshooter assigned to your Polling Place; he/she acts as a liaison between Election Central and the Polling Places on Election Day. The troubleshooter carries extra supplies and is in direct contact with the Elections Office, should any question arise.

THE INSPECTOR:

- You will receive a Board Worker Roster at the training class; this has the name and phone number of the contact person at your Polling Place. You are to call the contact person and arrange a Set-Up meeting to take place the Monday before the Election (unless otherwise specified).

- Once the set-up meeting has been arranged, you are to call all of your Board Workers to let them know when and where they need to be for the meeting. Do this as soon as possible. DO NOT SET-UP THE POLLING PLACE PRIOR TO NOON ON MONDAY.

MONDAY SET-UP MEETING

Many election boards will have *new members* who have never served before. For their benefit, the Inspector *should:*

- Discuss, ***in detail***, the duties of each board position
- Assign each board member his/her duties
- Discuss the voting procedures to be followed on Election Day
- Review the Accu-Vote unit procedures

*** Survey the areas to make certain all outlets are in working order.

*** Double-check with the facility PRIOR to Election Day to make certain the phone line is accessible on Election Night for the transmitting of the results.

*** Discuss with poll workers the importance of staying at the polling place from 5:30 a.m. until the polling place paperwork is completed and results are transmitted.

MONDAY SET-UP MEETING – ENDING PROCEDURE

- Before leaving the polling place, put the Official Ballots in a secure place. (locked)

BRING FOOD, BEVERAGES AND REQUIRED MEDICATIONS ON TUESDAY, ELECTION DAY.

DON'T FORGET TO BRING THE KEYS BACK ON ELECTION DAY!!!

CHECKING SUPPLIES

- Using the keys located in the side pocket of the Accu-Vote unit, unlock all compartments on the Black Ballot Box to make sure they are empty. (key with black key guard)
- Using the small silver key, unlock the supply box and use the Inspector Checklist to make sure all supplies are there. If any supplies are missing, please let the Election Director know **at the training meeting**. Lock the supply box back up.
- Count all ballots. If they are sealed, they DO NOT have to be re-opened; they are in packages of 50.
- DO NOT CALL THE HOTLINE IF SUPPLY QUANTITIES DO NOT MATCH. INDICATE ON THE INSPECTOR'S CHECKLIST THE CORRECT QUANTITIES AND USE THOSE FIGURES TO CLOSE OUT AFTER THE ELECTION.

SETTING UP THE ACCU-VOTE

- Make sure that the precinct name on the Accu-Vote is the correct precinct.
- Move the entire unit to the electrical outlet nearest the polling place exit.
- Unlock the door on the front of the Black Ballot Box. Slide the Accu-Vote unit in place. Attach the power cord and plug it into the Accu-Vote.
- Unlock the door on the top of the Accu-Vote machine in preparation of printing the "Zero Report".
- Print the "Zero Report". After printing DO NOT TEAR OFF. Fold it up and re-lock the door.
- Make sure that there are zeros on the tape.
- The unit is now ready to receive ballots.

INSPECTIONS

CHECK YOUR BALLOTS

- ✓ Count the packages of official ballots. They are pre-wrapped in packages of 50. DO NOT OPEN THE PACKAGES TO COUNT THE BALLOTS.
- ✓ Write the total number of ballots on the Inspector Checklist and also on the Precinct Ballot Report (located in the Poll List).
- ✓ The Inspector initials the Inspector Checklist & Ballot Report.
- ✓ **Check the top ballot in each package to make sure you have received all the correct ballots.**

MAKE SURE YOU HAVE THE CORRECT BALLOTS AND THAT YOU GET A GOOD COUNT OF THE BALLOTS THAT YOU RECEIVED. YOU MAY HAVE MORE THAN ONE BALLOT STYLE TO ISSUE THE VOTER. **MAKE SURE IT IS THE CORRECT BALLOT!!!**

SET-UP BOOTHS

- ***All*** booths assigned to your precinct shall be set up and used, including the booth for the disabled. An instructional diagram is on each booth.
- Arrange the voting booths so they are in plain view of the board and the voters.

INSPECTION OF VOTING BOOTHS

- Election officials should periodically check the voting booths and remove any miscellaneous items such as notes, campaign literature, etc.
- Make sure the appropriate signs are hanging in each booth - ENGLISH AND SPANISH:
  - How to mark the ballot
  - Ballot Issues (if applicable)
- Remove any ball point pens or pencils found in the booths.
- Make sure each booth has a Black Ballot Marking Pen.

EV ◄RED INK

EARLY (ABSENTEE) VOTERS

- Using the list of Early Voters, make an EV in the box next to the voter's name on the Signature Roster for each voter whose name appears on the list. Use a RED PEN. Leave room for the voter to sign.
- If the Early Voter's name does not appear alphabetically in the Signature Roster in the list of active voters or the list of inactive voters, check the Add-On list in the back of the roster.

POSTING SIGNS

- Post the **WRITE-IN CANDIDATES SIGN** found in the election supplies in **PLAIN VIEW** in the polling place, **ONLY** IF THERE ARE QUALIFIED WRITE-IN CANDIDATES.
- Tape the **list of authorized write-in candidates** on the **WRITE-IN CANDIDATES SIGN. (if applicable)**
- Post in **PLAIN VIEW** in the room where the ballots are cast:
  - **2 SAMPLE BALLOTS (OF EACH BALLOT STYLE)**
    - **The sample ballots are in the Supply Box.**
  - **2 INSTRUCTIONS TO VOTERS AND ELECTIONS OFFICERS SIGNS/RIGHT TO VOTE A PROVISIONAL BALLOT COMBO SIGNS**
  - Post the **NO SMOKING** signs
  - Post the **INSTRUCTIONS ON MARKING THE BALLOTS** in each voting booth - ENGLISH and SPANISH and the Ballot Issues (if applicable).

ELECTION DAY

The law requires members of the election board to be present at the polling place by 5:30 a.m. on Election Day. A.R.S. §16-566(A)

BEFORE THE POLLS OPEN

Election Board members must take the Oath found on the inside cover of the Blue Poll List or at the end of this manual. The Blue Poll List can be found in the supply box with the other election supplies.

WRITE THE NAME OF THE PRECINCT ON THE FRONT OF BOTH POLL LISTS.

Any elector of the precinct may administer and certify the oath; however, it is traditionally administered by the Inspector to the Board Members. Afterward, one board member administers the oath to the Inspector. You may also read this aloud together.

After the oath has been administered, election board members shall not leave the polling place until the polls are closed.

$ $ONCE THE BOARD HAS BEEN SWORN IN,

MAKE SURE THAT EVERYONE SIGNS THE PAYROLL VOUCHER AND IF CLAIMING MILEAGE, LICENSE PLATE #!!

FINAL COMPLETION OF THE POLLING PLACE SET-UP

1. Plug in the Accu-Vote. A zero tape will print. ALL RESULTS ON THE TAPE MUST BE ZERO. DO NOT TEAR OFF THE TAPE! It must remain attached to the Accu-Vote. The readout must also register zeros.
2. While the tape is printing, check the arrangement of the polling place to be sure the voting booths and Accu-Vote are in plain view.
3. The Marshal places the three **75 FOOT LIMIT** signs in **3** different directions **75 feet** from the **MAIN ENTRANCE** to the polling place. ALL OTHER SIGNS MUST BE PLACED APPROPRIATELY TO ENSURE EASY INDENTIFICATION OF AND ACCESS TO THE POLLING PLACE.
4. No person shall be allowed to remain inside the **75 foot limit** while the polls are open except for the purpose of voting and except for the election board and any officially appointed representatives. A.R.S. §16-515
5. It is unlawful for any person to **electioneer** on Election Day within a polling place or in a public manner within **75 feet** of the main entrance of a polling place. Electioneering is any action or publication displayed for or against a candidate or a proposition on the ballot. A.R.S. §16-1018.1
6. Petition circulators, campaign workers, candidates, the news media, and any other person who is not voting must remain outside the 75 foot limit while the polls are open.
7. PLACE ALL HANDICAPPED PARKING SIGNS NEAR CURB CUTS SO THAT THE VOTERS WITH DISABILITIES HAVE EASY ACCESS TO THE CURB CUTS.

CLEARLY MARK THE PATH FROM THE HANDICAPPED PARKING TO THE POLLING PLACE.

USING THE SIGNS YOU HAVE POSTED AS A GUIDE, CAN A VOTER WITH DISABILITIES FIND THEIR WAY INTO THE POLLING PLACE THROUGH THE ENTRANCE FOR DISABLED PERSONS?

8. Open only 1 package of each ballot style to begin the election. Set-up the tables with the Signature Roster, Poll Lists and pens.

TABLE #1

BALLOTS	POLL LIST	POLL LIST	SIGNATURE ROSTER
JUDGE	**CLERK**	**CLERK**	**JUDGE**
			◄START

TABLE #2

PROVISIONAL FORMS/ ENVELOPES	PENS	PRECINCT MAP POLLING PLACE LIST	MAGNIFYING SHEET

9. The Inspector should remain near the Accu-Vote during the day, monitoring the count of voters.

10. Place all Provisional Envelopes/Ballots and Early Ballots that are dropped off at the polling place during the day in the side slot of the Black Ballot Box.

11. **The Marshal announces the opening of the polls at 6:00 a.m. SHARP!!!**

COMMON KNOWLEDGE

NO SMOKING PLEASE

No smoking by any person is allowed within the polling place.

Be sure to post the NO SMOKING signs and enforce this rule very firmly.

BOARD WORKER COURTESY

Board Workers should always maintain a peaceful and quiet atmosphere in the polling place. Remember, talking and other noises such as radios, televisions, etc. make it difficult for voters to concentrate. **Do not accept food from outside the polling place.**

PLEASE EAT YOUR FOOD DISCREETLY.

CELLULAR PHONES

CELLULAR PHONES ARE PERMITTED IN THE POLLING PLACE FOR **LIMITED USE ONLY** BY VOTERS **AND** POLL WORKERS.

CAMERAS

THE PUBLIC, MEDIA OR POLL WORKERS CANNOT BRING CAMERAS (VIDEO OR OTHERWISE) WITHIN THE 75 FOOT LIMIT **WHILE THE POLLS ARE OPEN AND VOTERS ARE IN THE POLLING PLACE. (PURSUANT TO A.R.S.§16-515)**

*****CHALLENGING A VOTER PROCEDURES*****

Please call Hotline for assistance, immediately upon Challenge.

The grounds for challenging voters are found in the Inspector's Bag, on the back side of the *Challenge List* form. Don't make any entries unless a challenge is made. See A.R.S. 816-593 for rules determining the residence of a voter upon a challenge.

NOTE: **A voter who has moved from one DISTRICT to another and who has NOT notified the County Recorder may vote a NEW RESIDENCE PROVISIONAL BALLOT in the District where his/her new address is located.**

A majority of the voting members of the election board determines the validity of a challenge. The 2 Judges, together with the Inspector, make up the voting members of the election board. **The oath is printed on the front side of the Challenge List Form.**

No other affidavit is necessary. If a challenge is made, it's suggested the Inspector have the person challenged step aside and permit the other voters in line to continue to vote.

REMEMBER, CITIZENSHIP CANNOT BE CHALLENGED AT THE POLLS.

QUALIFIED ELECTORS DEFINED

Persons who may vote are:

1. Those electors whose names appear in the Signature Roster, either as Active or Inactive and have not moved from the address as listed. These electors vote by the standard voting procedures.

   A list of INACTIVE VOTERS for each precinct has been compiled and placed in the back of the Signature Roster and each of the Precinct Registers. The list of INACTIVE VOTERS can be identified by the separator sheet & title at the top of the page.

If it is determined that the elector has moved from the address that is listed on the Signature Roster/Precinct Register, the elector will be directed to the Apache County Precinct Map to locate the precinct for the new address. The poll worker will find the appropriate polling place for the elector's new precinct and DIRECT the elector to the new polling place.

2. Those electors who surrender a County Recorder's Certificate authorizing the addition of their name to the Precinct Signature Roster. The elector's names are added to the Signature Roster and they vote by the standard voting procedure. The register numbers for these voters will be the consecutive number after the last name listed in the active portion of the Signature Roster.

3. Those electors who qualify to vote a Provisional. If an elector's name is NOT found on the Signature Roster, either in the Active or Inactive sections, check the Add-On List in the back of the Signature Roster. Be sure to check for possible misspellings or keying errors. **Check the Alpha Listing to see if they are in Apache County but in another precinct.

If the person's name is NOT found and they **have not moved** or modified their voter registration record, then they shall be allowed to cast a Provisional Ballot.

If the person's name is NOT found and they do NOT have the 'VOTER RECEIPT' copy of their registration and they are NOT currently registered in Apache County, then the poll worker will give the person a blank registration form to complete. Have the person complete the form and return it to the poll worker to be forwarded to the Elections Department in the envelope provided. ***That person must vote a provisional ballot in the current election.***

4. Electors whose names were reported to the Inspector on the Early Ballot List, but who state to the election board that they **did not vote, will not vote or are unable to vote** their Early Ballot. Such electors will be allowed to vote by Provisional Ballot Procedure.

INACTIVE VOTERS

"If the notice sent by the recorder is not returned, the registrant may be required to provide affirmation or confirmation of the registrant's address in order to vote."

A.R.S. § 16-166(E)

If a voter is listed on the INACTIVE LIST, that voter must re-register.

VOTING PROCEDURES

This section will lay out step by step instructions for the Board Workers, telling you exactly what needs to be done from the time the voter walks in the door to the time he/she inserts their ballot into the Accu-Vote.

STANDARD VOTING PROCEDURE

Electors whose names appear on the Signature Roster or who submit a County Recorder's Certificate to the board will vote by the following procedure:

1) The voter reports to the Election Official assigned to the Signature Roster and announces their full name and address. Be sure to check address as well, if the voter

lives at a different address they will need to report to the Provisional Ballot (BTBV) Tables for processing.

   a. The election official locates the voter's name in the Signature Roster, either in the list of regular (Active) voters, the list of Inactive Voters or Add-ons and verifies that the address is correct by asking the voter their address.
   b. The election official asks the voter to sign the signature block next to their name. **The election official tells the Poll List Clerk the voter's Register Number.**

2) The Poll List Clerk locates the voter's name in the Precinct Register and enters the voter's name and Register Number on the next available line of the Poll List. USE A BALL POINT PEN. Call out the voter's Register Number to the Judge issuing ballots.

   a. **Please PRESS HARD.** The Register Number for an Inactive Voter is preceded with the letter 'I'.
   b. **USE ONLY ONE (1) POLL LIST AT A TIME.**

3) The Judge looks up the voter by Register Number in the Precinct Register.

   a. The Judge selects the proper ballot and gives it to the voter. Secrecy folders should be used for all voters.
   b. Explain that a special black ballot marking pen must be used. Reminding the voter that they must fill in the oval entirely.
   c. Explain that ballots that are damaged or mis-marked must be spoiled and a replacement ballot will be issued. **LIMIT 3.**
   d. **Explain how the ballot is inserted into the Accu-Vote, by the Voter.**
   e. Explain how to do a write-in, remember that the voter **must** write the candidate's name **AND** fill in the oval.
   f. Be sure to remind the voter to vote BOTH sides of the ballot, if applicable.

4) **The voter enters a voting booth and marks the ballot with the special black ballot marking pen. The pen is left in the booth. Periodically, check the booths and make sure that each has a special black ballot marking pen.**

   a. After voting, the voter puts the official ballot in the secrecy folder and goes to the Accu-Vote.
   b. The voter REMOVES the official ballot from the secrecy folder and inserts the ballot into the Accu-Vote. **The ballot can be inserted in the Accu-Vote in any direction.** The voter gives the secrecy folder to the election official.

c. THE ELECTION OFFICIAL SHOULD STAND TO THE SIDE OR BACK OF THE ACCU-VOTE. THE BALLOT IS SECRET.

d. DO NOT INSERT THE BALLOT IN THE ACCU-VOTE FOR THE VOTER unless the voter asks you for assistance.

A VOTER DOES NOT HAVE TO VOTE FOR EACH AND EVERY CANDIDATE OR ISSUE ON THE BALLOT. THIS IS CALLED *UNDER VOTING*. THE ACCU-VOTE DOES NOT REJECT A BALLOT BECAUSE OF AN UNDER VOTE. EVEN IF A VOTER HAS BEEN GRANTED POWER OF ATTORNEY, THEY CANNOT VOTE ON BEHALF OF THAT VOTER.

SPOILED BALLOTS

1. If a voter makes a mistake on the ballot, it may be exchanged for another. No more than 3 ballots may be issued to one voter. Remember, an Early Ballot counts for 1!
2. The word "SPOILED" is written across both sides of the ballot by the voter. The Inspector, Judge & Voter MUST SIGN the Spoiled ballot. If the voter wishes, the election official may write the word "SPOILED" across both sides of the ballot.
3. The Spoiled ballot must be placed in the Official Envelope Immediately. You may want to put a secrecy folder in the Official Envelope to protect the secrecy of any ballots. Remove the folder after the polls have closed.
4. The election official shall look up the voter's name in the Precinct Register, select the proper ballot and issue it to the voter.

DO NOT PUT SPOILED BALLOTS INTO THE BLACK BALLOT BOX. THEY MUST GO INTO THE OFFICIAL ENVELOPE IMMEDIATELY.

THE VOTER MAY HAVE ONLY ONE BALLOT IN THEIR POSSESSION AT A TIME.

NEVER PRESS "YES" TO OVERRIDE AND ACCEPT A VOTER'S BALLOT WITHOUT THE VOTER'S PERMISSION.

A JAMMED BALLOT MUST BE REMOVED FROM THE ACCU-VOTE UNIT BUT NOT IF IT HAS FALLEN INTO THE BLACK BOX. DO NOT GET OUT OF THE BLACK BOX, JUST MAKE A NOTE ON THE TAPE THAT THIS HAPPENED. INDICATED IF IT WAS COUNTED OR NOT.

OVERVOTED BALLOT

If a voter has voted for more candidates than are to be elected to an office, the Accu-Vote will reject the ballot and return it to the voter. The message "OVERVOTED BALLOT" and the office that was overvoted will print on the tape. THE ELECTION OFFICIAL MUST READ THE MESSAGE ON THE TAPE. The voter can do the following:

1. **The ballot can be spoiled.** If the voter wants to spoil the ballot, the words "SPOILED" must be written on both sides of the ballot & signed by Inspector, Judge & Voter.
2. The ballot will be spoiled and a replacement ballot issued to the voter. The voter should go back into the voting booth to vote the replacement ballot. During this time, let other voters continue to vote. KEEP THE LINE AT THE ACCU-VOTE MOVING!
3. **If the voter refused to vote a replacement ballot and at the request of the voter, the election official can press "YES" button and the ballot will be accepted.**

THE ACCU-VOTE WILL ACCEPT THE BALLOT AND EVERYTHING ON THE BALLOT WILL BE COUNTED EXCEPT THE OFFICE OR ISSUE THAT IS OVERVOTED.

UNVOTED BLANK BALLOT

If a voter has inserted an "unvoted" blank ballot into the Accu-Vote, the Accu-Vote will return the ballot. **The message, "UNVOTED BLANK BALLOT" will print on the tape.** The voter can do the following:

1. If the ballot was simply mis-marked the voter can vote that ballot. The ballot can be given to the voter with instructions to return to the voting booth to mark the ballot. During this time, other voters continue to insert their ballots into the Accu-Vote.
2. **At the request of the voter,** if the voter intentionally voted a blank ballot, the election official can press the "YES" button and the Accu-Vote will accept the ballot.
3. **A voter cannot use white-out, cross out or erase on a ballot.**
4. **IF THE VOTER MARKS THE BALLOT OUTSIDE THE OVAL, THE BALLOT MUST BE RE-MARKED CORRECTLY, STAYING WITHIN THE OVAL, AS SHOWN ON THE INSTRUCTIONS IN THE VOTING BOOTH.**

MISREAD BALLOTS

If a ballot is misread, meaning that for some reason the Accu-Vote is not able to process the ballot, the Accu-Vote will return the ballot. A message will print on the tape. A misread ballot can be one of the following:

1. A damaged ballot.
2. Misprinted ballot.
3. Voter marked ballot in the heading.
4. Incorrect ballot—ballot from another precinct.
5. Voter inserts ballot into wrong Accu-Vote in a co-located polling place.

- **A misread ballot should be spoiled and a replacement ballot issued.**
- If the voter will *not* vote a replacement ballot, have the voter drop the ballot in the side slot of the Black Ballot Box.

- **DO NOT USE THE "YES" TO OVERRIDE". The Accu-Vote will not accept a misread ballot.**
- **BE SURE TO INSTRUCT THE VOTER THAT THE MISREAD BALLOT WILL BE TABULATED AT ELECTION CENTRAL LATER THAT NIGHT.**

PROVISIONAL BALLOT (BALLOT TO BE VERIFIED) PROCEDURE

There are 4 different situations for issuing a Provisional Ballot (formerly known as Ballot To Be Verified):

a. The voter's name does not appear on the Signature Roster.
b. The voter has moved **within the precinct**. (New Residence Ballot)
c. The voter has moved **outside of the precinct**. (New Residence ballot)
****the voter ***must*** go to their new polling place to vote.****
d. The voter has requested or received an **early Ballot** and did not bring the Early Ballot to the polling place for voting.

THE POLL OFFICIAL MUST TEAR OFF THE 1st SHEET OF THE PROVISIONAL BALLOT FORM AND GIVE TO THE VOTER. THIS IS THE VOTER'S RECEIPT.

(IF THE VOTER IS WILLING TO ATTEST TO THE FACT THAT THEY HAVE LIVED WITHIN A JURISDICTION FOR MORE THAN 29 DAYS, THEY WILL BE ALLOWED TO VOTE A PROVISIONAL BALLOT IN THAT JURISDICTIONS ELECTION.)

1) VOTERS NAME DOES NOT APPEAR IN SIGNATURE ROSTER

a. If the voter's name is not on the regular (active) list of voters, the inactive list of voter's or the Add-On List, the voter should produce the **Voters Receipt** copy from their registration form or a **Voter I.D. Card**.
b. The election official shall find the voter's address on the precinct map. Make sure the voter lives within the boundaries of this precinct.
c. The election official shall complete the Provisional Ballot form. **Two election officials and the voter must sign the form.**
d. If the voter has a Voter I.D. Card or Voter's Receipt, clip it to the outside of the envelope. DO NOT PUT IT INSIDE THE ENVELOPE.
e. Give the envelope to the voter and ask the voter to return to the Signature Roster.

f. On the PROVISIONAL BALLOTS page at the back of the Signature Roster, the election official enters the voter's name and other identifying data as shown in the Signature Roster. These voters are assigned register numbers beginning with V-1, V-2, etc. A voter's name is added to the Signature Roster ONLY if the voter's name is NOT on the Signature Roster.
g. The voter signs the signature block next to their name. The election official tells the Poll List Clerk the voter's Register Number.
h. The Clerk fills out the Poll List. USE ONLY A BLACK PEN.
i. The Judge looks up the voter in the Precinct Register and selects the proper ballot.
j. **The Judge puts the ballot in a Secrecy Folder and gives it to the voter.**
k. **The voter enters a voting booth and marks the ballot with the special black ballot marking pen. DO NOT USE FELT PENS!!!!**
l. **After voting the voter puts the ballot in the Provisional Envelope and closes and seals the envelope.**

THE VOTER SHALL INSERT THE PROVISIONAL BALLOT INTO THE SIDE SLOT OF THE BLACK BALLOT BOX. DO NOT PUT INTO ACCU-VOTE.

2) VOTER HAS MOVED WITHIN YOUR VOTING PRECINCT

a. If the voter's name is on the Signature Roster, but the voter has moved,
b. Verify the location of the new residence address on the precinct map
c. The election official shall find the voter's address on the precinct map. **Make sure the voter lives within the boundaries of this voting precinct.**
d. The election official shall complete the Provisional Form. **Two election officials and the voter must sign the form.**
e. Attach the form to the manila envelope provided. Give the envelope to the voter and ask the voter to return to the Signature Roster.
f. The voter signs the signature block next to the voter's name. The election official tells the Poll List Clerk the voters Register Number. **DO NOT ADD THE VOTER'S NAME TO THE ROSTER. IT IS ALREADY THERE!**
g. The Clerk fills out the Poll List using a black ball point pen.
h. The Judge looks up the voter in the Precinct Register and selects the proper ballot.
i. **The Judge puts the ballot in a Secrecy Folder and gives it to the voter.**
j. **The voter enters a voting booth and marks the ballot with the special black ballot marking pen.**

k. The voter puts the ballot in the manila envelope and closes and SEALS the envelope.
l. **THE VOTER SHALL INSERT THE PROVISIONAL BALLOT IN THE SIDE SLOT OF THE BLACK BALLOT BOX.**

3) THE VOTER HAS MOVED TO A NEW VOTING PRECINCT

a. If the voter's name is in the Signature Roster, but the voter has moved to a residence address located in another voting precinct, **direct the voter to the precinct map.**
b. The election official, in cooperation with the voter, will locate the voter's new residence address on the Precinct Map.
c. The election official shall look up the address of the polling place on the Alpha List and **direct the voter to go to the new polling place to vote a Provisional Ballot.**

IF THE VOTER IS ALLOWED TO VOTE A PROVISIONAL BALLOT IN THE WRONG PRECINCT, THE BALLOT WILL NOT COUNT.

4) THE VOTER REQUESTED AN EARLY BALLOT

These voters will be indicated in the Signature Roster with a RED EV in the box next to their name.

a) The election official shall complete the Provisional Ballot Form. **Two election officials and the voter must sign the form.**
b) Attach the form to the manila envelope provided. Give the envelope to the voter and ask the voter to return to the Signature Roster.
c) The voter signs the signature block next to the voter's name. The election official tells the Poll List Clerk the voters Register Number. **DO NOT ADD THE VOTER'S NAME TO THE ROSTER. IT IS ALREADY THERE!**
d) The Clerk fills out the Poll List in Red Ink.
   i. USE A RED BALL POINT PEN.
e) The Judge looks up the voter in the Precinct Register and selects the proper ballot.
f) **The Judge puts the ballot in a Secrecy Folder and gives it to the voter.**
g) **The voter enters the voting booth and marks the ballot with the special black ballot marking pen.**

h) The voter folds the ballot in half and puts it in the envelope and closes and SEALS the envelope.

i) THE VOTER SHALL INSERT THE BALLOT ENVELOPE INTO THE SIDE SLOT OF THE BLACK BALLOT BOX.

EARLY BALLOTS DELIVERED TO YOUR POLLING PLACE

VOTED EARLY BALLOTS CAN BE DROPPED OFF AT ANY POLLING PLACE BY 7:00 P.M. ON ELECTION DAY.

IF A VOTER SHOWS UP WITH AN EARLY BALLOT TO "SURRENDER", UNLESS THERE IS SOMETHING WRONG WITH THE BALLOT THE VOTER SHALL DO THE FOLLOWING:

- ✓ GO TO A BOOTH AND VOTE THE BALLOT WITH THE SPECIAL MARKING PEN.
- ✓ SIGN AND DATE THE BALLOT AFFIDAVIT ENVELOPE.
- ✓ FOLD AND PLACE THE VOTED BALLOT INTO THE ENVELOPE.
- ✓ SEAL THE ENVELOPE.
- ✓ INSERT THE ENVELOPE INTO THE SIDE SLOT OF THE BLACK BALLOT BOX.

IF THE VOTER HAS SPOILED THEIR EARLY BALLOT, THEY MUST VOTE A PROVISIONAL BALLOT AT THEIR ASSIGNED POLLING PLACE!!

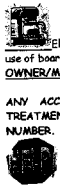
NEVER ISSUE A REPLACEMENT BALLOT TO BE USED WITH AN EARLY BALLOT PACKET!!!

THEIR EARLY BALLOT AFFIDAVIT MUST BE SIGNED AND SEALED, AS IF THEY WERE DROPPING IT IN A MAIL BOX- IF NOT, THEY HAVE TO VOTE A PROVISIONAL BALLOT AT THEIR ASSIGNED POLLING PLACE!!!

SAFETY IN THE POLLING PLACE

It is up to the Marshal or designee to see that reasonable safety precautions are taken in a polling place during Election Day. Reasonable precautions should include, but are not limited to the following:

- Voter traffic ways are clear of debris.
- Extension cords are out of the way
- Chairs are behind tables or off to the side
-
- Electrical appliances are out of the way of voter traffic flow and out of the reach of small children
-



Electrical appliances, such as coffee pot, will be allowed in the polling place for the use of board workers ONLY WITH PRIOR APPROVAL OF THE FACILITY'S OWNER/MANAGER.

ANY ACCIDENT OR INJURY IN A POLLING PLACE REQUIRING EMERGENCY TREATMENT SHALL BE REPORTED IMMEDIATELY TO THE 9-1-1 EMERGENCY NUMBER. ALSO, REPORT ANY ACCIDENT OR INJURY BY CALLING THE HOTLINE #.

COMMON COURTESIES AND GUIDELINES FOR VOTERS WITH SPECIAL NEEDS

- Be considerate of the extra time it might take for a person who is disabled or elderly to get things done.
- Speak directly to the person who has a disability rather than to a companion who may come along.
- Speak calmly, slowly and directly to a person with a hearing problem. Don't shout.
- Before pushing someone in a wheelchair, ask if you may do so and how you should proceed.
- Greet a person who is visually impaired by letting the person know who and where you are.
- Be aware that dogs which assist people with disabilities should be admitted into the polling place. **These dogs are highly trained and need no special care.**
- Remember that *all* voters deserve courteous attention in exercising their rights as citizens to vote.

USE PLENTY OF SIGNS TO INDICATE THE WAY TO THE DISABLED VOTERS ENTRANCE INTO THE POLLING PLACE.

ASSISTANCE TO VOTERS

- Any voter may, at their option, be accompanied and assisted by a person of their choice or shall be assisted by 2 election officials (DEM & REP).

- If the election officials assist the voter, they shall distinctly state to the voter the names of all candidates for each office or the written description of the ballot measures and shall ask the voter how they wish to vote in each instance.

- The election officials shall then mark the ballot indicating the voter's choices.

- **Neither of the election officers who assist you with your vote are allowed to influence your vote by recommending or suggesting any candidate or political party for any office.**

VOTERS WITH DISABILITIES (CURBSIDE VOTING)

The Americans with Disabilities Act of 1990 establishes guidelines for the accessibility of facilities to the disabled community. Where accessibility for voters with disabilities is not achievable, the Secretary of State has established an alternate voting procedure.

For precincts determined to be less accessible, a sign notifying any disabled voters of the alternative method for voting is included in the precinct supplies. Post sign near the disabled parking signs in the parking lot. THIS IS A ***CURBSIDE VOTING AVAILABLE*** SIGN.

- The disabled voter should relay a message through a companion, or other nearby person, to the precinct election board that he/she wishes to vote.
- The Marshal verifies the voter's registration on the Signature Roster and enters the voter's registration information from the roster onto a **Disabled Voter Signature Affidavit** found in the precinct supplies on a clipboard.
- The Inspector directs 2 board workers (DEM & REP) to proceed to the voter's vehicle with an official ballot, special black ballot marking pen and secrecy folder. The voter signs the affidavit, votes the ballot and places it in the secrecy folder.
- The 2 board workers return to the voting area and present the ballot to the election official at the Accu-Vote. The election official removes the ballot from the Secrecy Folder and puts the ballot into the Accu-Vote. **The board workers give the Disabled Voter Affidavit to the election official at the Signature Roster, who puts it in the back of the roster, and enters "DISABLED VOTER" in the signature block next to the voter's name.** The Clerk enters the voter's name into the Poll List.

CLOSING THE POLLS

The closing of the polls is announced by the Marshal at 1 hour, at 30 minutes, at 15 minutes, at 1 minute before, and at the moment of closing, which is 7:00 p.m. **ALL ELIGIBLE VOTERS IN THE LINE AT 7:00 P.M. WILL BE ALLOWED TO VOTE.**

AFTER THE LAST PERSON HAS VOTED, ANYONE CAN OBSERVE THE CLOSING OF THE POLLS. PICTURES CAN BE TAKEN AS LONG AS THERE AREN'T ANY CLOSE-UPS. THE PUBLIC CANNOT INTERFERE WITH THE CLOSING PROCESS.

After the last person has voted:

- Open the door on the top of the Accu-Vote with the gold key. While pressing the "YES" and "NO" buttons, insert the Yellow Ender Card. This officially ends the election and a results tape will print.
- Print 2 copies of the results tape. The Inspector and the Judge sign the bottom of the tape.
- While the results tape is printing, remove the ballots from the Black Ballot Box.
- Using the Ballot Map, begin to sort the various ballots and complete the Ballot Report (Found in the Poll List)
- All of the voted ballots, including the Provisional and Early ballots are placed in the Black Ballot Bag and secured with the Blue Seal. (DO NOT SEAL UNTIL ALL ITEMS ON THE BALLOT BAG CHECKLIST ARE INSIDE THE BAG).

- ONLY THE ITEMS LISTED ON THE OFFICIAL AND UNOFFICIAL ENVELOPE CHECKLIST SHOULD GO INSIDE THEM.

- PUT THE OFFICIAL SEAL ON THE OFFICIAL ENVELOPE ONLY.
- Put the unused ballots in a box(if they were sent in a separate box, if not they go into the Blue Supply Box.
- All other supplies should be returned to the Blue Supply Box and locked.
- Unlock the front door of the Black Ballot Box holding the Accu-Vote machine.
- Plug in the phone cord to the back of the Accu-Vote in preparation for the transmitting of the results.

- Take to the phone to the designated transmitting location. Plug jack in.
- The message on the digital readout will ask if you want to transmit results. Press "YES". It will sound like an Internet connection.
- It should send within 2-3 tries.
- When the results are sent, you may turn off the Accu-Vote.
- The Accu-Vote and Black Ballot Bag will be transferred to the St. Johns Election Office by the Troubleshooter.
- All other equipment will be picked up by another truck.
- PLACE THE KEY RING WITH ALL KEYS IN THE SIDE POCKET OF THE BLACK ACCU-VOTE BAG. **DO NOT PUT THEM IN THE UNOFFICIAL OR OFFICIAL ENVELOPE.**

  - ✓ Make sure that everyone has signed the Payroll Voucher!!
  - ✓ Leave the polling place in better condition than you found it. Remove all trash and loose papers.
  - ✓ Turn out the lights, turn off the a/c or heating and lock the door before you leave the polling place.

TIME TO GO HOME!!!!

.eturn to:
'.pache County Recorder/Elections

2003-10576
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OFFICIAL RECORDS OF APACHE COUNTY
MARGARET A COALTER, RECORDER
12-08-2003 12:42 PM Recording Fee $0.00

NAVAJO LANGUAGE ELECTION TERMINOLOGY

Copyright December 2003
Revised and Amended
until further notice.

By: Apache County,
Arizona

STATE SENATOR
Nitsaa Hahoodzo Adeii Hooghanji Naat'áanii

STATE REPRESENTATIVE
Nitsaa Hahoodzo Ayeii Hooghanji Naat'áanii

SECRETARY OF STATE
Nitsaa Hahoodzojí Naaltsoos Ńłł'íní Nitsaaígíí

STATE TREASURER
Nitsaa Hahoodzojí Naat'áanii Ínáółtą'í Béeso Yaa'áhályání

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION(AZ)
Nitsaa Hahoozojí Da'ółta' Binant'a'í

STATE BOARD OF EDUCATION (NM)
Nitsaa Hahoodzojí Da'ółta' Binant'a'í Á Dah Nídinibiihígíí

STATE MINE INSPECTOR
Nitsaa Hahoodzojí Hada'agéédjí Yik'i Déez'ı'ígíí

C. **COUNTY OFFICIALS**
Áłts'ísí Hahoodzojí Naat'áanii Danilínígíí

COUNTY OFFICES
Áłts'ísí Hahoodzojí Da'ínííish Bił Nahaz'ánígíí

CONSTABLE
Siláoshchíín

COUNTY ASSESSOR
Áłts'ísí Hahoodzojí Ínáółtą'í Neiłkaahígíí

COUNTY ATTORNEY
Alts'ísí Hahoodzojí Agha'diita'aahii Nitsaaígíí

COUNTY BOARD OF SUPERVISORS (AZ)
COUNTY COMMISSIONER (NM,UT)
Áłts'ísí Hahoodzojí Naat'áanii Á Dahnídinibiihígíí

COUNTY CLERK OF THE SUPERIOR COURT
Áłts'ísí Hahoodzojí Adeií Aahwiinít'ı́jí Naaltsoos Ałkéé' Yisnilígíí

COUNTY JUSTICE OF THE PEACE (AZ)
MAGISTRATE COURT JUDGE (NM)
Áłts'ísí Hahoodzojí Ayeií Aahwiinít'ı́jí Nihwii'aahii

COUNTY RECORDER (AZ)
COUNTY CLERK (NM)
Áłts'ísí Hahoodzojí Naat'áanii Naaltsoos Da'ílínii Yaa'áhályánígíí

COUNTY SCHOOL SUPERINTENDENT
Áłts'ísí Hahoodzojí Da'ólta' Bínant'a'í

COUNTY SHERIFF
Áłts'ísí Hahoodzojí Siláo Binant'a'í

COUNTY SUPERIOR COURT JUDGE
Áłtsísí Hahoodzojí Adeií Aahwiinít'ı́jí Nihwii'aahii

COUNTY TREASURER
Áłts'ísí Hahoodzojí Naat'áanii Ínáoltą'í Béeso Yaa'áhályání

DISTRICT JUDGE (NM)
Áłtsísí Hahoodzo Aahwiinít'ı́ Bił Hahoodzoji Nihwii'aahii

FIRE DISTRICT BOARD MEMBERS
Kọ' Yiniłtsésí Bił Hahoodzojí Á Dah Nídinibı́jhígíí

PRECINCT COMMITTEEMEN
Ínida'ii'niłgóó Nitsaago Nahat'á Ał'ąą Bee Dahda'íldééhjí Yá Naazínígíí

SCHOOL GOVERNING BOARD
Ólta' Binant'a'í Á Dahnídinibı́jhígíí

D. **NAVAJO NATION GOVERNMENT**
Diné Bi Wáashindoon

NAVAJO NATION OFFICALS
Diné Binant'a'í Danilínígíí

NAVAJO NATION OFFICES
Diné Báda'nííshjí

NAVAJO NATION PRESIDENT
Diné Binant'a'í Alą́ąjí' Dahsidáhígíí

NAVAJO NATION VICE PRESIDENT
Diné Binant'a'í Akéé'góne' Dahsidáhígíí

NAVAJO NATION SPEAKER OF THE COUNCIL
Béésh Bą́ąh Dahsi'ání Yá Dahnándaahígíí

NAVAJO NATION COUNCIL
Béésh Bą́ąh Dahnaaznilí

NAVAJO NATION COUNCIL DELEGATE
Béésh Bą́ąh Dahsi'ání

CHAPTER OFFICIALS
Táá'naaznilí

CHAPTER OFFICES
Táá'naaznilí Biłł Oonishjí

CHAPTER PRESIDENT
Táá'naaznilí Alą́ąjí' Dahsidáhígíí

CHAPTER VICE PRESIDENT
Táá'naaznilí Akéé' góne' Dahsidáhígíí

CHAPTER SECRETARY
Táá'naaznilí Bi Naaltsoos Ííłíní

CHAPTER GRAZING MEMBER
1. Dibé Binant'a'í
2. Dibé Binaaltsoos Binant'a'í

CHAPTER LOCAL SCHOOL BOARD MEMBER
Ólta' Binant'a'í

CHAPTER LAND BOARD
Kéyah Binant'a'í

FARM BOARD
Dá'ák'eh Binant'a'í

APPOINTED OFFICIALS
Naat'áanii Bik'ihodiinii'ígíí

APPOINTEE
Naanish Biniyé Bik'ihodiinii'ígíí

BUREAU OF INDIAN AFFAIRS (B.I.A)
Wáashindoon Bikágí Yishtłizhii Bił Oonishjí

B.I.A OFFICES
Wáashindoon Bá Da'ínííshjí

B.I.A OFFICIALS
Wáashindoon Alą́ą́jí' Naazínii Bá Da'ínííshígíí

B.I.A AREA DIRECTOR
Bikági Yishtłizhii Bił Oonishjí Naat'áanii T'ááłá'ígíí

B.I.A AGENCY SUPERINTENDENT
Wáashindoon Naat'aaniishchíín Yá Dahsidáhígíí

B.I.A BRANCH OF LAND MANAGEMENT
Wáashindoon Kéyah Bi'oonishjí

B.I.A BRANCH OF ROADS
Wáashindoon Atiin Bi'oonishjí

B.I.A BRANCH OF EDUCATION
Wáashindoon Bi'ólta' Bi'oonishjí

CHAPTER HOUSE
1. Tá́á' Naaznilí Bighan
2. Bii' Áłah Ná'ádleehí

COMMUNITY HEALTH REPRESENTATIVE
Ats'íís Baa'áháyą́ą́jí Hootaagháhí

COMMUNITY SERVICE COORDINATOR
Tá́á' Naaznilí Yá Hook'ee Sidáhígíí

ELECTED OFFICIALS
Naat'áanii Bá Ada'iis'nilígíí

NAVAJO **RESERVATION (NAVAJO NATION)**
Diné Bikéyah

OFF- RESERVATION
1. Diné Bikéyah Dóó Tł'óó'jigo
2. Tł'óó'jí

STAFF / WORKERS
Deiílníshígíí

SUPERVISOR
Bá Da'íníshígíí

E. **ABSENTEE**
Bítséedi E'et'áád

ABSENTEE VOTING IN PERSON (NM)
Tááhó Yah Ajiikáago Bítséedi Naltsoos Bee Ida'jiiníił

ABSENT UNIFORMED SERVICES VOTER
Siláółtsoií Anída'ii'niłígíí

ACTIVE DATA PROCESSING MEDIA
Ł'iis'nil Át'éegi Bee Ałkéé'yi'niłgo Yaa Halne'ígíí

ACTIVE LISTING
Aná'át'a'jí Yízhí Ílı́ı́go Naaltsoos Bee Si'ánígíí

AFFIDAVITS (NM)
1. Iná'át'a'jí Naaltsoos Á Hadadilne'ígíí Ílı́ı́go Álnééh
2. Iná'át'a'jí Naaltsoos Ílı́ı́go Álnééh

AFFIRMATION
1. Aoo'
2. T'áá' aaníí

ALTERNATE MEMBER (S) BOARD(S) / COMMITTEE
Héesdáhígíí / Héestíní

ALL MAIL BALLOT ELECTION (AZ)
ALL MAIL OUT ELECTION (NM)
Naaltsoos Áhi'níłígíí T'óó Ach'ı́' Bił Áda'alne'go Bee I'ii'níił

AMENDMENT
Bee Haz'áanii Nák'ąąs

APPEALS
Baa Nááhwiidínóót'ı́ı́łgo Wókeed

APPELLATE COURTS
Aa Náhwiiníť'ı́ı́jí Nihwiit'aah

APPLICABILITY
Bída'dééť'i'ígíí / Bídééť'i'ígíí

ARGUMENT
Ałgha'dit'áahgo Nabik'íyáti'

ARIZONA REVISED STATUTE TITLE XVI
Hoozdo Hahoodzojí I'ii'níił Bibeehaz'áanii Hastą́ą́ Ts'áadah Góne' Si'ánígíí

AUDIT
I'iis'nil Át'éegi Bééhoózínígo Ályaa

BALLOT
Naaltsoos Bee I'ii'níłígíí

BALLOT BOX
Tsits'aa' Biyi'jị' I'ii'niłígíí

BALLOT CHALLENGE (NM)
EARLY BALLOT CHALLENGE (AZ)
I'ii'níił Bítséedi I'oot'ah Níť'ęę' Baa Saad Hazlịị'

BALLOT LABEL
I'ii'niiłgo Naaltsoos Bee Ééhózinígíí

BALLOT REPORT
I'iis'nil Dóó Bik'ijị' Naaltsoos Ahees'nilii Bee Baanáháne'ígíí

BOARD
Naat'áanii Á Dah Nídinibịịhígíí

BOARD OF REGISTRATION
Hada'dilne' Yá Dah Nídinibịịhígíí

BOND ELECTION
Bee Ni'doonish Biniyé Béeso Wókeedjí I'ii'níił

BOUNDARY
Hoodzo

BRIBERY
Adeenáago Ła'da Bíni'áhojiłééh

BURDEN OF PROOF
Ts'ídá Doo Naaki' Nilịịgóó Bee Ééhoozịịhii

CAMPAIGNING MATERIALS
Nahat'á Biniyé Oolwołjí Chodao'ínígíí

COUNTY
Áłts'ísí Hahoodzo

CANDIDATE
1. Naat'áanii Adoodleełgo Yilwołígíí
2. Naat'áanii Yiniyé Ádeehadoodz'ígíí

CANDIDATE FILING DEADLINE
Naat'áanii Adoodleełgo Naaltsoos Nehe'níłígíí Ałch'ı' Ánálnééh

CANDIDATE OPEN FILING DATE
Naat'áanii Adoodleeł Biniyé Naaltsoos Nehe'níił Bá Ąą'álnééh

CANDIDATES
Naat'áanii Adoodleełgo Deiíjeehígíí

CANDIDATES CAMPAIGN COMMITTEE
Naat'áanii Adoodleełgo Deiíjeehígíí Yá Dah Naháaztánígíí

CANVASS
Ada'ıisnilígíí Íłıjigo Ályaa

CENSUS NUMBER
1. Béésh Názbąsí
2. Béésh Tąhí

CENTRAL COUNTING BOARD (AZ)
COUNTING JUDGE (UT)
CANVASSING BOARD (NM)
I'iis'nil Wólta' Yá Dah Nídinbıjihígíí

CERTIFICATE (S)
Honeeznáago Naaltsoos Bee Ééhózinígíí

CERTIFICATE FOR VOTING
Naaltsoos Binahjı' I'doot'ałígíí

CHALLENGE
Baa Saad Hazlıjı'

CITY OR TOWN DISTRICT
Kindahshijaa' Bináhásdzo

CITIZENS
Íłı̨igo Kéyah Bii' Kéédahojit'ínii

CIVIL RIGHTS HAVE BEEN RESTORED
Łah Hodít'éhee Óhólníih Ídééť'í'ígíí Haa Nídeet'ą́

CIVIL RIGHTS
Łah Hodít'éhee Óhólníih Ídééť'í'ígíí

CLOSING OF POLLS
I'ii'níił Ałch'ı̨' Ánálnééh

CODE
Bee Haz'áanii Bee Ééhózinii

COERCION OF EMPLOYEES
Naalnishí Binílchxééh

COERCION OF VOTERS
Anída'a'a'ii Bínílkad

COMMISSION
Bá Sinilígíí

COMMITTEE
Bits'áná'niłígíí

COMMUNITY COLLEGE DISTRICT GOVERNING BOARD (NM)
Bidziilgo Wóhdahgo Ólta' Bił Hahoodzojí Naat'áanii Á Dahnídinibı̨ı̨hígíí

CONGRESS
Wááshindoon Adeií Dóó Ayeií Hooghanjí Naat'áanii Danilínígíí

CONGRESSMEN / WOMEN
Wááshindoon Adeií Dóó Ayeií Hooghanjí Naat'áanii

CONGRESSIONAL DISTRICT
Wááshindoon Adeií Dóó Ayeií Hooghanjí Naat'áanii Bił Hahoodzo

CONSECUTIVELY
T'áá Áłkéé' Honí'ą́ą́go Áhoonílł

CONSENT DECREE
Bi'doolníiłgo Bee Aha'deet'áanii

CONSOLIDATED PRECINCTS
Anída'ii'nił Bił Hadahwiisdzo Ałhiih Yidzo

CONSPIRACY
1. T'áá Nahont'inee Binahat'á
2. T'áá Nahont'inee Nahat'á

CONSTITUTION
Bee Haz'áanii Nitsaaí Bindii'a'

CONTEMPT
Doo Ak'ehól'ı́

CONTEST OF ELECTION
I'iis'nilyę́ę Baa Saad Hazlı́ı́'

CONTRIBUTION
Béeso Bee I'iilyeed

CONVENTIONS
1.Da'níłts'ą́ą́'dę́ę́' Nitsaago Baa Áłah Aleeh
2.Da'níłts'ą́ą́'dę́ę́' Nitsaago Bee Ahida'diildééh

CONVICTED
Hak'ijı́' Nihoot'ą

CONVICT/S
1. Awáalya Hótsaagóó Bá Nihoot'áanii
2. Awáalya Hótsaagóó Bá Nidahwiist'áanii

COUNTY DEMOCRAT PARTY CHAIRPERSON
Áłts'ísí Hahoodzojí Dzaanééz Bee Dah Ooldah Alą́ąjı́' Dah Sidáhígíí

COUNTY GOVERNMENT
Áłts'ísí Hahoodzo Bi Wáashindoon

COUNTY REGISTER
Áłts'ísí Hahoodzo Aná'ii'niłjí Naaltsoos Yízhí Bee hadít'éhígíí

COUNTY REPUBLICAN PARTY CHAIRPERSON
Áłts'ísí Hahoodzojí Chíįhyee'adilohii Bee Dah Ooldah Alą́ąjį' Dah Sidáhígíí

COUNTY VOTER LIST (S)
1. Áłts'ísí Hahoodzo Aná'ii'niłjí Naaltsoos Yízhí Bee Si'ánígíí
2. Áłts'ísí Hahoodzo Aná'á'a'ii Dabízhi' Naaltsoos Bee Si'ánígíí

COURT OF APPEAL (AZ)
TRIAL COURT (NM)
Adeií Aadahwiinít'į

CURB SIDE VOTING
Bich'į Anáhóót'í'ii Tł'óodi E'e'áád

DATA PROCESSING BOARD
Naaltsoos Bee Éédahózinii Hahindééh Yá Dah Nídinbįhígíí

DATE
Yoołkálígíí

DATE OF BIRTH
1. Ho'dizhchí Bijíígóne'
2. Hodishchíígóne'

DAY
Jíí

DEMOCRAT PARTY
Dzaanééz Naha'tah Bee Dah Ooldah

DISCRIMINATE
1.Nahdi Kóho'dólzin
2.Doo Hoł Ólta' Da

DISTRICT
Bił Hahoodzo

DOCUMENTS
Naaltsoos Da'ílínígíí

DOMICILE
Aních'í'a'ígi

DOUBLE VOTING
Naakidi Ani'jíí'ah

DUPLICATED BALLOT
Naaltsoos Bee I'oot'ahígíí Yíchǫgo Bitsésk'ehgi Ła' Hááʼ dilnééh

DUTIES AND POWERS
Na'anishjí Óhólníih

EARLY BALLOT
I'ii'níił Bítséedi Naaltsoos Bee Iná'áta'ígíí

EARLY BOARD (AZ / NM)
1.I'ii'níił Bítséedi I'iis'nil Yá Dahnídinbiihígíí
2.I'ii'níił Bítséedi I'iis'nil Yá Dahnaháaztánígíí

EARLY VOTING
I'ii'níił Bítséedi E'et'áad

EARLY VOTING SITES
Bitséedi I'ii'níił Bił Nídahoot'aahgi

ELECTION
I'ii'níił

ELECTION CERTIFICATION
I'ii'níił Bina'niltin

ELECTION CODE
I'ii'níił Bi Beehaz'áanii

ELECTIONEERING
Ł'ii'níłłjí Biniyé Áyájíłti'

ELECTION OFFENSES
Ł'ii'níłł Bi Beehaz'áanii Bił Ni'ìidzíih

ELECTION RECORDS
Ł'ii'níłłjí Naaltsoos Bee Sinilígíí

ELECTION SUPPLIES
Ł'ii'níłłjí Bee Nida'doonishígíí

ELECTOR
Aná'á'a'ii

EMBLEMS
Éé'élyaa Bee Ééhózinii

EMERGENCY PAPER BALLOTS
Honeeztł'ahgo Naaltsoos Bee E'et'ádígíí

ENFORCEMENT POWERS
Óhólníih Bik'eh Áhodooníiłii

ENUMERATION DISTRICTS
1. Diné Ánéelt'e' Binahjí' Hahoodzo
2. Diné Ádanéelt'e'gi Bił Hahoodzo

ERROR
Oodzíí'

EXPENDITURE STATEMENT
Béeso Nidaneezdee'góó Naaltsoos Bee Yah Anáhánilígíí

FAIL SAFE
1. Doo Nootł'ááh Át'éeda
2. Dínóotł'ah Bits'ąą

FALSE SWEARING
Yooch'iidgo Ádeeha'doodzíí'

FALSE VOTING
Yooch'iidgo A'jíí'ah

FAX
1. Béésh Łichí'ii Bee Naaltsoos Bi'iilníih
2. Béésh Łichí'ii Biníkáágóne Naaltsoos Bił Áda'alne'

FEES
Bik'é Siláii

FELONY
Nitsaago Ádihozhdiilt'i'

FILL IN CIRCLE
Ná'asdzo Biyi' Yiishíjh

FIRE DISTRICT
Kǫ' Niltséés Bił Hahoodzo

FLAG
Dah Naat'a'í

FORGERY
Yízhí Nit'ijh

FRAUD
Na'adlo' Nahaaldeeł

GENERAL ELECTION
Nitsaago Iná'ii'nił

GENERAL PURPOSE POLITICAL COMMITTEE
T'ááháájída I'di'yoo'niłgo Bee Ałkéé'ni'dooldah

GOVERN
Hoot'áał

GOVERNMENT
Wáashindoon Si'ą́

GREEN PARTY
Aheełt'éego Nahat'á Bee Dah Ooldahjí

GROSS RECEIPT TAXES
Na'iiznii'jí Ínáoltą'í Ahíneidzogo

GUBERNATORIAL
Nitsaa Hahoodzo Bá Dah Adínóodaałjí

HANDICAPPED ACCESSIBILITY
Bich'į Anáhóót'i'ii Bá Yah'ahóót'i'

HANDICAPPED VOTER
1. Aná'á'a'ii Bich'į' Anáhóót'i'ígíí
2. Aná'á'a'ii Bił Nahontł'áaígíí

H.A.V.A.
Wáashindoon Kééhat'íinii E'et'áádjí Bee Áká E'eyeed Beehaz'áanii

HEARING
Nabik'í Yáti' Bá Hoo'a'

IDENTIFICATION CARD
Naaltsoos Bee Hwééhózinígíí

ILLITERATE VOTER
Aná'á'a'ii Doo Ółta'ígíí

IMPACT AID REVENUE BOND
Wáashindoondęę' Béeso Bee Áká'aná'alwo'ígíí Ba'hódlíigo Bee Nidoonish Biniyé Béeso Wókeed
1. **IMPACT AID FUND**
Wáashindoondęę' Bikágí Yishtłizhii Ba'áłchíní Da'ółta'jí Bá Béeso Ninádít'áhígíí
2. **REVENUE BOND**
Béeso Naalchi' Bee Béeso Wókeed

IMPERSONATION
Na'adlo' Bee Náánáła' Diné Bi'ízt'ólzin

IMPOUNDING BALLOTS
Naaltsoos Aheesnilę́ę Yiiltsood

INACTIVE LISTING
Anída'a'a'ii Doo Hózhǫ́ Béédahózinígíí

INALIENABLE RIGHTS
Doo Áts'áólníígóó Ídadéét'i'ígíí

INAUGURATION
1. Naat'áanii Ya Didiilníihgo
2. Naat'áanii Ya Dadidiilníihgo
3. Ya'diiníih

INDEPENDENT
Aʼąą Nahat'áh Bee Dahda'ínééh Doo Ádiidéélt'í'ígíí

INDEPENDENT CANDIDATE
Náánáła' Yee Ádójíigo Naat'áanii Yá' Yilwołígíí

INDEPENDENT PARTY (IES)
Náánáła' Yee Ádadójíigo Dah Deiikáahígíí

INDIGENT PERSON
Baa Hojoobá'íí

INITIATIVE
Bee Haz'áanii Dooleełgo Bohodeest'ą́

IN-LIEU OF
1. Bitsésk'ehgi éí
2. Doodago éí

INSANITY
Bíni' Bąąh Dahaz'áanii

INSPECTION
Haalzííd

INSPECTION OF VOTING DEVICE
Bee Ł'ii'níłgíí Haalzííd

INSTRUCTION
Bína'niltin

INSTRUMENTS
Chodawol'ínii

INTERACT
Ahił Nidajilnish

INTERFACE
Bee Ahí'iildéél

INTERNET
Béésh Łichí'ii Bee Éélózinígíí

INTERVENE
Ata'ájighááh

INTERVENTION
Ata'na'adá

INTERVIEW
Na'ídíkid

INTIMIDATION OF VOTERS
Ida'iníłłii Bił Yéé'áhólzin

INVESTIGATION
Naalkaah

JOINT TECHNOLOGICAL DISTRICT (NAVIT,NATIVE,CAVIAT)
Da'ółta'góó Ałhii'jí' Naanish Ał'aą'áát'ecłBóhoo'aah Bił Haahoodzo

JOINT TECHNOLOGICAL BOARD
Ałhii'jį' Naanish Bóhoo'aah Bił Hahoodzo Yá Dahnídinibiihígíí

JUDICIAL PAMPHLETS
Nidahwii'aahii Deiíjeehígíí Naaltsoos Bikáá' Baa Hane'ígíí

JUDGE
Á Nihwii'aahii

JUDGES
Á Nidahwii'aahii

JUDGES - COURT OF APPEALS
Á Nihoot'ą Baa Náhwiinít'ííhjí Nidahwii'aahii

JUDGMENT
Bee Nihoot'áanii

JUDICIAL
Aadahwiinít'ı Bił Haz'ąąjí

JUDICIAL DISTRICT
Aadahwiinít'ı Bił Hahoodzo

JURISDICTION
Óhólníih Bídééť'i'ii

JUROR
Atah Ánihodoo'áałii

JURY
Ánidahodoo'áałii

JUSTICE OF THE PEACE DISTRICT
Ayeií Nihwiit'aah Bił Hahoodzo

KID'S VOTING
Áłchíní I'ii'níił Bá Néít'aahígíí

LANGUAGE MINORITY
A'ohgo Ánéelt'e' Kééhat'íínii Bizaad

LAST DAY TO REQUEST EARLY BALLOT BY MAIL
Akéedi I'ii'níłł Bitséedi Naaltsoos Bee E'e't'ádígíí Ach'ą Ádoolníłłgo Wókeed

LEGISLATIVE DISTRICT
Naat'áanii Bee Haz'áanii Adeiił'íínii Bił Hahoodzo

LEGISLATURE
Naat'áanii Bee Haz'áanii Ádeile'ígíí

LEVY
Bee Haz'áanii Binahjį' Náhádlááh

LEVY OF TAXES
Bee Haz'áanii Binahjį' Ínáoltą'í Náhádlááh

LIBERTARIAN PARTY
Íhólníihjí Nahat' á Bee Dah'ooldah

LOGIC AND ACCURACY TEST
I'iiníłłjí Bee Nída'óltahii Hasht'e Wólzin

MAJOR FRACTIONS
T'ááłá'í Béeso Bik'ehgo Ólta'go Ałníí'biláàh Dóóígíí T'ááła' Bízhi'go Wólta'

MAJOR POLITICAL PARTY
Nitsaago Nahat'á Bee Dah Da'íldééh

MAILING ADDRESS
Naaltsoos Haaníníhájeehdi

MAILING LABELS
Naaltsoos Ninéhájeehdi Dabiká'ígíí

MARK SENSE BALLOT
Naaltsoos Ahi'níłłii Bee Naalkaaahígíí

MAY
Bee Lą

MEASURES (Proposition)
Bee Haz'áanii Dadooleełii

MEMBER OF THE MERCHANT MARINE
Diné Táłkáá'jí Binaanishii

MESSENGERS
Nidaal'a'í

MILL LEVY (1/10 of 1 Cent)
T'ááłá'í Sindao Neeznáágóó Ałts'ánáádzooí, T'ááłá'í Haadzo Biighahgo Wókeed

MINOR POLITICAL PARTY
Áłts'ísígo Nahat'á Bee Dah Da'ílééh

MONTH
Yiziłígíí

MOTOR VOTER DRIVER LICENSE VOTER REGISTRATION
T'ááłáhjí' Bik'eh Na'abąąsí Dóó Aná'át'a' Biniyé Hada'dilne'

M.O.U.
1. Naaltsoos Bik'ehgo Ałha'deet'áanii
2. Naaltsoos Binahjí' Ahił K'í'diitjih

MUNICIPAL COURT JUDGE
Kin Dahnaazhjaa'jí Nihwii'aahee

MUNICIPAL ELECTIONS
Tłóójí Kindahnaazhjaa' Biwááshindoonjí Aná'ii'nił

NAME
Yízhí

NAVAJO NATION GOVERNMENT
Diné Biwááshindoon

NAVAJO OUTREACH WORKERS
T'áá Diné I'ii'níłjí Nidaalnishígíí

NEW RESIDENCE
Łahgo Ninááji'náago

NOMINATION
1. Há'adi'yoo'níł Biniyé Hak'ihodiinii'
2. Ak'ihodiiníih

NOMINATION PETITION
Á Idi'yoo'niłgo Naaltsoos Yízhí Bee Áłah'álnéhígíí

NON PARTISAN
Nahat'á Bee Dah Ooldah Bąą Ádinígíí

OATH (S)
Ya'di'diilníihgo Ádeeha'didziih

OBSERVERS
Hada'asídí

OCCUPATION
Naanish

OPTICAL SCAN
Béésh Łichí'ii Haniitehee Ółta'ígíí

OFFICIAL RETURNS
Ida'iis'nil Ałtso Ahínídeiilta'go Bik'ini'íť'áanii

OVERRIDE
Bínéidoodzohgo Wókeed

OVERSEAS VOTER
Tówónanídę́ę́' Aná'á'a'ii

OVER VOTED
Biláago O'oot'ah

PARTY PREFERENCE
Nahatá Bee Ajítahjí

PENALTY
Nályééh

PERCENTAGE
T'áałá'í Béeso Bee Ółta'go Ałháńdaasdzo

100%	T'áałá'í Béeso Bíighahgo
75%	Hastąą Yáál Bíighahgo
50%	Díí Yáál, Doodaai' Ałníí'dóó Bíighahgo
25%	Naaki Yáál Bíighahgo
100	T'áałáhídi Neeznádiin

PERMANENT FUNDS
Náásóó Béeso Chodao'íígo Sinilígíí

PERSON AUTHORIZED TO ADMINISTER OATHS
Ya'di'doołnihgo Bąąh Niilyáhígíí

PETITIONS
Naaltsoos Yízhí Bee Áłah'álnéhígíí

PLACE OF BIRTH
Ho'dizhchíígi

POLITICAL COMMITTEE
Nahat'á Bee Dah Ooldah Bá Bits'áná'nilígíí

POLITICAL PARTY
Nahat'á Bee Dahooldah

POLL WATCHER (NM)
I'ii'níłdi Ha'asídí

POLLING PLACE
I'ii'níł Bił Haz'ánígi

POLLING PLACE AGREEMENT
I'diyoo'niłgi Bee Aha'deet'ą

POLL LIST
Ada'iiníłii Bízhi' Naaltsoos Bikáá' Ádaalne'ígíí

POLL WORKERS TRAINING
I'ii'níłjí Ninádaalnishígíí Nanitin

POST ELECTION
I'iis'nil Dóó Bik'ijj

POSTED
Bee Dah Astsooz

POSTING
Bee Dah Altsóós

POLL WORKERS (AZ)
POLL OFFICIALS (NM,UT)
I'ii'níłgi Ninádaalnishígíí

POLL INSPECTORS (AZ)
PRESIDING JUDGE (NM,UT)
I'ii'níłgi Bóhólníhígíí

POLL JUDGES
Naaltsoos Bee I'ii'níłii Yaa'áhályánígíí

POLL CLERK
I'ii'níłgi Naaltsoos Hadeiidile'ígíí

POLL MARSHAL
I'ii'níłgi Siláoshchíín

POLL MONITOR
I'ii'níłgi Diné Yah'ahikááh dóó Ch'ééhékáhígíí Haisídí

POLL INTERPRETER (S)
1. I'ii'níiłgi Ata' Halne'é
2. I'ii'níiłgi Ata' Dahalne'é

PRECINCT
I'ii'níił Bił Hahoodzo

PRECINCT BOARD
I'ii'níił Yá Dah Naháaztánígíí

MEMORY CARD
I'ii'níił Bił Hahoodzojí Béésh Łichí'ii Bee Bik'i Nii'nilígíí

PRECINCT REGISTER
Anída'ii'niłgi Naaltsoos Yízhí Bee Si'ánígíí

PRECINCT VOTER LIST
Anída'iiniłgi Naaltsoos Yízhí Bee Si'ánígíí

PREMIUM POLL WORKERS TRAINING
1.I'ii'níiłjí Ni'doonish Biniyé Naaltsoos Bee Ééhózinii Yidoobiłjí Bínaniltin
2.I'ii'níił Bina'anish Biniyé Naaltsoos Dahyiltsos Bína'niltin

PRESIDENTIAL ELECTORS
Wáashindoon Aláájí Dah dínóó daałii Yá'ańída'ii'niłígíí

PRESIDENTIAL PREFERENCE ELECTION
Wáashindoon Aláąjí' Dahdínoodaał Yiniyé Baa Hodzódlíigo Nídidoolwołígíí Bikéé Ni'dooldah Biniyé I'ii'níił

PRIMARY ELECTION
Bąąh Hanildééh Biniyé I'ii'níił

PROBATE JUDGE
Inchǫ'ǫ́ Bąąh Ádahasdiidii Ałts'á Daadzojí Nihwii'aahii

PROCLAMATION
Áhodooníiłii Bee Nihoot'ą

PROPOSED
1. Dooleełgo Wókeed
2. Dooleeł Ha'ní

PROPOSED INCREASE
Łą' Bínéidoodzo Ha'ní

PROPOSITION
Bee Haz'áanii Ádoolníił

PROVISIONAL BALLOT ENVELOPE
Íłíjigo Daats'í I'oot'ah Biihe'níłígíí

PUBLICATION
Naaltsoos Bee Haníídee'

PUBLICITY PAMPHLETS
I'ii'níłíjí Naaltsoos Bee Éédahózinígíí

PUBLIC SCHOOL
Nitsaa Hahoodzo Bi'olta'

PURGE
I'ii'níłíjí Yízhí Hááhádzóóh

QUALIFIED ELECTOR
Íłíjigo I'doo'ałii

REAPPORTIONMENT
Neeznáá Nináhahgo Diné Nídawóltah Bik'ehgo Naat'áanii Aheełt'éego Nahaa'nil

RECALL DECISION
Bee Haz'áanii Bik'áá Hááđoot'ih Biniyé I'ii'níił

RECALL ELECTION
Bąąní Holǫǫgo Aná'ii'níił

RECORDER'S CERTIFICATE
Naaltsoos Íłíjigo Binahjí I'doot'ałígíí

RECOUNT
Náyéélta'

REDISTRICTING / REAPPORTIONMENT
Nináhádzoh

REFERENDUM
Anída'ii'niłii Nahat'á Bich'ị' Ánáálne'ii Biniyé I'ii'níił

REGISTER
Áhada'dilyaa

REGISTRATION FORM (AZ)
I'ii'níłjí Naaltsoos Hadadilne'ígíí

REPEALED
Hanááltsooz

REPORTING INDIVIDUAL
Łahodit'éhéé Naaltsoos Bee Ádaanáháne'

REPUBLICAN PARTY
Chịịh Yee Adilohii Nahat'á Bee Dah'ooldah

RESIDENTIAL ADDRESS
Íiyisí Keehojit'ịịgi

SAMPLE BALLOT
1. Bá Ada'di'yoo'niłii Yaa Halne'ígíí Naaltsoos
2. Naaltsoos Bee I'ii'níił Béé Ałyaaígíí

SCHOOL OF INSTRUCTION (NM)
POLL OFFICIALS TRAINING (AZ)
I'ii'níił Bína'niltin

SCHOOL BOND ELECTION
Ółta'jí Bee Nidoonish Biniyé Béeso Wókeedjí I'ii'níił

SCHOOL OVERRIDE ELECTION (AZ)
Ółta'jí Béeso Ninádít'áhígíí Łą' Bínéidoodzoh Biniyé I'ii'níił

SECONDARY PROPERTY TAX
Eehólóonii Bits'ąądóó Ínáolta'í Náhádláahígíí

SHALL
Ts'ídá Ádooníił

SIGNATURE REQUIREMENTS
Yízhí Ánéelte' Binahjį' Nidi'doolwołígíí

SIGNATURE ROSTER
Ii'níłgo Naaltsoos Bikáá' Yízhí Dadilt'i'ígíí

SOCIAL SECURITY NUMBER
Naaltsoos Bik'é Na'anishí

SPECIAL DISTRICT BOUNDARIES (AZ)
T'áásahdii Át'éego Nidahasdzo

SPECIAL TAXING DISTRICT
T'áásahdii Át'éego Ínáoltą'í Nidandeeh Bił Hahoodzo

SPECIAL PURPOSE POLITICAL COMMITTEE
T'ááłáhíjí I'di'yoo'niłgo Bee Ałkéé'ni'dooldah Biniyé Bits'áná'nilii

SPOILED BALLOT
Naaltsoos Bee I'oot'ah Yíchxǫ'ígíí

SPOILED BALLOTS
Naaltsoos Bee I'ii'níił Dááchxǫ'ígíí

STATE CAPITAL
Nitsaa Hahoodzo Biwáásh indoon Bił Haz'ą́

STATE CONSTITUTIONAL AMENDMENT
Nitsaa Hahoodzojí Bee Haz'áanii Bitsé Siláí Nák'ąąs

STATE DEMOCRAT PARTY CHAIRMAN
Nitsaa Hahoodzojí Dzaanéézz Nahat'á Bee Dah'ooldah Yá Dahsidáhígíí

STATE ELECTION OFFICER
Nitsaa Hahoodzojí Ł'ii'níłł Yá Dah Sidáhígíí

STATE GOVERNMENT
Nitsaa Hahoodzo Biwáásh̨indoon

STATE LEGISLATORS
Nitsaa Hahoodzo Adeí Dóó Ayeí Hooghanjí Naat'áanii Danilínígíí

STATE REPUBLICAN PARTY CHAIRMAN
Nitsaa Hahoodzojí Chíj̨h Yee Adilohii Nahat'á Bee Dah'ooldah Yá Dasidáhígíí

STATISTICAL DATA
Ázhnéelt'e'ígíí Bééhózingo Naaltsoos Bee Si'ánígíí

STUB
Naaltsoos Bee Ł'ii'níłł Bidoodǫ́zígíí

SUCCEEDING
T'áá Náás

SUPERIOR COURT
Adeií Aahwiinít'ı́

SUPERVISORIAL DISTRICTS (AZ)
COMMISSION DISTRICTS (NM)
Áłts'ísí Hahoodzo Biyi' Naat'áanii Bił Hadahwiisdzoh

SUPREME COURT
Alátahdi Nitsaago Aahwiínt'ı́ Bił Haz'ą́

TALLY BOARD
Ida'iis'nil Wólta'jí Yá Dahnídinibı́j̨hígíí

TAMPERING WITH VOTING MACHINES
Ł'ii'níłłjí Choo'iinii Bee Ł'doodlohgo Naagiz

TERM
Ánízahjı́'

TERM OF OFFICE
Ánízahjí' Naat'áanii Ídlí

THREATS
Ilyéé' Áhólzin

TIE VOTE
I'iisnil Yęę Aheelyaago T'áadoo Honeeznáa Da

TOUCH SCREEN
Bee I'ii'níłigíí Hahalkeedgo Bił Ada'dichidígíí

TRANSLATE
Nááná Łą' Saad Bee Ata' Hane'

TRANSLATING
Dinék'ehjí Saad Bee Bina'anish

TRANSLATION
Diné Bizaad K'ehgo Saad Ánáálníił

TRANSLATOR
Nááná Łahjí' Saad Yee Hááda'didle'ígíí

TREASON
Hakéyah Bi Beehaz'áánii Bik'ijí' Níjiiyá

UNIFORMED OVERSEAS VOTER
Tó Wónanídęęę Siláołtsooí Anida'a'a'ígíí

UNIFORMED SERVICES
Siláołtsooí

UNITED STATES CAPITAL
Ashdladiin Nitsaa Hahoodzo Bi Wáashindoon Bił Haz'ą

UNITED STATES DEPARTMENT OF JUSTICE
Wáashindoondi Nitsaago Ídadééť'ii Bik'i'adéest'íí'go Bił Hazh'ąájí

UNOFFICIAL RETURNS
1. I'iis'nil T'áá Yah'ahindéehgóó Baa Hane'ii
2. I'iis'nil T'ahdoo Ílíigo Bik'ini'it'aahígíí

VERIFICATION
1. Doo Laanaagóó Béehózinígíí
2. Béehózíní
3. Bee Éehózinígíí

VOLUNTEER
T'óó Aká'ajilyeed

VOTER MAINTENANCE LIST
Naaltsoos Yízhí Bee Ałkéé'yi'niłgo Bina'anishígíí

VOTE AGAINST
Bits'ąąjí E'et'áád

VOTE FOR
Bich'ijí E'et'áád

VOTING MACHINE TECHNICIAN
Bee I'ii'niłígíí Yinaalnishii

VOTER DATA
Báhada'dilyaai Naaltsoos Bee Si'ą

VOTING DEVICE
I'ii'níłł Bee Bina'anishígíí

VOTERS FILE
Báhada'dilyaai Naaltsoos Bee Áłkéé' Sinilígíí

VOTER RECEIPT
Naaltsoos Áhadilyaa Béé'ályaaígíí

VOTER REGISTRATION
I'ii'níłł Biniyé Á Hada'dilne'

VOTER REGISTRATION DEADLINE
I'ii'níłjí Naaltsoos Hadadilne'ígíí Ałch'ı' Ánálnééh

WEBSITE
Béésh Łich'í'ii Biyi'dóó Ił Nahaz'ą Baahane'

WHITE HOUSE
Kináhálgai

WITHDRAWAL OF CANDIDATES
1. Bá I'di'yoo'nilęę Bi Naaltsoos T'ąą' Hááyíiłtsooz
2. Yilwołígíí Naaltsoos T'ąą' Hááyíiłtsooz

WRITE IN CANDIDATE
Yízhí T'éí Álnééhjí Atahyilwołígíí

WRITE IN CANDIDATES
Yízhí T'éí Álnééhjí Atahdeiíjeehígíí

WRIT OF MANDAMUS
Bee Haz'áanii Bizhi'oolíiłgo Bee Há Nihoot'ą

YEAR
Yihahígíí

ZERO REPORT
I'ii'níłł T'áábítséedi Biyi' I'ii'níłł doo Ła'I'oot'ahgóó Naaltsoos Bikáá'go Hayíí'ahígíí

COUNTIES
Áłts'ísí Hadahwiisdzo

APACHE COUNTY
1. Tsezhin Deez'áhí Bił Hahoodzo
2. Dziłghą'í Bee Wójíigo Hahoodzo

CIBOLA COUNTY
Naatoohí Bił Hahoodzo

McKINLEY COUNTY
Na'nízhoozhí Bił Hahoodzo

SANDOVAL COUNTY
Mą'ii Deeshgiizh Bił Hahoodzo

SAN JUAN COUNTY-NEW MEXICO
Kiniteel Bił Hahoodzo

SAN JUAN COUNTY- UTAH
Dziłditł'oii Bił Hahoodzo

BERNALILLO COUNTY
Be'eldííl Dahsinil Bił Hahoodzo

COCONINO COUNTY
Góóhníinii Bił Hahoodzo

NAVAJO COUNTY
1. Diné Bee Wójíigo Hahoodzo
2. T'iis Yaa Kin Bił Hahoodzo

SOCORRO COUNTY
1. T'iistsoh Sikaad Bił Hahoodzo
2. Sighóla Bił Hahoodzo

STATES
Nitsaa Hadahwiisdzo

ARIZONA
Hoozdo Hahoodzo

NEW MEXICO
Yootó Hahoodzo

COLORADO
Dibé Nitsaa Hahoodzo

UTAH
1. Sooléeh Hahoodzo
2. Áshįįh Bii'tóójí Hahoodzo

COUNTY SEATS
Áłts'ísí Hadahwiisdzo Biwááshindoon Bił Nahaz'ą́

AZTEC, NEW MEXICO
Kiniteel

FLAGSTAFF, ARIZONA
Kinłání

GALLUP, NEW MEXICO
Na'nízhoozhí

HOLBROOK, ARIZONA
T'iis Yaa Kin

MONTICELLO, UTAH
Maadíséloo

ST. JOHNS, ARIZONA
Tsézhin Deez'áhí

DAYS OF THE WEEK
Tsos'id Jí Dawójíhígíí

SUNDAY
Damóo

MONDAY
Damóo Biiskání

TUESDAY
Damóo Dóó Naakiji̧

WEDNESDAY
Damóo Dóó Tagíji̧

THURSDAY
Damóo Doo Dj̨'iji̧

FRIDAY
Nida'iiníish

SATURDAY
Damóoyazhí

MONTHS
Náhidizííd

JANUARY
Yas Niłt'ees

FEBRUARY
Atsá Biyáázh

MARCH
Wóózhch'ı́ı́d

APRIL
T'ą́ą́chil

MAY
T'ą́ą́tsoh

JUNE
Ya'iishjááshchilí

JULY
Ya'iishjááshtsoh

AUGUST
Bini'anit'ą́ą́ts'ósí

SEPTEMBER
Bini'anit'ą́ą́tsoh

OCTOBER
Ghąąjı́'

NOVEMBER
Niłch'its'ósí

DECEMBER
Niłch'itsoh

SEASONS
Ał'ąą Ánáhoo'níił

SPRING
Dąąn

FALL
Aak'ee

SUMMER
Shí

WINTER
Hai

PLACES	ÁDAHOOLYÉHÍGÍÍ
Alamo	T'iistso Sikaad
Albuquerque	Be'aldííl Dahsinil
Aneth	T'áábíích'ı́dii
Baca	Kinłigaaí
Becenti	Tł'óóditsin
Beclabito	Bitł'áábito'
Birdsprings	Tsídiito'í
Black Mesa	Dził Yíjiin
Bodaway/Gap	Tsinaabąąz Habitiin
Breadsprings	Bááhaalı́
Burnham	T'iistsoh Sikaad
Cameron	Na'ní'á
Canoncito	Tóhajiileehé
Casamero Lake	Tsetah Tó'ak'olí
Chichiltah	Tsé Ch'iltah
Chilchinbeto	Chiiłchinbii'tó
Chinle	Ch'ínílı́
Churchrock	Kinłitso Sinilí
Coalmine Mesa	Łeejin Haagééd
Coppermine	Béésh Haagééd
Cornfields	K'iiłtsoitah
Counselor	Bilagháanas'nééz
Cove	K'aabizhii
Coyote Canyon	Mą'iitééhyítłizhí
Crownpoint	T'iists'óóz Nídeeshgiizh
Crystal	Tónıłts'ílí
Cudeii	Gad'íí'áhí
Dalton Pass	Nahodeeshgiish
Dennehotso	Denhootso
Dilkon	Tsee'náákę́zí / Tó'áłch'ı́dí
Forest Lake	Tsiyi'be'ak'id
Fort Defiance	Tséhootsooí
Fruitland	Bááh Diilid/ Doo Alk'ai
Ganado	Lók'aahniteel
Gray Mountain	Dziłbéii
Hard Rock	Tsédildó'ii
Hogback	Tsétaaká
Houck	Mą'iito'í

Huerfano
Indian Wells
Inscription House
Iyanbito
Jeddito
Kaibeto
Kayenta
Kinlichee
Klagetoh
Lake Valley
Lechee
Leupp
Littlewater
Lower Greasewood
Low Mountain
Lukachukai
Lupton
Manuelito
Many Farms
Mariano Lake
Mexican Springs
Mexican Water
Nahata Dziil
Nageesi
Naschitti
Navajo Mountain
Nazlini
Nenahnezad
Newcomb
Oak Springs
Ojo Encino
Oljato
Pinedale
Pinon
Pueblo Pintado
Ramah
Red Lake
Red Mesa
Red Rock
Red Valley

Dziłná'oodiłii / Hanáádlị
Tóhahadleeh
Ts'ah Bii'kin
Ayání Bito'
Jádító
K'ai'bii'tó
Tódinéeshzhee'
Kindahłichí'í / Kinłichí'í
Łeeyi'tó
Be'ak'id Halgaaí
Łichíi'ii
Tsiizizii / Tooh
Tó'áłts'ísí
Dówózhii Bii'tó
Jeesáá' Deez'á / Jeeh Deez'á
Lók'aa'ch'égai
Tsési'áni
Kin Nizhóní
Dá'ák'ehalání
Be'ak'id Hóteelí
Naakai Bito'í
Naakaitó
Nahat'á Dziil
Naayízí
Nahashch'idí
Naatsis'áán
Názlíní
Niinahnízaad
Bis Dootł'izh Deez'áhí
Teełch'int'i'
Tséch'izhí Bii'tó
Ooljéé'tó
Tóbééhwíísganí
Be'ak'id Baa'ahoodzání
Kiniteel
Tł'ohchiní
Be'ak'id Halchíí'
Tsélichíí' Dah'azkání
Tsélichíí'
Tsélichii' Dah'azkání

Rock Point	Tsé Nitsaa Deez'áhí
Rock Springs	Tséch'ízhí
Rough Rock	Tséch'ízhí
Round Rock	Tséníkání
San Juan	Kinłichíí'
Sanostee	Tsé'ałnáozt'i'í
Sawmill	Ni'iijíłhasání
Sheepsprings	Dibé Bito'
Shiprock	Naat'áaniinéézʼ
Shonto	Shąą'tóhí
Smith Lake	Be'ak'eh Halgaii
Standing Rock	Tsé Łí'áhí
Steamboat	Hóyéé' / Tsinaa'eeł Dahsi'ąní
St. Michaels	Ch'íhootsoh
Sweetwater	Tó Łikan
Tachee / Blue Gap	Táchii'
Teec Nos Pos	T'iis Náz Bąs
Teesto	Ni't'eetiin
Thoreau	Dlǫ'áyázhí
Tohajiilee	Tóhajiileeh
Tohatchi	Tóhaach'ı̨'
Tolani Lake	Tółání
Tonalea	Tonehelı̨́łh
Torreon	Ya'niilzhin / Na'neelzhiin
Tsaile / Wheatfields	Tódzís'ą́
Tsayatoh	Tséyaató
Tselani / Cottonwood	Tsé Łání / Tsélıgai Deez'áhí
Tuba City	Tónanéésdizí
Twin Lakes	Tsénahadzoh
Two Grey Hills	Bis Dahłitso
Whippoorwill	Hooshdódiitó
Whitecone	Beak'id Baa'a'hoogeed
Whitehorse Lake	Łı́ı́łgaai Bito'
Whiterock	Tsé Łigai
Wide Ruins	Kin Niteel
Window Rock	Tséghahoodzání / Tsébighahoodzání

ACKNOWLEDGEMENT

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Finally, no acknowledgement for the work on this project would be just or complete without a special mention of the contributions of Mr. Harold Noble. His work on this project, spanning aspects from actual translation work to recruiting translators to coordinating the efforts of contributors, has been a driving force in bringing this document to its current high quality and wide acceptance. This would have been a much lesser document, but for his leadership and wisdom.

CH'ÍNÍLĮ ÓLTA' BIŁ HAHOODZOJÍ

Ólta' Binant'a'í Á Dahnídinibijihígíí Táá' Bá E'et'áád

BROWN, JR. VIRGIL
MATHIS, JULIA M.
ZAMUDIO, ERNESTO
IBARRA, JACQUELINE
MAHNKE, SR., STEPHEN A.
TSINIJINNIE, EARLSEN

Ch'ínílį Ólta'íjí Naanish Ał'ąą'áát'eeł Bóhoo'aah Bił Hahoodzo Á Dahnídinibijihígíí

TSOSIE, ERNEST K. T'áátá'í Bá E'et'áád

LÓK'AAHNITEEL ÓLTA' BIŁ HAHOODZOJÍ

Ólta' Binant'a'í Á Dahnídinibijihígíí Naaki Bá E'et'áád

CADMAN, EDWARD C.
BLACKSHEEP, JR. ALLAN
YELLOWHAIR, BESSIE
SHIRLEY, LANORA

Lók'aahniteel Ólta'íjí Naanish Ał'ąą'áát'eeł Bóhoo'aah Bił Hahoodzo Á Dahnídinibijihígíí

Doo Łą'Yilwołdah T'áátá'í Bá E'et'áád

Ólta' Binant'a'í Á Dahnídinibijihígíí T'áátá'í Bá E'et'áád
Naaki Naahaijí' Dah Asdahígíí

Doo Łą'Yilwołdah

TSÉŁICHÍÍ' DAH'AZKÁNÍ ÓLTA' BIŁ HAHOODZOJÍ

Tsełichíí' Dah'azkání Ólta' Binant'a'í Á Dahnídinibijihígíí Táá Bá E'et'áád

TUTT, LEWIS E.
TOMCHEE, MARIE C.
PAUL-STILLMAN, JACQUELINE
ROESSEL, RUTH
SAGG, CLIFFORD LAMEMAN

Tsélichíí' Dah'azkání Ólta'íjí Naanish Ał'aą'áát'eeł Bóhoo'aah Biłł Hahoodzo Á Dahnídinibjihígíí

T'ááłá'í Bá E'et'áád

Doo Łą' Yilwołdah

Tsélichíí' Dah'azkání Ólta' Binant'a'í Á Dahnídinibjihígíí

Naaki Naahaiji' Dah Asdáhígíí

T'ááłá'í Bá E'et'áád

Doo Łą' Yilwołdah

ŁICHÍÍ' DEEZ'ÁHÍ ÓLTA' BIŁ HAHOODZOJÍ

Łichíí' Deez'áhí Ólta' Binant'a'í Á Dahnídinibjihígíí

Naaki Bá E'et'áád

GOODLUCK, ARNOLD
TSOSIE, WOODY BENJAMIN

Łichíí' Deez'áhí Ólta'íjí Naanish Ał'aą'áát'eeł Bóhoo'aah Biłł Hahoodzo Á Dahnídinibjihígíí

T'ááłá'í Bá E'et'áád

YAZZIE, MARGARET R.

TSÉGHÁHOODZĄNÍ ÓLTA' BIŁ HAHOODZOJÍ

Tségháhoodzą́ní Ólta' Binant'a'í Á Dahnídinibjihígíí

Táá' Bá E'et'áád

NELSON, LORRAINE W.
ANDERSON, LARRY
DAVIS, VIRGIL L.
HARDY, JOYCE BROWER
WHITE, PAULETTA

Tségháhoodzą́ní Ólta' Biłł Hahoodzojí

NA'ÍDÍKID:

Bini'dii daats'í Tsegháhoodzą́ní Ólta' Biłł Hahoodzojí Ólta' Binant'a'í díí Táá'di miil nitsaaígíí dóó bi'ą́ą́n Ashdladi miil áłts'ísígíí ($3,500,000) béeso wókeedígíí bee ba'didoot'ááłgo Béeso Nitsaago Bee Ni'doonish biniyé béeso nalchi'ígíí biniyé i'di'yoonił?

Bee Ni'doonish biniyé béeso wókeedígíí

Aoo daats'í?___

Bee Ni'doonish biniyé béeso wókeedígíí

Doo Da daats'í?___

SPECIAL ELECTION
MAY 17,2005
WINDOW ROCK UNIFIED SCHOOL DISTRICT No.8
APACHE COUNTY, ARIZONA

NA'ÍDÍKID ŁAA'II

Bíni'dii daats'í Tsegháhoodzání Ólta' Bił Hahoodzojí Ólta' Binant'a'í Á Dahnídinibįįhígíí bee ba'deet'aahgo ólta'íjí béeso bee oonishígíí díí 2005 dóó 2006 yihah bii' ólta' yá béeso shónááyoołt'eeh éí Hoozdo Hahoodzodęę'go béeso ninádít'ááhígíí t'áálá'hídi míil nitsaaígíí dóó bi'ąąn díj'di neeznádiin dóó bi'ąąn tsosts'idiin dóó bi'ąąn táá'di míil áłts'ísígíí dóó bi'ąąn naaki di neeznádiin dóó bi'ąąn tádiin tsosts'id ($1,473,237) béeso bá bínéidzóóh? Díí béeso bá bínéidzooígíí ólta'íjí bá bee ahóót'i'ígíí binahjį' ninááháhgo neeznáá dootł'izh (10%) bíighahgo bínéidzodoo.

Díí i'iisnilgo áádóó bee ba'deet'ąągo béeso ólta'íjí bá bínéidzogo díí béeso bíká chohoo'ínígíí éí eehólóonii bits'ąądóó ínáołtą'í náhádlááhígíí ólta'íjí bá shóót'eeh áádóó béeso shóózt'e'ígíí éí hastąą nááhaigóó choo'ęędoo inda Hoozdo Hahoodzojí doo bits'ąądęę béeso wókeed da. 2011 - 2012 yihah dóó 2012 - 2013 yihah bii' béeso ła' bá bínéidzóóhígíí éí hastąą łichíí' dóó bi'ąąn łichíí' táá'góó áłts'áádzooígíí naaki bíighahgo (6 2/3 %), áádóó táá' łichíí' dóó bi'ąąn łichíí' táá'góó áłts'áádzooígíí t'áálá'í (3 1/3%), áłkéé sinilgo, Hoozdo Hahoodzo Bibeehaz'áanii (section 15-481,p) yisdzohígíí binahjį' díí ólta'jí béeso bá bínéidzodo díí deihááh góne' bee ba deet'ąnígíí.

Béeso ła' bínéidzóóh haninígíí doo bee bá łą' azlęę'góó éí bee haz'áanii bik'ehgo béeso bá nideet'ąnée éí ólta' binant'a'í shóyoołt'eehdoo.

Béeso Bá Bínéidzóóh Aoo' _____

Béeso Bá Bínéidzóóh Doo da _____

NA'ÍDÍKID NAAKI

Bíni'dii daats'í Tsegháhoodzání Ólta' Bił Hahoodzojí Ólta' Binant'a'í Á Dahnídinibįįhígíí bee ba'deet'aahgo áłchíní hada'iiłtááhígíí dóó táá' yółta'ijį' béeso yá shóyoołt'eehdo díí 2005 dóó 2006 yihah bii', Hoozdo Hahoodzodęę'go béeso bá ninádítááhígíí ashdla'di neeznádiin dóó bi'ąąn díj' tsáadadi míil áłts'ísígíí dóó bi'ąąn tseebiídi neeznádiin dóó bi'ąąn náhástéí tsáada ($514,819) béeso bá bínéidzóóh? Díí béeso bá bínéidzooígíí ólta'íjí bá bee ahóót'i'ígíí binahjį' ninááháhgo ashdla' dootł'izh (5%) bíighahgo bínéidzodoo.

Díí i'iisnilgo áádóó bee ba'deet'ąągo ólta'íjí béeso bá bínéidzogo díí béeso bíká chohoo'ínígíí éí eehólóonii bits'ąądóó ínáołtą'í náhádlááhígíí ólta'jí bá shóót'eeh áádóó béeso shóózt'e'ígíí éí hastąą nááhaigóó choo'ęędoo inda Hoozdo Hahoodzojí doo bits'ąądęę béeso wókeed da. 2011-2012 yihah dóó 2012 - 2013 yihah bii' béeso ła' bá bínéidzoohígíí éí hastąą łichíí' dóó bi'ąąn łichíí' táá'góó áłts'áádzooígíí naaki bíighahgo (6 2/3%), áádóó táá' łichíí' dóó bi'ąąn łichíí' táá'góó áłts'áádzooígíí t'áálá'í (3 1/3%), áłkéé sinilgo, Hoozdo Hahoodzo Bibeehaz'áanii (section 15-481,p) yisdzohígíí binahjį' ólta'jí béeso bá bínéidzodo díí déihááh góne' bee ba deet'ąnígíí.

Béeso ła' bínéidzóóh haninígíí doo bee bá łą' azlęę'góó éí bee haz'áanii bik'ehgo béeso bá nideet'ąnée ólta' binant'a'í shóyoołt'eehdoo.

Béeso Bá Bínéidzóóh Aoo' _____

Béeso Bá Bínéidzóóh Doo da _____

SAMPLE BALLOT –OVERRIDE ELECTION

SPECIAL ELECTION
Window Rock Unified School District No. 8
Apache County, Arizona – May 17, 2005

The Governing Board and the Window Rock Unified School District #8 are requesting:

- **Approval to exceed the 2005-06 Maintenance and Operations Budget in the amount of $1,473,237, an amount not to exceed 10% (ten percent) of the Revenue Control Limit for the year for which adopted and for six (6) subsequent years.**

- **Approval to exceed the 2005-06 Maintenance and Operations Budget for Kindergarten through Third Grade in the amount of $514,819, an amount not to exceed 5% (five percent) of the Revenue Control Limit for the year for which adopted and for six (6) subsequent years.**

Any budget increase authorized by this election shall be entirely funded by this school district with revenues from other than levy of taxes on the taxable property within the school district for the year for which adopted, and for six (6) subsequent years and shall not be realized from monies furnished by the state. In fiscal years 2011-2012 and 2012-2013 the amount of the proposed increase will be six and two-thirds percent and three and one-third percent, respectively, of the District's revenue control limit in each of such years, as provided in Section 15-481(P) of the Arizona Revised Statutes.

If the proposed budget is disapproved, the alternate budget shall be adopted by the school district governing board.

The total amount of the 2004-05 adopted budgets for Maintenance and Operations is $23,809,835, and for Kindergarten through Third Grade is $495,526.00. The total amount of the proposed budget for Maintenance and Operations is projected to be $20,523,492, and for Kindergarten through Third Grade is $514,819. The total amount of the alternate budget for Maintenance and Operations is $19,086,255, and for Kindergarten through Third Grade is $0.

Based on the estimated Secondary Total Net Assessed Value of $11,304,158, no owner-occupied residence (class 5) or business (class 3) will experience an increase in their tax bill.

A Message from the Apache County Elections Director:

As a result of Arizona voters passing Proposition 200, **known as Identification at the Polls**, it is now necessary to provide Identification at the Polls the next time you cast your vote. This means that you will be required to present **proper ID** at the polling place. The information included on the identification must reasonably appear to be the same as the information on the signature roster. The following types of identification will be accepted:

Acceptable forms of identification with photograph, name, and address of the elector

- Valid Arizona driver license
- Valid Arizona non-operating identification license
- Tribal enrollment card or other form of tribal identification
- Valid United States federal, state, or local government issued identification

An identification is "valid" unless it can be determined on its face that it has expired.

IT IS NOT MANDATORY TO OBTAIN A PHOTO ID. YOU MAY BRING ONE OF THE FOLLOWING FORMS OF ID:

Acceptable forms of identification without a photograph that bear the name and address of the elector (two required)

- Utility bill of the elector that is **dated within ninety days of the date of the election.** A utility bill may be for electric, gas, water, solid waste, sewer, telephone, cellular phone, or cable television
- Bank or credit union statement that is **dated within ninety days of the date of the election**
- Valid Arizona Vehicle Registration
- Indian census card
- Property tax statement of the elector's residence
- Tribal enrollment card or other form of tribal identification
- Vehicle insurance card
- Recorder's Certificate
- Valid United States federal, state, or local government issued identification, including a voter registration card issued by the county recorder

An identification is "valid" unless it can be determined on its face that it has expired.

IF YOU DO NOT HAVE THE PROPER ID, YOU WILL BE ABLE TO VOTE A PROVISIONAL BALLOT.
ALL VOTERS WILL RECEIVE A BALLOT WHEN GOING TO THE POLLING PLACE.

For questions call the Apache County Elections Director, Penny L. Pew at (800) 355-4368, ext. 7537 or (928) 337-7537 or send an email to ppew@co.apache.az.us or www.co.apache.az.us

Tsezhin Deez'áhí I'ii'níił Yádahsidahígíí nihich'į' hane' ánáánéídlééh

Hoozdo Hahoodzo bii' anída'a'a'ígíí Nahatá Naaki di neeznádiin (Proposition 200) yee lą da'asłįgo éí naaltsoos bee éédahózinii wókeed dooleeł ida'ii'niiłgi. K'ad kódóó anáá'i'áádgo naaltsoos bee hwéé hózinii hódaokeed dooleel. Ááh yiłninígíí éí naaltsoos bee hwéé hózinii i'ii'niiłgi nijijaah dooleeł. Naaltsoos bee ééhózinígíí éí I'ii'niiłgo Naaltsoos Bikáá Yízhí Dadilt'i'ígíí bił aheełt'éégo téíyá. Naaltsoos bee hwééhózinii kót'ehígíí éí nidzin dooleeł.

Naaltsoos bee hwééhózinii nidzin dooleełígíí éí bik'i dzizdáhígíí, bázhi' dóó naaltsoos haa ninąhąjeehígi bikáago.

- Hoozdo Hahoodzojí bik'ehgo chidí naabąąsígíí
- Hoozdo Hahoodzojí naaltsoos bik'i asdáago ádaalyaaígíí
- Wáashindoondęę' naaltsoos bik'ini'ít'ąągo béésh t'ąhí bikáá'ígíí doodaléí Diné bi Wáashindoon da'íníishjí naaltsoos bik'idziiz dáago bee hwéé hózinı́
- Wáashindoondęę' doodaléí Hoozdo Hahoodzo doodaléí Áłts'ísí Hadahwiisdzodóó naaltsoos bee hwéé hózingo ádaalyaaígíí

Naaltsoos bee hwéé hózinígíí éí íłį ákonidi bee i'íí'ąągo éí dooda

Naaltsoos bik'i asdáhígíí ła' chooídiiłt'eeł doo ha'níida. Naaltsoos łahgo at'éégo bee nééhózinígíí éí kódaat'éhígíí diijih:

Naaltsoos bik'i asdáhígíí nee'ádingo éí łahgo átéégo naaltsoos bee nééhózinígíí dííjih (naakigo nidzin)

- Béésh łichii'ii nił yah'iit'igo bik'é ninąądíídlééł biniyé naaltsoos nich'į' ánál'ąjhídęę' éí tó choii siniłįdígíí bikáá' dóó niłchih łikon choii siniłˈįid dabikáá'ígíí.Béésh bee hane'í nił yah'iit'igo díí naaltsoos ałdó', béésh bee hane'í nidaajaahígíí ałdó', áádóó niłch'ih naalkidí ałdó' bik'é ninąą'ádlééhídęę' naaltsoos. Díí éí naaltsoos nízhi' áádóó naaltsoos naaninąhąjeehídi dabikáá'
- Béeso yah'ahíjąąhídi naaltsoos nich'į' ánál'ąjhídęę
- Hoozdo Hahoodzojí ni chidí bi naaltsoos bee bééhózinígíí
- Wáashindoondęę' naaltsoos bik'ini'ít'ąągo béésh t'ąhí bikáá'ígíí
- Béeso ach'ąąh naanil chidí bikést'i'ígíí
- Naaltsoos íłįgo binahjį' i'doot'ałígíí
- Wáashindoon bá da'íníishjí, Hoozdo Hahoodzo ba da'íníishjí doodaléí Áłts'ísí Hadahwiisdzo bá da'íníishjí naaltsoos bik'i asdáago bee ééhózinígíí dóó i'ii'niiłt biniyé á hadadilne'jí naaltsoos bee hwééhózinígíí bóółtą'go.

Naaltsoos bee hwéé hózinígíí éí íłį ákonidi bee i'íí'ąągo éí dooda

Naaltsoos bee nééhózinígíí nee ádingo éí íłįgo daats'í i'oot'ah biihe'niiłjígo a'díí'ał. T'áá ałtso anída'a'a'ígíí éí naaltsoos bee i'ii'niiłígíí yee i'doo'ał i'ii'niiłgi.

Díí baa hóóne'ígíí bína'idídeeshkił nohsingo éí Tsézhin Deez'áhí I'ii'níił Yádahsidáhígíí Penny Pew (800) 355-4368 doodaléí (928) 337-7537 bich'į' hodoołnih.

A Message from the Apache County Elections Director:

As a result of Arizona voters passing Proposition 200, **known as Identification at the Polls**, it is now necessary to provide Identification at the Polls the next time you cast your vote. This means that you will be required to present **proper ID** at the polling place. The information included on the identification must reasonably appear to be the same as the information on the signature roster. The following types of identification will be accepted:

Acceptable forms of identification with photograph, name, and address of the elector

- Valid Arizona driver license
- Valid Arizona non-operating identification license
- Tribal enrollment card or other form of tribal identification
- Valid United States federal, state, or local government issued identification

An identification is "valid" unless it can be determined on its face that it has expired.

IT IS NOT MANDATORY TO OBTAIN A PHOTO ID. YOU MAY BRING TWO OF THE FOLLOWING FORMS OF ID:

Acceptable forms of identification without a photograph that bear the name and address of the elector (two required)

- Utility bill of the elector that is **dated within ninety days of the date of the election**. A utility bill may be for electric, gas, water, solid waste, sewer, telephone, cellular phone, or cable television
- Bank or credit union statement that is **dated within ninety days of the date of the election**
- **Valid Arizona Vehicle Registration**
- Indian census card
- Property tax statement of the elector's residence
- **Tribal enrollment card or other form of tribal identification**
- Vehicle insurance card
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ALL VOTERS WILL RECEIVE A BALLOT WHEN GOING TO THE POLLING PLACE.

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POLLS OPEN 6AM – 7 PM TUESDAY, NOV. 8, 2005

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Como consecuencia de la aprobación de la Proposición 200 por los votantes de Arizona, **conocida como Identificación en los Centros Electorales,** será necesario presentar Identificación en los Centros Electorales la siguiente vez que se presente para votar. Esto significa que será necesario presentar **Identificación aceptable** en el centro electoral. La información contenida en la identificación tiene que razonablemente ser igual a la información que aparece en el registro de firmas. Los siguientes tipos de identificación se aceptarán:

Prueba de identificación aceptable con una fotografía, nombre, y dirección particular del elector.

- Licencia de manejar de Arizona válida
- Licencia de identificación no de manejar de Arizona válida
- Tarjeta de inscripción tribal u otro tipo de identificación tribal
- Identificación suministrada por el gobierno de los Estados Unidos, federal, estatal o local válida

Una forma de identificación es "válida" a menos que se determine que la información se ha vencido.

NO ES OBLIGATORIO OBTENER IDENTIFICACIÓN CON UNA FOTOGRAFÍA. SE PERMITE PRESENTAR DOS DE LOS SIGUIENTES TIPOS DE IDENTIFICACIÓN:

Prueba de identificación sin una fotografía aceptable con el nombre, y dirección particular del elector (se requieren dos tipos)

- Cuenta de empresa pública del elector **con un fecha dentro de noventa días de la fecha de la elección.** La cuenta de empresa pública puede ser de electricidad, gas, agua, desperdicios sólidos, alcantarillado, teléfono, teléfono celular, o televisión por cable.
- Estado de cuenta del banco o cooperativa de crédito **con un fecha dentro de noventa días de la fecha de la elección.**
- **Registro de Vehículo de Arizona Válido**
- Tarjeta de censo de Indio
- Declaración de impuestos sobre la propiedad de la residencia del elector
- **Tarjeta de matriculación tribal u otro tipo de identificación tribal**
- Tarjeta de seguros de vehículo
- Certificado de la Registradora
- Identificación suministrada por el gobierno de los Estados Unidos, federal, estatal o local válida, incluyendo una **tarjeta de votante inscrito emitida por la registradora del condado.**

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SI NO PRESENTA IDENTIFICACIÓN ACEPTABLE, SE LE PERMITIRÁ VOTAR UNA BOLETA PROVISIONAL.
AL PRESENTARSE EN EL CENTRO ELECTORAL TODOS LOS VOTANTES RECIBIRÁN UNA BOLETA

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What is the Presidential Preference Election?

When is the Presidential Preference Election?

A.R.S. § 16-241 (B)

Governor Napolitano issued a proclamation (order) that the 2004 Presidential Preference Election shall be held on February 3, 2004.

What Other Elections Will Appear On The Ballot In February?

A.R.S. § 16-241 (A)

No other election may appear on the same ballot as the Presidential Preference Election.

Will The Candidates Be Listed In Alphabetical Order?

A.R.S. § 16-245 (B)

The order of the names of certified candidates shall be determined by lots drawn at a public meeting called by the secretary of state for that purpose.

Rotation of candidate names is prohibited.

What Is The Presidential Preference Election?

A.R.S. § 16-243

All candidates for the Office of President of the U.S. will appear on the ballot in February. There will be separate ballots for each recognized political party.

The candidate who receives the greatest number of votes in the Presidential Preference Election will represent the party at the National Convention.

Will I Receive A Sample Ballot?

A.R.S. § 16-245 (D,E)

The officer in charge of elections shall mail one sample ballot to each party represented on the Presidential Preference Election ballot to each household that contains a registered voter of that political party.

The mailing face of each sample ballot shall be imprinted with the great seal of the State of Arizona with the words **"official voting materials---presidential preference election."**

Can I Vote?

You must be registered with one of the recognized political parties in Arizona who have a candidate on the ballot. Voters with no party preference will not be able to vote in this election.

Where Do I Go To Vote?

If you live on the Navajo Nation, you will vote where you usually vote in County and State elections.

If you live off-reservation, there will be consolidation of some polling places. Eagar & Round Valley will vote at the Round Valley Gymnasium. Springerville & Flat Top will vote at the Apache County Road Yard. St. Johns & Coronado will vote at the County Annex. All other polling places will remain the same.

A.R.S. § 16-246 Early Ballots

Beginning Nov. 6, 2003, you may request an Early Ballot be mailed to you for the Presidential Preference Election. Ballots will be mailed out on Jan. 19, 2004. Early Voting ends on Jan. 30, 2004.

To request an Early Ballot, call (800) 361-4402.

To vote in the Presidential Preference Election, you must be registered with the Political Party for whom you are casting a vote.

The deadline to register to vote in the Presidential Preference Election is Jan. 5, 2004.

IMPORTANT DATES

Election Date	Feb. 3, 2004
Voter Registration Deadline	Jan. 5, 2004
First Day to Request Early Ballot by Mail	Oct. 31, 2003
First Day Early Ballots will be mailed	Jan. 19, 2004
Early Voting Ends	Jan. 30, 2004

Watch for the Newly Painted Voter Registration Trailer as it travels throughout Apache County ... Early Voting!

For further questions,
call (1800) 361-4402 or (928) 337-7537
Or visit the website at:
www.co.apache.az.us

Apache County

Presidential Preference Election

Informational Guide

February 3, 2004

Díí i'ii'níłígíí atah i'deesh'ał nínízingo éí nahat'á bee dah'ooldahjí i'deesh'ał nínízinjí atah ná ha'dít'éego t'éiiyá i'díí'ał.

Díí i'ii'níił biniyé á hada'dilne'ígíí Yas Niłt'ees 5 yoołkááłjí', 2004 yihah bii' ałch' ¡' ánálnééh.

I'ii'níił biniyé á hada'dilne' áádóó bítséedi i'ii'níił biniyé akǫǫ́ nihitahgóó bił nídahoot' aah dooleeł ákǫǫ́ biniyé nidaakai.

DÍÍ AŁKÉÉ' HONÍ' ÁNÍGÍÍ BÉÉ DAAŁNIIH

Díí i'ii'níłígíí	Atsá Biyáázh 3, 2004
.Á hada'dilne' ałch'¡' ánálnééh	Yas Niłt'ees 5, 2004
.Bítséedi i'ii'níił bíká áda' alne'	Ghąąjí' 31, 2003
.Bítséedi i'ii'níił hahalzhísh	Yas Niłt'ees 19, 2004
.Bítséedi i'ii'níił ałch'¡' ánálnééh	Yas Niłt'ees 30, 2004

Díí baa hóóne'ígíí hazhó'ó bína'ídídééshkił nínízingo béésh bee hodíílnih, 1(800)361-4402, dooda léii' (928)337-7537

Béésh łichí'ii biyi'dóó ééhózinjí éí, www.co.apache.az.us

TSÉZHIN DEEZ' ÀHÍ BIŁ HAHOODZOJÍ

WÁÁSHINDOON ALĄĄJĮ' DAHDÍNÓODAAŁ BINIYÉ BAA HODZÓDLÍIGO NÍDIDOOLWOŁÍGÍÍ BIKÉÉ' NI'DOOLDAH BINIYÉ I'II'NÍIŁ

ATSÁ BIYÁÁZH 3 YOOŁKÁÁŁ GÓNE', 2004 YIHAH BII'

DÍÍ NAALTSOOS BIYI' HAZHÓ'Ó BAA HANE'

"T' ÁÁŁÁ'Í I'ÍÍ' AHÍGÍÍ ÍLĮ"

Díí shą' ha'át'íí i'ii'níił shįį át'é?

Díí i'ii'níił yiniyé deiijeehígíí ła' bá i'deesh'ał nínízingo nahat'á bee dah'ooldahjí yee atah sizínígíí niałdó' áájí atah náha'dét'éego t'éiiyá i'díí'ał. Díí deiijeehígíí ał'ąą nahat'á bee dah'ooldahjí bee bá nídahoo'aahgo díí Hoozdo Hahoodzojí bá béé dahózin. Áko t'áá shínisinígíí bá iná'ásh'a' jiníigo há ha'dét'éhígíí éí díí i'ii'níłígíí doo atah izhdoo'ał da.

Áko shą' díí hąhgo i'ii'níił ?
A.R.S. 16-241(B)

Hoozdo Hahoodzojí Naat'áanii Alą́ą́jí' Dahsidáhígíí Napolitano yee hool'a'go Atsą Biyáázh 3 yoołkááłgo, 2004 yihah bii' i'iiníił.

Ha'át'íí shą'ałdó biniyé i'ii'níił ?
A.R.S. 16-241(A)

Wáashindoon Alą́ą́jí' Dahdínóodaal biniyé Baa Hodzódliigo Nídídoolwołígíí Bikéé' ni'dooldah biniyé i'ii'níłígíí t'éíyá biniyé i'ii'níił.

Deiijeehígíí dabízhi' shą' éí hait'éego ałkéé' sinil dooleeł ?
A.R.S. 16-245(B)

Jó Deiijeehígíí naaltsoos nidayiiznilyę́ę́dą́ą́' dabízhi' daasdzoh dooleełígíí bá béédahózingo ádaalyaa. Hoozdo Hahoodzojí Naaltsoos Íłíní Nitsaaígíí yee hool'a'ígíí bik'ehgo. Ida'ii'níłgóó t'áá'ałtso dabizhi't'áá'aheełt'éego ałkéé' sinil dooleeł.

Yízhí ałnááhoo'niłígíí éí doo beehaz'ą́ą́ da.

Díí Wáashindoon Alą́ą́jí' Dahdínóodaał Biniyé Baa Hodzódliigo Bikéé' Ni'dooldah biniyé I'ii'níłígíí shą' ha'át'íí át'éh ?
A.R.S. 16-243

Wáashindoon Alą́ą́jí' Dahdínóodaal Yiniyé Deiijeehígíí t'áá'ałtso dabízhi' naaltsoos bee i'iiníłígíí dabíkáá' dooleeł. Ał'ąą nahat'á bee dahda'íldééh bee bá łą́ da'azljígíí bik'ehgo naaltsoos bee i'ii'níłígíí bá dahólǫ́ǫ dooleeł.

Díí i'ii'níłígíí bee bá aghá'níídee'ígíí éí Ashdladiin Nitsaa Hadahwiisdzodę́ę́' áłah da'aleehdi kodóó nahat'á bee dah'ooldahígíí áadi bá nijigháá dooleeł.

Da' naaltsoos bee i'ii'níłígíí béé' ályaaígíísh ła' shich'į' bił í' doolníił ?
A.R.S. 16-245(D, E)

I'ii'níłjí Bóhólníhígíí éí naaltsoos bee i'íí'níił béé ályaaígíí nahat'á bee dah'ooldahjí bá hada'dilyaaígíí éí dahoníghan bik'eh níłtsoozgo bich'į' bił ída'doolníił.

Naaltsoos bee i'ii'níił béé ályaago nihich'į bił áda'alyaago bidááhdóogo Hoozdo Hahoodzo Bi Bee Í'diidlííd bik'i si'ą́ą́go díí saad bikáá' dooleeł "wáashindoon Alą́ą́jí Dahdínóodaał Biniyé Baa Hodzódliigo Nídídoolwołígii Bikéé' Ni' dooldah Biniye I'ii'níłjí naalsoos chodao'ínígíí"

Háadi shą' ida'ii'níił dooleeł ?

Diné Bikéyahjí kéédahot'ínígíí éí t'áá ínída'iyoh'niłgóó ida'iyohníił dooleeł t'áá nihił hadahwiisdzoígíí bik'hgo.

Áádóó tł'óó'jí kéédahat'ínígíí éí łahgóó ida'ii'níłígíí da'ałhii'jí' ida'di'yoo'niłgo bá ádaalyaa.

Bítséedi I'ii'níłígíí.
A.R.S. 16-246

Ghą́ą́jí' 31 yoołkáál, 2003 yihah bii' bítséedi naaltsoos bee i'ii'níłígíí wókeed biniyé ą́ą́ ályaa. Díí éi níléí Yas Niłt'ees 19 yoołkáátjí, 2004 yihah bii' naaltsoos bee i'doot'ałígíí bił áda'alne' dooleeł.

Bítséedi i'ii'níił bił nahaz'ą́ą́góó éí Yas Niłt'ees 30 yoołkáátjí', 2004 yihah bii' ą́ą́ ádaat'éé dooleeł.

Naaltsoos bee i'ii'níłígíí ła' shich'į' bił í'doolníił nínízingo k'ad béésh bee hodíílnih 1(800)361-4402.

APPENDIX TO THE STATEMENT OF PENNY PEW: PREPARED STATEMENT OF PENNY PEW SUBMITTED TO THE NATIONAL COMMISSION ON THE VOTING RIGHTS ACT

I requested some information from Kimmeth Yazzie, Navajo Nation language contact, who writes the following statement:

The purpose of the minority language consent decrees has generated a much greater cooperation and assistance to provide the necessary election and voter registration services to the Navajo Nation within the counties, much more than what was anticipated from the beginning. Although the consent decree specific to Apache County expired in 1992, the county and the Navajo Nation continue to strive forward to this day to make voter registration and election easier for the citizens on Apache County. Such services as situating outreach offices and Navajo speaking personnel in local areas with additional personnel when it becomes necessary has made voting easier for the people of Apache County. An example, the development of the Navajo Glossary has opened doors to better communication with the Navajo Nation citizens as well as other tribes seeking development of the same methods of outreach. Developments of graphic materials and video and audio recordings provide our people with a better understanding of the elections. Bringing voter registration to the local area eliminates the long distance travels just to register to vote for out outlying areas. Setting up and coordinating events together with the Navajo Nation and the county provides voters with two services at one location and a better understanding of the two distinctive elections. The clearance of all materials and information through the Navajo Election Administration provides assurance to the Navajo Nation that the proper and sufficient election information is provided to the people of the Navajo Nation, thus developing trust and alliance. Ideas to better provide services are always being exchanged between the county and the Navajo Nation. We learn from each others. Since the expiration of the consent decree in 1992, the relationship between the tribe and the county has grown and advanced beyond the bounds of the consent decree requirements.

In closing, I can honestly say that the language program has been positive for our county in educating and promoting our most fundamental right…the power of our vote.

Penny L. Pew
Apache County Elections Director

APPENDIX TO THE STATEMENT OF BARRY WEINBERG: *Problems in America's Polling Places: How They Can Be Stopped*; Temple Political and Civil Rights Law Review, Spring 2002

WestLaw.

11 TMPPCRLR 401 Page 1
11 Temp. Pol. & Civ. Rts. L. Rev. 401
(Cite as: 11 Temp. Pol. & Civ. Rts. L. Rev. 401)

Temple Political and Civil Rights Law Review
Spring 2002

Symposium
Constructive Disenfranchisement: The Problems of Access & Ambiguity Facing the American Voter

***401** PROBLEMS IN AMERICA'S POLLING PLACES: HOW THEY CAN BE STOPPED

Barry H. Weinberg, Lyn Utrecht [FNa1]

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Weinberg; Lyn Utrecht

Introduction

Discrimination in voting is as old as voter registration. Throughout the years, laws and procedures have been used to keep people from voting. During the same time, laws have been on the books to battle discriminatory attempts to keep people off voter registration rolls. Some of these anti-discrimination laws have been effective, but many have not.

Beginning with the Fifteenth Amendment, [FN1] ratified on February 3, 1870, to the Voting Rights Act of 1965 and its amendments in 1970, 1975, 1982 and 1992, [FN2] the United States Congress has passed laws to prevent acts that disenfranchised minority group members. Also during this period other laws were enacted under Congress' power in Article I, Section 4, of the U.S. Constitution [FN3] and the Fourteenth Amendment [FN4] to authorize legal action ***402** against practices and procedures that disenfranchised U.S. citizens. [FN5]

The authors have worked for over thirty years to fight against unjust voting procedures. Others recently have declared their readiness to join in the fight in view of the events surrounding the Presidential election in November 2000, which lent a new immediacy to concerns about the actions that prevent legitimate voters from casting their ballot, or having their ballot counted. Studies, reports, and other analyses have been produced to lament the fate of these voters, and to recommend various remedies for the problems that are found. But there are several basic points that need to be stressed in pursuing this analysis, and they can be boiled down to the following:

- Bad things happen in polling places;
- There are steps that have effectively stopped the bad things from happening in polling places;
- There are particular steps that can be taken now to stop bad things from happening in polling places;
- The states already have all the authority they need to administer elections fairly and effectively;

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- The states should stop making excuses and start fulfilling their responsibility for administering elections effectively;

- If the states cannot figure out where the problems are, the federal government should do so;

- States and the federal government need to make the financial commitment necessary to administer fair elections.

In this article we will review the antecedents to the present federal civil rights voting laws and the circumstances that led to the legislation. Then, we will explain the use of federal observers under the Voting Rights Act to monitor and report on the treatment of voters in polling places. Next, we will discuss actions the states can take and have taken to stop voter mistreatment that prevents the casting of effective ballots on election day. This includes on the spot corrections on election day, and gathering facts that will allow corrections to be made for future elections. Finally, we will show actions the federal government can take if states do not stop the mistreatment of voters, and the authority for taking that action.

***403** I. Before the Voting Rights Act of 1965

A. Disenfranchisement Was Direct And Hard to Stop

It has been noted that voter registration procedures were first instituted to erect hurdles that made it difficult for people to become voters. [FN6] Most famously, voter registration requirements adopted after the Civil War kept thousands of African-American people from registering to vote. From laws that allowed only white people to register to vote, to laws that were neutral on their face but discriminatorily applied, the number of African-Americans on the voting rolls was kept to a minimum.

Ultimately, in Guinn v. United States, [FN7] the U.S. Supreme Court found unconstitutional a 1910 amendment to the Oklahoma constitution that required literacy tests of all applicants for voter registration, but exempted everyone who was eligible to vote on January 1, 1866, and all of their lineal descendants. Since the Fifteenth Amendment became effective in 1870, and African-Americans were unable to register to vote before then, the 1910 amendment allowed all white males to avoid taking the literacy test, while requiring all African-American voter applicants to take it. Laws that insulate persons from a new requirement based on preexisting characteristics, which those persons have or get from their antecedents, are called grandfather clauses. A grandfather clause in a subsequent Oklahoma statute disallowed voter registration to everyone qualified to vote in 1916, but who neither voted in 1914, nor registered to vote during a two-week period in 1916. Those excepted from the application of the law were individuals who registered in 1914, a time when African-Americans could not register to vote because of the provision condemned in the Guinn case. The new Oklahoma statute was eventually held to be an unconstitutional infringement of the Fifteenth Amendment in Lane v. Wilson. [FN8]

Similarly, when the U.S. Supreme Court ruled that Texas could not limit the franchise to white people in Nixon v. Herndon, [FN9] that state abandoned its white-only law for general elections, but attempted to remove the state from involvement in political party candidate selection. When that scheme was found unconstitutional in Smith v. Allwright, [FN10] the Texas Democratic Party delegated its authority for candidate selection to a "whites-only" club, arguing that an election to nominate a political party's candidate for office is private action, not state action, and therefore the party can legally include or exclude whoever it wants from voting in the election. This scheme, too, was found ***404** unconstitutional under the Fifteenth Amendment in Terry v. Adams. [FN11] During the pendency of these cases state laws effectively kept African-Americans from voting in Texas for decades.

Other laws that were neutral were as effective as "whites-only" laws in keeping African-Americans off of the voting rolls, but were found equally unlawful. The poll tax, adopted by Alabama during its 1901 Constitutional convention, and intended to keep blacks from voting, worked. [FN12] Literacy tests also precluded applicants from registering if they failed to demonstrate their literacy by reading and/or writing particular matters, such as portions of the state constitution. These tests allowed county voter registrars to arbitrarily keep African-Americans off of the voting rolls. [FN13]

As state laws were found to unconstitutionally bar African-Americans from voter registration, states adopted new tests to apply to voter applicants. When Louisiana adopted new voter registration standards, white people who were registered under the less stringent earlier standards were allowed to remain on the voting rolls. All the while, African-Americans, who had been kept off of the voting rolls until then, underwent testing to become registered. Although new white applicants were also required to meet the new standards, there was a racially discrepant impact of the scheme. The Supreme Court did not allow

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such racially unfair circumstances to continue. [FN14]

B. An Initial Federal Remedy for Disenfranchised Voters

In response to the panoply of practices and procedures that effectively disenfranchised African-American voters, federal civil rights voting laws were included in the Civil Rights Acts of 1957, 1960 and 1964, and codified at 42 U.S.C. § 1971 et seq. Taken together, these laws include additional language prohibiting racial discrimination in voting, [FN15] authorize the U.S. Attorney General to file lawsuits to enjoin racial discrimination in voting, [FN16] and contain administrative and judicial procedures that may be used to stop harassment of newly enfranchised African-American voters at the polls. These procedures marked Congress's initial attempt to breach the wall of federalism, dictating that it is the function of the states, and the states alone, to determine voter qualifications. [FN17] Because of a strong resistance to federal ***405** intervention in state functions, the procedures adopted by Congress to fight the discriminatory application of literacy tests were ponderous and required continuing participation by the courts. [FN18]

These procedures were not effective in dealing with the problem of the discriminatory application of literacy tests to thousands of individuals throughout the South. Lawsuits required proof that white Southern county registrars, nearly all who conducted voter registration and elections along with other tasks, unfairly administered the state's literacy test to black applicants. [FN19]

To assemble such proof, U.S. Department of Justice ("DOJ") lawyers conducted investigations in each county in the Southern states that may have been at fault. At a county courthouse, lawyers, accompanied by F.B.I. agents microfilmed each voter registration application form--thousands in all. Lawyers and paralegals then reviewed each form to record whether the applicant was white or black (a W had been marked by the registrar on the application forms of white people, and a C, for colored, had been marked on the forms of African-Americans), and to record the applicant's education, the reason the applicant failed the test, and other relevant information. Nearly all rejected applicants were African-American.

Reasons for application rejection ranged from an inability to explain constitutional provisions, to an indistinct period after the applicant's middle initial. A number of African-American applicants who were rejected were college graduates, some with advanced degrees. It was common for the county registrar to complete applications in neat handwriting for white people who passed literacy tests, but allowed the applicant to sign with his or her own nearly illegible, shaky scribbles. Moreover, the clear evidence of the arbitrary rejection of African-American voter applicants as shown by the registration forms still required bolstering by other documentation and witnesses. [FN20]

***406** Given such an arduous task, and the continued inability of the legal system to anticipate the discriminatory actions of voter registrars when applying voter registration requirements, African-American citizens continued to be excluded from the rolls of registered voters throughout the South.

[R]egistration of voting-age Negroes in Alabama rose only from 14.2% to 19.4% between 1958 and 1964; in Louisiana it barely inched ahead from 31.7% to 31.8% between 1956 and 1965; and in Mississippi it increased only from 4.4% to 6.4% between 1954 and 1964. In each instance, registration of voting-age whites ran roughly 50 percentage points or more ahead of Negro registration. [FN21]

In addition, each time litigation was successful in enjoining one kind of discriminatory procedure, the state or the county would adopt another kind of discriminatory procedure that was equally effective in keeping African-Americans off of the voter rolls. Against this backdrop and the well-publicized efforts of civil rights workers helping southern African-Americans to register to vote, the beatings of African-American marchers on their way out of Selma, Alabama, heading to rally for voting rights on the steps of the state capital of Montgomery, Alabama, in March 1965, galvanized the nation and led to the passage of the Voting Rights Act of 1965 in August.

II. The Voting Rights Act of 1965

A. The Special Provisions of the Voting Rights Act

Congress found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well

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decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims. [FN22]

The Voting Rights Act (the "Act") cut through the protective barrier of federalism with two important sections. Section 5 of the Act, (the "preclearance" provision) required federal review of any new voting procedure states and counties might adopt. [FN23] This prohibited the adoption of new discriminatory practices when a jurisdiction's present practices were found to be unlawful. Section 4 of the Act instantly led to the enfranchisement of thousands of people by suspending the use of literacy tests and similar discriminatorily applied barriers to the registration of ***407** African-Americans in the deep south. [FN24] Some states, such as Virginia, immediately stopped using literacy tests. In other southern states, federal examiners were appointed under Section 6 of the Act [FN25] and were assigned to counties to conduct fair voter registration under Section 7 of the Act, [FN26] when white county officials refused to stop their racially discriminatory voter registration practices. [FN27] This was no small task, as over 170,000 people were registered between 1965 and 1972 through the efforts of the federal examiners, mostly in Alabama, Georgia, Louisiana, and Mississippi. [FN28]

Further, in order to allow the U.S. Attorney General to know whether discriminatory action was taken against the newly enfranchised voters in the polling places on election day, Section 8 of the Act allowed that, whenever an examiner has been appointed:

the Director of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election . . . for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election . . . for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. [FN29] ***408** Thus, the use of federal observers in polling places initially aimed to protect the rights of new voters who were registered by federal examiners. Although federal voter registration became rare after 1972, the predicate under the Voting Rights Act for assigning federal observers has not changed: federal observers continue to be allowed only in counties that are certified by the U.S. Attorney General for federal examiners. [FN30] As a result, to allow the assignment of federal observers to a county, the county has be certified by the U.S. Attorney General or a federal court for federal examiners. [FN31] The assignment of federal observers continues to be a cornerstone of the enforcement of the Voting Rights Act. Over 23,000 federal observers have been assigned to monitor polling place procedures since 1966 and over 4,393 since 1990 alone. [FN32]

B. Racial Discrimination at the Polls

Federal observers were able to note and document a wide variety of discriminatory actions that were taken against African-Americans in the polls. Some of these insulting and direct actions are reflected in the United States' responses to interrogatories in U.S. v. Conecuh County. [FN33]

While providing assistance to a black voter, white poll official Albrest asked, "Do you want to vote for white or niggers?" The voter stated that he wanted to give everyone a fair chance. Albrest proceeded to point out the black candidates and, with respect to one white candidate, stated, "This is who the blacks are voting for." Poll official Albrest made further reference to black citizens as "niggers" in the presence of federal observers, including a statement that "niggers don't have principle enough to vote and they shouldn't be allowed. The government lets them do anything." [FN34]

***409** White poll workers treated African-American voters very differently from the respectful, helpful way in which they treated white voters. When questions arose about the voter registration data for a white person, such as a person's address or date of registration, or when a white person's name was not immediately found on the poll books, the voter was addressed as Mr. or Mrs., was treated with respect, and the matter was resolved on the spot. If the voter's name was not found, often he or she either was allowed to vote anyway, with his or her name added to the poll book, or alternately, the person was allowed to vote a provisional or challenged ballot, which would be counted later if the person were found to be properly registered. If, however, the voter was black, the voter was addressed by his or her first name and either sent away from the polls without voting, or told to stand aside until the white people in line voted. African-American voters were not allowed to take sample ballots into the polls and were made to vote without those aids. [FN35]

African-American voters who were unable to read and write, due in large part to inferior segregated schools and the need to go to work in the fields at an early age, were refused their request to have someone help them mark their ballot, notwithstanding the Voting Rights Act's bar on literacy tests. In some instances, white poll workers loudly announced the African-American voter's inability to read or write, embarrassing the voter in front of his or her neighbors. When black

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voters said they could not see the ballot well, some white poll workers went so far as to give a magnifying glass to the African-American voters, challenging them to read using the magnifying glass in front of everyone present at the polling place. Illiterate white voters, on the other hand, were allowed assistance by a person of their choice without comment. Routinely, white couples were allowed to enter the voting booth together to mark their ballots.

In those instances where African-American voters had an assistor in the booth, arbitrary rules were concocted that limited the number of voters an assistor could help, or made the assistor wait outside the polling place, requiring the voter to enter the polls alone and negotiate alone the sign-in procedures administered by unfriendly white poll workers, before being allowed to ask that the assistor be allowed to help. [FN36] All too often, when the voter said he or she needed assistance the white poll worker proceeded to help the voter, and did not give the voter a chance to ask for the assistor the ***410** voter wanted; the voter did not know if the poll worker cast the ballot as the voter desired, and had no confidence that the ballot was correctly cast.

Racial discrimination in the polls is neither limited to African-Americans, nor limited to the south. On November 2, 1999, in the City of Hamtramck, Michigan, the qualifications of more than 40 voters were challenged on grounds that they were not citizens. The challengers were members of a group known as Citizens for a Better Hamtramck ("CCBH"), who were organized to keep elections pure. As described in the Consent Order and Decree in U.S. v. City of Hamtramck: [FN37]

6. . . . Some voters were challenged before they signed their applications to vote. Other voters were challenged after they had signed their applications and their names had been announced. The challenged voters had dark skin and distinctly Arabic names, such as Mohamed, Ahmed, and Ali. The challengers did not appear to possess or consult any papers or lists to determine whom to challenge.

7. Once challenged, the city election inspectors required the challenged voters to swear that they were American citizens before permitting them to vote. Voters who were not challenged were not required to do so. The city election inspectors did not evaluate the propriety or merit of the challenges. Some dark-skinned voters produced their American passports to identify themselves to election officials. Nevertheless, these persons were challenged by CCBH, and the election inspectors required them to take a citizenship oath as a prerequisite to voting. No white voters were challenged for citizenship. No white voters were required to take a citizenship oath prior to voting. [FN38]

The consent decree also states that city officials were apprised of the incidents, that they consulted with state election officials who were present in Hamtramck on election day, but neither the state nor the city election officials prevented the baseless challenges from continuing. It was claimed that other Arab-American citizens may have heard about the incidents and decided not to go to the polls to vote that day.

C. Discrimination Against Language Minority Group Members at the Polls

Besides discriminatory treatment of citizens based on race, citizens who speak English poorly, or not at all, have faced obstacles to voter registration and voting. In 1975, Congress took note of discrimination against people who have only a limited ability to speak English. For them, printing or providing information only in English is effective as a literacy test in keeping them from registering to vote or casting an effective ballot. Such disenfranchisement was outlawed when the Voting Rights Act was amended and expanded in 1975. The terms of Section 4 of the Act, containing the formula for applying special coverage to counties, were changed to include ***411** among prohibited tests and devices:

the practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance or other material or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five percent of the citizens of voting age residing in such State or political subdivision are members of a single language minority. [FN39]

Language minorities are defined in the Voting Rights Act as American- Indian, Asian-American, Alaskan-Natives, and people of Spanish heritage. [FN40] Usually, political subdivisions as defined in the Act are counties. [FN41] The 1975 amendments to the Act required that when a newly covered jurisdiction

. . . provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language . . . . [FN42]

Counties in Arizona, New Mexico and Utah were certified for federal examiners, and federal observers were assigned to document the extent to which the English language was used in areas where many of the voters spoke Native-American languages but understood English only marginally. Similarly, federal observers have been assigned to polling places in

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Spanish language areas of Arizona, Texas, New Jersey and New York City, and Chinese language areas of New York City, and San Francisco and Oakland, California. [FN43] In all these areas minority language citizens were allowed to ***412** register to vote, but the use of the English language instead of the voters' first language prevented them from understanding the voting instructions and the ballot. Polling place workers either were not able to speak the language of the voters, or if they could, were not trained to translate the documents and procedures into the language of the voters. By the 1990s federal observers were assigned to monitor discrimination against language minority group members in numbers equal to the federal observers assigned to monitor non-language racial discrimination. [FN44]

The need for the language minority provisions of the Voting Rights Act continues to be demonstrated in areas of the country where English is not persons' primary language. Normally one would assume that polling place workers would be chosen from the population where the polling place is located, and that they would speak another language in addition to English with the same frequency as the voters. In many instances, however, this did not happen. For example, in ethnically changing neighborhoods in New York City, the choices of the political party apparatus resulted in the repeated appointment of English-speaking poll workers where a large portion of the new voters in a precinct were Spanish-speaking Puerto Ricans. In Passaic, New Jersey, English-speaking poll workers were unable to find the names of Spanish-speaking voters in the polls books because the poll workers did not know that the voters' family name traditionally was the second of three names they used. Some voters were denied the ballot because they identified their street name according to common Spanish usage rather than the formal English name. [FN45] In Texas and southern Arizona polling places Hispanic voters were admonished not to use Spanish when talking in the polling places and when giving assistance to voters who needed help when voting. Moreover, the citizenship of Hispanic voters was questioned at the polls, with voters being required to somehow provide on-the-spot evidence of their citizenship before being given a ballot; such evidence was not required of Anglo voters. [FN46]

Evidence of other kinds of discriminatory behavior of polling place workers and others toward Spanish language voters inside the polls is provided in the reports of the Independent Elections Monitor appointed in ***413** September 2000 by the court in a consent decree in U.S. v. Passaic City: [FN47]

At P.S. 6, observers called to report that the challenger was making racist remarks about Hispanics. At the Ukrainian school, challengers became very aggressive and were yelling at voters, stating that they did not live in the country and should not vote. Ironically, many of these challenged voters were off-duty Passaic City police officers. Angel Casabona, Jr. was one such challenged police officer who avoided confrontation and properly came to Passaic City Hall to have his voting status clarified. Escorted by the City Clerk and investigators from the prosecutor's office, Mr. Casabona reentered the polling site and was permitted to exercise his vote. The brazen challenger was reprimanded and board workers were reminded that challengers should not be interacting with voters. [FN48]

The most disturbing incident of the June 26, 2001 municipal primary election occurred at the polling place at St. Mary's School in Passaic. Someone allegedly stole the flag from outside the polling place. The police were called. An officer responded and caught the purported perpetrator. The Officer entered the polling place and asked who had called the police. No one responded. The officer barked comments in substance to the poll workers as follows, "Can't you read? What country do you come from?" When a municipal worker of Indian origin came to see what the problem was, the officer then asked, "And what country do you come from?" When a Latino federal observer tried to explain the dictates of the consent decree, the officer asked for credentials. When the observer showed his credentials, the officer found them inadequate because they lacked a picture and detained the observer. The Officer told the observer, "I could arrest you for this." Upon being alerted to the controversy, I asked investigators from the Passaic County Prosecutors Office and Deputy Chief of the Passaic County Police Department to intercede. When a Sergeant from the Passaic Police department responded at the scene and learned what had happened, he apologized to the federal observer and told him he thought some sensitivity training might be in order for the officer. Notably, this discriminatory behavior took place in a city where the Latino population is at 62 percent. Intolerance in the city is still existent and hiding under color of official right. [FN49]

The use of English rather than Chinese in polling places in Chinese neighborhoods of San Francisco and Oakland (Alameda County), California, and New York City left voters confused about procedures, and ignorant of ballot propositions and contested offices. As was noted in the Settlement Agreement and Order in U.S. v. Alameda County:

***414** According to the 1990 Census, the population of Alameda County includes 68,184 Chinese Americans and 30,120 Chinese American citizens of voting age. The 1990 Census reports that 11,394 persons, or 37.83 percent of the Chinese citizen voting age population in Alameda County, and 1.3 percent of the total citizen voting age population in Alameda County do not speak English well enough to participate effectively in English language elections. Thus, over 11,000 Chinese American citizens in Alameda County cannot function effectively in the electoral process except in the Chinese language. [FN50]

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Problems were also severe in Native-American areas of Arizona, New Mexico and Utah. The problems faced by Native-Americans in these areas are illustrated in Cibola County, New Mexico, which contains the Ramah Chapter of the Navajo Reservation and the Acoma and Laguna Pueblos. The Stipulation and Order in U.S. v. Cibola County [FN51] states that:

5. According to the 1990 Census, 57.8 percent of the Navajo voting age population and 18.1 percent of the Pueblo voting age population in Cibola County do not speak English well enough to participate effectively in English language elections. Thus, a significant proportion of the Native-American population of Cibola County, and a significant majority of Navajos, cannot function in the electoral process except in the Navajo or Keresan languages. [FN52]

6. The Navajo and Keres populations of Cibola County live in circumstances of significant isolation from the non-Native-American populations of the county. Cibola County is unusually large in physical terms and covers a geographic area roughly the size of the State of Connecticut. Over four-fifths of the non-Native-American population lives clustered within or near the adjacent incorporated communities of Grants and Milan, close to the county courthouse. The Acoma and Laguna population centers are between 25 and 50 miles away from Grants, the county seat, while the Ramah Chapter House is approximately 50 miles from Grants. The isolation of the Native-American population of Cibola County burdens their access to the franchise.

8. Native-American citizens living within Cibola County, suffer from a history of discrimination touching their right to register, to vote, and otherwise to participate in the political process. Until 1948, Native-American citizens of New Mexico were not permitted to vote in state and local elections. [FN53] In 1984, the court in Sanchez v. King held that the New Mexico state legislative redistricting plan discriminated against Native-Americans. [FN54]

9. The level of political participation by Native-American citizens of Cibola County is depressed. Voter registration rates in the ***415** predominantly Native-American precincts have been less than half the rate in non-Native-American precincts, and Native-Americans are affected disproportionately by voter purge procedures. Although Native-Americans comprise over 38 percent of the county population, fewer than eight percent of all absentee ballots have been from the predominantly Native-American precincts. There is a need for election information in the Navajo and Keresan languages, and a need for publicity concerning all phases of the election process for voters in Ramah, Acoma and Laguna. The rate of participation by Native-Americans on such issues is less than one third of the participation rate among non-Native-Americans. There is a need for polling places staffed with trained translators conveniently situated for the Native-American population. [FN55]

The remedy for this unlawful disparity is complicated by the facts that (1) the Navajo and Pueblo languages are oral, not written, and (2) there are no equivalent terms in the Navajo and Pueblo languages for many words and phrases in the election process.

Native-American polling place workers in reservation precincts faced a more difficult task than white poll workers in getting to the training session for poll workers that were held many miles away in county seats where most white people lived. At the training sessions Native-American poll workers were given little or no instruction about how to translate ballots and propositions, and many of their attempts to do so on election day resulted in the most rudimentary references. For example, poll workers assisting voters at the polls would refer to the office of secretary of state as someone who works in the state capitol, and bond levies for education were said simply to be increases in taxes. Many times the Native-American poll workers found it so difficult to figure out how to explain items on the ballot they just instructed the voters to skip the offices or propositions. Moreover, Native-American voters who had been purged from the voter rolls because they failed to respond to written notices they either did not receive [FN56] or did not understand, were turned away from the polls with no explanation of why they were not able to vote, and were given no opportunity to re-register there. [FN57]

***416** III. How To Find Out Where Unjust or Discriminatory Poll Procedures Will Happen: The Federal Observer Model

A. The Three-Step Pre-election Investigation

The task of assuring compliance by polling place workers with appropriate polling place procedures requires (1) knowledge of what is happening in the polling places, and (2) the authority to correct actions that are in violation of the prescribed procedures. For over thirty-five years the DOJ has determined, before each election, what will happen in specific polling places in particular counties in states far from Washington, D.C. Based on this information DOJ determined at which polling places discriminatory activity would take place, and the exact number of federal observers needed at each particular polling place, from among the hundreds of counties in the sixteen states that are fully or partially covered under Section 4 of the Voting Rights Act, [FN58] and the ten additional jurisdictions in other states that have been and remain certified by courts

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under Section 3 of the Act. [FN59]

This DOJ effort, known as a pre-election survey, is conducted by the Voting Section of DOJ's Civil Rights Division. Pre-election surveys began right after the Voting Rights Act was enacted, as a tool for determining where and how many federal observers would need to be assigned under Section 8 of the Voting Rights Act. Through the years the pre-election surveys have remained relatively unchanged for determining where racially discriminatory actions (as contrasted with language-based difficulties) would occur in the polling places of the deep south. This process is instructive on a broad level because it can be used, with variations, by states throughout the country to determine, prior to election day, where problems will occur on election day in polling places across the state.

The DOJ focus during the pre-election surveys is to find circumstances that are likely to lead to actions that will disadvantage voters in the polls on election day. To allow black voters to vote without interference in the South, the Voting Section focuses on counties where black candidates are facing white candidates, especially where political control of the governing body is at stake. Those are the circumstances where experience has shown that ***417** polling place workers are more apt to take actions that deprive African-Americans of their right to vote. Moreover, the inclination of polling place workers to take discriminatory action against African-American voters is more likely when the black candidates have a real chance of beating white opponents. (For concerns about other kinds of problems at the polls, the pre-election survey would focus on the facts and antipathies relating to those problems).

The surveys begin about six weeks before the election, which is a time when candidate qualifying has been completed and campaigning has been in progress. The Voting Section contacts county election directors to determine a number of facts, including the name and race of the candidates, the office each is contesting, which candidates are incumbents, the county's procedures for appointing polling place workers, and the county's procedures for responding to problems that arise on election day. Telephone calls are also made to African-American people in each county who are familiar with the way elections have been conducted in the county during recent elections, who know who the candidates are and how the candidates have been conducting their campaigns, and who are knowledgeable about relationships between the races in the county and whether there have been any recent racial incidents in the county.

Often, on-site information is necessary to decide whether federal observers are needed. Voting Section attorneys then travel to the counties where the facts show that poll workers will make it difficult for black voters to cast their ballots for the candidates of their choice. The attorneys interview the county election officials, the county sheriff (or chief of police, if a city election is in issue), African-American county residents, including people associated with community and civil rights organizations, and candidates. Thus, the attorneys get sufficient information to make their recommendation to Voting Section supervisors as to whether federal observers should be assigned for the election, and, if so, the number and placement of federal observers that will be needed on election day. [FN60] The polling places that are selected for the assignment of observers are those at which (1) the facts show that African-American voters are likely to be mistreated or misled on election day, and where (2) the county has no effective way to either know what is happening in the polls, or for responding to problems that occur at the polls, or both.

During the pre-election surveys the Voting Section supervising attorney talks frequently with the Voting Rights Coordinator at the Office of Personnel Management ("OPM") who recruits and supervises the people who serve as observers. [FN61] Thus, OPM is aware of the identity of the counties ***418** that are the subject of field investigations, and of the recommendations of the attorneys for the assignments, numbers and poll locations of federal observers. Because of the ongoing coordination between the Voting Section and OPM, the federal observers are chosen by OPM and are ready to depart for their assigned location the moment a final decision is made by the Assistant Attorney General for Civil Rights as to the numbers and placement of the observers. [FN62]

B. Federal Observers on Election Day

The pre-election process not only gives DOJ information it needs to determine where and how many federal observers will be needed on election day, it puts DOJ lawyers in contact with county election officials before the election, and the DOJ lawyers inform the county officials of the problems that DOJ found may occur in the county's polls on election day. This contact continues during the election, as the DOJ lawyers provide the county election officials with information the lawyers get from the observers.

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The observers are briefed by DOJ attorneys and the observer captain on the day before the election. The observers have pre-printed forms on which to record the activity in the polls. Observers often attend the ballot count and record the number of votes received by each candidate. A federal observer report form can be found at Appendix E.

During election day an observer supervisor repeatedly visits the polling places where federal observers are stationed. This supervisor remains in constant telephone contact with the DOJ attorney in the county. This gives the DOJ attorney in the county a constant flow of information throughout the day about activities that transpire inside the polls. [FN63] When the federal ***419** observers inform the DOJ attorney of actions of polling place officials that the attorney concludes are interfering with the voting rights of African-Americans, the DOJ attorney gives the facts to the local official in charge of the election to stop the discriminatory activity. Local officials may also use this information after the election to take steps to prevent the incidents from happening again.

Similar steps are taken on election day when federal observers are used to determine compliance with the language minority provisions of the Voting Rights Act. The pre-election preparation is different, however becauseau inability or lack of desire of poll workers to provide information to non-English speaking voters does not usually depend on the identity of the candidates or the issues involved in a particular election. The information obtained in one election about language minority procedures will determine whether federal observers are needed in the next election. [FN64]

The reports of federal observers have primary emphasis on the language aspects of polling place procedures and the actions of polling place workers. [FN65] A federal observer report form used for language minority elections can be found at Appendix F. Usually, it is neither required that the observers arrive at the opening of the polls, nor that they stay all day. The goal is to have the observers attend the polls long enough to witness a number of minority language voters go through the voting process. This will give the observers sufficient facts to allow the DOJ attorneys to analyze the county's compliance with the law.

We should emphasize that federal observers do not interfere with the election process. Their limited function, to pass along information to their OPM supervisors and the DOJ attorneys, is in accord with the dictates of Section 8 of the Voting Rights Act. [FN66] The observers must not give instructions to poll workers, must not give help to voters, and must not share their observations, judgments or opinions with individuals in the polls. They are eyes and ears. They are paid witnesses.

IV. Requiring Counties to do Their Job

In its enforcement of all federal civil rights laws the DOJ attempts to obtain voluntary compliance from prospective defendants. This has been especially true when enforcing the Voting Rights Act because the prospective defendants are officials of state and local governments.

***420** From the beginning of DOJ's enforcement of the Voting Rights Act, DOJ lawyers personally conducted investigations in each county before examiners or observers were assigned and regularly checked on the progress of examiners while voter registration was conducted. On election day, a DOJ attorney continues to be present in each county to which federal observers are assigned. The DOJ attorney obtains information from the observers during election day and debriefs the observers immediately after the election. During their presence in the counties, the DOJ lawyers have continuous contact with county officials to give them the information gained from their pre-election investigation in the county and from the federal observers. Those local officials have the opportunity to instruct the head worker at the polling place to follow the appropriate procedures. The federal observers inside the polling place witness the cessation of the discriminatory action, or if the discriminatory action continues, the DOJ lawyer again brings the information from the observers to the attention of the county election official to attempt to get corrective action. Thus, federal observers gather evidence of discriminatory activities in the polling place for future legal action, and serve to eliminate discriminatory action on the spot. At times, the mere presence of federal observers at the polls simply prevents the tendency of polling place workers to discriminate against minority voters.

A. Court-ordered Remedies Require Counties To Do Their Job in the South

Some compulsive action is needed when county election administrators do not address outstanding problems in the polls, and do not follow proper election day procedures. A primary reason for the mistreatment of African-American voters was and continues to be the failure of local election officials to appoint African-Americans as polling place workers. The evidence of mistreatment that this discriminatory policy had on African-American voters provided a firm basis for court

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orders requiring defendants to take specific steps to recruit and hire African-Americans to work in the polls. One good example of this result is the consent decree in U.S. v. Conecuh County. [FN67] The decree required the defendant political party executive committees (responsible for nominating people to serve as poll workers) to "engage in affirmative recruitment efforts aimed at ensuring that the pool of persons from which nominations are made fully reflects the availability of all qualified persons in Conecuh County who are interested in serving as election officials, without regard to their race or color." [FN68]

Those recruitment efforts were required to include encouraging candidates to "seek out and propose for nomination black citizens," and sending notices to local organizations comprised predominantly of black citizens . . . to advise them that the party intends to nominate persons to serve as election officials and encourage them to have interested persons notify the chairperson of the respective political party executive committee ***421** of their willingness to serve as election officials." [FN69]

A 1993 consent order in U.S. v. Johnson County stated that:

1. According to the 1990 Census, the total population in Johnson County is 34 percent black and the total voting age population is 29.2 percent black.

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7. Of the one hundred thirty one individuals who were employed by Johnson County to serve as poll officials between 1988 and August 1992, eighteen (14%) were black. There were no black poll workers during this period at seven of the twelve polling places.
8. Only eight (12%) of the sixty-six poll officials employed by Johnson County for the July 21, 1992 primary election were black. There were no black poll workers at eight of the twelve polling places.
9. Of the one hundred and six poll officials employed by Johnson County for the November 3, 1992 general election, only sixteen (15%) were black. There were no black poll workers at six of the twelve polling places.
10. No black person has ever served as a managing poll officer or an assistant managing poll officer at any of the county's polling places. [FN70]

Included in the Johnson County consent decree among the steps the defendant county commission and supervisor of election must take to have African-Americans fairly represented among the polling place workers are, "[s]ending written notices to local organizations comprised predominantly of black citizens . . . to advise them that the county intends to appoint black persons to serve as poll workers and poll managers;" and "[c]ontacting black candidates and members of the political parties . . . to ascertain the names, addresses and telephone numbers of black citizens who are qualified and available to serve as poll officers." [FN71] In addition, the defendants must publicize in local newspapers, on radio, on television and on posters their policy of conducting elections free of racial discrimination. They also must train the poll workers on how to perform their duties in a racially nondiscriminatory manner, and, with specificity, on how to deal with voters who need assistance.

Even with the specific steps set out in the fifteen page Johnson County consent decree, the reports of federal observers showed that African-American citizens of Johnson County were continuing to be excluded from among the ranks of those appointed to work at the polls because the supervisor of elections did not adhere to the terms of the decree. After further discussions between the county and DOJ, in lieu of DOJ pursuing contempt of court proceedings the county appointed a bi-racial committee ***422** formed of county residents to perform the preliminary poll worker recruitment and nomination functions previously performed by the election supervisor, leaving her with her statutory duty of formally appointing the poll workers. [FN72] As a result, African-Americans were fairly appointed among those who worked at the polls, and discrimination against African-American voters at the polls abated in Johnson County, Georgia, in immediately subsequent elections.

Both the Conecuh County and Johnson County cases show how information gathered by observers can serve as the evidentiary basis for litigation, how particular individuals at the county level can persist in discriminatory procedures despite state law and federal litigation, and how the identity and training of the people working inside the polling places is of primary importance in eliminating injustice from the polls. It should be remembered that in both instances the DOJ lawyers first shared their information with state and local election officials in an attempt to allow those officials to eliminate the discriminatory treatment of voters. These efforts provided the election officials with something they could obtain by themselves, i.e., information about what went wrong in their polls. The need for the resulting litigation demonstrated that

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those officials were not willing to stop the discriminatory conduct.

B. Court-ordered Remedies Require Counties To Do Their Jobs for Language Minorities

Even after the Voting Rights Act was amended in 1975 to require that areas designated under a formula must provide information and ballots in languages other than English, inadequate training of polling place workers continued to disadvantage minority language voters. The reports of federal observers gave the attorneys from the Department of Justice the information they needed to prove to county officials that violations of the Voting Rights Act had occurred, and to obtain consent decrees that set out specific steps that the counties would take to effectively provide and translate election information to Native-American citizens.

Most of the consent decrees to cure discriminatory actions in Indian country under the language minority provisions of Section 203 of the Voting Rights Act [FN73] set out in detail the procedures that election officials had to follow for voter education, voter registration, translation and balloting. [FN74] It is significant that the great majority of the provisions in the consent decrees focused on the counties' administrative responsibilities, including hiring ***423** additional county personnel, to try to give Native-American voters equivalent access to information about an election and voting procedures as white people received as a matter of course, because all information was provided in English and in areas near the county seats.

Thus, the Stipulation and Order in U.S. v. Cibola County is forty-four pages long, thirty-three pages of which is a Native-American Election Information Program. [FN75] This program provides that, "Cibola County shall employ at least three Native-American Voting Rights Coordinators who will coordinate the Native-American Election Information Program in Cibola County . . ." These coordinators have to be bilingual in either Navajo or Keres and English, they are to be hired only after the county consults with the tribes, they are to be trained in all aspects of the election process, they are to attend and make presentations at chapter and tribal council meetings, and perform numerous, specifically described functions that would provide election information to the Native-American citizens of Cibola County.

It was and remains difficult, however, to compel obdurate county clerks and other county election administrators to perform the myriad election-connected functions in a way that meets the requirements of the court orders. These cases argue persuasively for continuing the practice of seeking detailed court orders that can be enforced through contempt proceedings. [FN76]

An alternative approach was taken in a consent decree between DOJ and Bernalillo County, New Mexico, where the court order was accompanied by, but did not incorporate, a manual containing procedures to be followed in order to comply with the language minority requirements of the Voting Rights Act. [FN77] The consent decree required that the county hire a native language coordinator who is bilingual in Navajo and English, and specifically noted that, "[t]he primary responsibility of the [native language coordinator], a full-time employee of Bernalillo County, shall be to carry out the county's Navajo language election procedures, publicity and assistance, including assisting the county to carry out the procedures in the manual . . ." [FN78] The consent decree also required the county to establish a travel, supply, and telephone call budget for the native language coordinator, [FN79] and subjected the county to the preclearance provision in Section 3(c) of the Voting Rights ***424** Act, [FN80] which allows the county to make changes in the manual and for DOJ to review those changes to determine that they are nondiscriminatory before they can be implemented. [FN81] This approach has the benefit of allowing the county to tailor its administrative procedures to its particular personnel and office situation, and of allowing practical changes to be made in the administrative procedures when necessary without having to request the three-judge court for an amendment to the court order.

V. State Laws Governing Irregularities, Interference and Intimidation At Polling Places

Each state has established laws and regulations that govern the conduct of elections within the state. These include laws establishing the location of polling places, conduct of elections, methods of getting on the ballot, composition and printing of the ballot, appointment of officials overseeing the conduct of the election, selection and training of poll workers, qualifications of voters, and absentee voting. Many of these laws were intended to ensure that voters may freely exercise their right to vote.

A. Poll Watchers

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Most state laws give the candidate or political parties the power to observe behavior in the polling places. These are the people who choose the polling place watchers, and they have the power to refuse to rehire watchers who do not properly apply state polling place procedures. Thus, the law of New York says:

At any general, special, town or village election, any party committee or independent body whose candidates are upon the ballot, and at any primary election, any two or more candidates and any political committee may have for each election district three watchers at any one time . . . . Watchers shall be appointed by the chairman of any such party, committee or independent body or by the candidates. [FN82] Similarly, Utah law says:

For each regular general election or statewide special election, and for each regular primary . . . each registered political party and any person interested in a ballot proposition appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of the ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages. [FN83] ***425** Though poll watchers are on hand during elections, state laws do not routinely give state-level officials the authority to take action, apart from the authority to prosecute officials for malfeasance, if county or municipal election officials refuse to take steps that will assure fair treatment of voters at the polls. At most, state level officials are empowered to gain information about activity in the polling place that can serve as the basis for action after the election.

B. Prohibiting Intimidation and Interference

In addition to prescribing routine election procedures, most states have laws that prohibit intimidation of voters or interference with their ability to freely exercise their right to vote. Some state laws have broad prohibitions against interference with or intimidation of voters at any time. Other states only prevent interference with or intimidation of voters in entering and exiting the polling place. Others only prohibit interference with election officials in the exercise of their duties and are silent with respect to voter intimidation. [FN84] While penalties for violations of most voter intimidation statutes are misdemeanors under state laws, some are felonies. [FN85]

In addition to providing criminal penalties, a few states have created other statutory means for dealing with voter intimidation, such as creating special civil causes of action or providing special remedies such as invalidation of elections. For example, Tennessee Code Annotated Section 2-3-308 allows invalidation of an election based on violation of statutory provisions against intimidation. [FN86] Delaware law creates a specific civil cause of action for those who are victims of intimidation or attempted intimidation. [FN87]

***426** While most states have at least some statutes designed to protect voters from interference or intimidation, only a few state laws provide specific statutory means for dealing with voter intimidation or interference while it is happening. For example, Nebraska and Washington allow certain specified officials to take actions, including arrest, to clear entrances and exits from polling places when obstructed. [FN88]

South Carolina and Virginia specifically confer special authority on election officials to take action to enforce state laws against voter intimidation or interference of a broader nature than physically blocking access to polling places. South Carolina law grants police powers to managers of elections. [FN89] Virginia law permits election officers to order the arrest of persons under certain circumstances. [FN90] Wisconsin law requires municipal clerks and election inspectors to prevent interference with voters at the polls, but does not provide how they are to do so. [FN91] These state provisions are unusual in that they specifically authorize election officials to take action to stop voter intimidation or interference at the time they occur.

While very few states allow intervention at the polling place, there are some states that provide a mechanism for gathering information after bad things at polling places occur, similar to those mechanisms under the federal civil rights laws. Take the laws of Illinois and Georgia, for example, which permit an official in the Secretary of State's or Attorney General's office or the appropriate county's district attorney's office to take direct action regarding activity that occurs in the polling places, but only after the action has occurred. In Illinois, the State Board of Elections may review and inspect procedures and records relating to the conduct of elections and voter registration as may be deemed necessary, and report violations of elections laws to the appropriate State's Attorney. [FN92] In Georgia:

***427** It shall be the duty of the State Election Board . . . to investigate, or authorize the Secretary of State to investigate, when necessary or advisable, the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution . . . . [FN93]

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History, however, is not on the side of broadening the investigation powers of state actors. For, historically, state actors have been part of the problem at polling places and not the solution. This is especially a dilemma in legislating against voter intimidation and interference.

C. Law Enforcement--Problem or Solution

There are state laws that recognize this problem and specifically prohibit law enforcement officials from engaging in intimidation or appearing within a certain distance of polling places. Pennsylvania law provides that: "In no event may any police officer unlawfully use or practice any intimidation, threats, force or violence nor, in any manner, unduly influence or overawe any elector or prevent him from voting or restrain his freedom of choice, nor may any such police officer electioneer or directly or indirectly attempt to influence the election or electors while within one hundred feet of a polling place." [FN94] South Carolina limits the presence of police officers only to those summoned by election managers to enforce their orders. "No sheriff, deputy sheriff, policeman or other officers shall be allowed to come within the polling place except to vote unless summoned into it by a majority of the managers." [FN95] There are other states that, while not prohibiting law enforcement officers from being present at polling places, specifically prohibit acting under color of authority to intimidate or interfere with voters. [FN96]

VI. Problems That Allegedly Occurred in Polling Places On Election Day November 7, 2000

Determination of the optimum means of ensuring the right of all citizens to freely cast their votes without interference or intimidation depends on the ability to identify what the problems are and fashion an appropriate remedy. Some problems can be dealt with on election day at the polling place, while others may require investigation and action after the fact. But the key is to establish appropriate systems to gather the information as has been done at the federal level in places covered by the Voting Rights Act.

The 2000 presidential election focused perhaps the greatest attention ***428** ever on the election process in the United States. Numerous organizations conducted investigations and issued reports on what happened at the polls on November 7, 2000. [FN97] Some of these inquiries were broader than a review of what happened in Florida. While historically there has been some public awareness of problems at the polls in the United States, many members of the public were shocked to discover that, in fact, every ballot cast for president is not necessarily counted and that problems at the polls are not limited to certain areas of the country where there are minority groups. In the past, to the extent that there has been publicity regarding polling place problems, that publicity has been primarily due to actions taken by the Department of Justice in enforcing the Voting Rights Act. Thus, many people believed that election day irregularities were limited only to particular areas of the country and that these irregularities were largely a thing of the past. As a result of the focus on the 2000 presidential election, however, there is a more general awareness that polling problems are far more prevalent and widespread.

For years, in addition to local poll watchers, both the Republican and ***429** Democratic parties have conducted election day operations during which attorneys and political operatives across the country have monitored actions in the polls on election day, and, in the case of recounts, throughout the recount process, sometimes for weeks after the election. In 2000, this activity extended well beyond election day. While the DOJ focus on election day is to gather information to conduct investigations for future action and to address problems that arise on election day, the parties' election day operations have been more focused on identifying problems that could potentially be solved during the election day. [FN98] As part of this operation, the parties maintain phone lines that receive and centralize reporting of election day irregularities. Normally, this operation is over when the polls close in the last state. [FN99] In 2000, however, that was only the beginning. On the day after the election, reports of election day irregularities came flooding into the Democratic National Committee and the Gore/Lieberman campaign. [FN100] Special phone lines were set up to receive these calls and obtain contact information. Several days later, teams of attorneys were set up in Florida to contact complainants and gather and organize the allegations of irregularities. Some of this information was used in the various lawsuits that were brought in Florida.

Despite the numerous organizations that conducted reviews of election day 2000, those reviews resulted in reports, not action. While the Justice Department may have investigated specific allegations, there has been no public comprehensive official investigation into most of the alleged irregularities. Therefore, it is impossible to determine how many of the allegations were meritorious. For purposes of this article, however, it is not necessary to know. There is now a widespread perception that election irregularities do occur in this country--including some beyond the types of problems addressed by the

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Voting Rights Act. A review of the types of allegations made in 2000 is helpful to an understanding of what steps states can take to restore public confidence in the electoral system.

In 2000 some of the allegations of irregularities were known on election day and others were not discovered until after that day. In the case of some election day allegations, there were opportunities to take steps to attempt to correct them before the polls closed. Following is a summary of the types of allegations of irregularities made and some specific examples of each.

A. Ballot Design Irregularities

Poor layout of a ballot can result in voter confusion. Perhaps the most ***430** prominent allegation of flawed ballot design is the now infamous "butterfly ballot" in Palm Beach County Florida. The design of the ballot was such that many people were uncertain which hole to punch for the candidate of their choice. In some instances voters punched more than one hole for president (known as an "overvote"). In other instances, voters believed that they might have punched the wrong hole. When this issue was publicized, there was a concern that many people who intended to vote for Al Gore, in fact cast votes for Pat Buchanan. As a result of this confusion, there were also allegations that voters who were confused or thought that they had miscast their vote were denied an opportunity to discard that ballot and vote a new ballot, even though Florida state law provided that remedy.

Party officials were aware on election day of the alleged confusion caused by the butterfly ballot. Palm Beach county officials were contacted and in some instances, signs were posted in polling places advising people of this confusion and urging that they review their ballot carefully. Information was also put out through radio stations advising of the confusion and attempting to alert voters who had not yet gone to the polls. For some voters, of course, it was too late. This led to numerous calls from individuals who were afraid that they might have voted for the wrong person, seeking advice as to what they could do once they left the polls.

B. Very Long Lines at the Polls

There were numerous complaints on election day that lines, particularly in minority polling places, were excessively long. Long lines allegedly discourage some voters, particularly those who must take off time from work to vote and those whose employers do not readily provide leave for voting. There were allegations that some people who saw the lines in various polling places became discouraged and left without casting votes.

There were also allegations of confusion regarding the rules on voting after the polls close. Most states provide that any voter in line at the time of poll closing is entitled to vote. There were allegations, however, that people waiting in line outside polling places were told that they might as well leave because they would not be allowed to vote even though they were in line at the time of closing.

In one state, a lawsuit was brought on election day seeking to keep the polls open late because it was alleged that long lines caused by inadequate numbers of polling places and voting machines, and machine breakdowns, would result in the de facto denial of the right of many voters to vote. A Circuit Court Judge of the Circuit Court of the City of St. Louis ordered that the Board of Elections extend the hours of voting, but that order was overturned later that day on appeal to the Missouri Court of Appeals. [FN101]

***431** C. Inadequate Parking Facilities and Lack of Public Transportation

There were allegations that many sites selected for polling places were not easily accessible by public transportation or had inadequate parking available. These allegations were made in Florida as well as other states. Since people sitting in their cars were not in line at the polls, they would not be eligible to vote after normal poll closing times even though they were waiting in the parking lot to find a parking space. Lack of access to public transportation also can cause hardship for voters, particularly for those who must take time off from work. A lengthy commute to the polls or a long walk from public transportation can discourage people from voting.

While, in the absence of an investigation, there was no evidence that most parking and transportations problems were malicious, there were some allegations that local law enforcement authorities directed cars to places where there was no parking available and sought to vigorously enforce no parking zones around polling places even where it was clear that the

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polling place had inadequate parking facilities available. These types of allegations are ones that can potentially be remedied on election day, if local observers are made aware and know how to intervene with state and local officials to attempt to solve the parking problems.

D. Motor Voter Problems

There were numerous allegations from across the country that voters who had registered under the National Voter Registration Act showed up at their polling place and were not on the rolls. Under the NVRA, state agencies that obtain voter registrations are required to forward them to the appropriate authorities. These allegations are ones that the Department of Justice typically investigates after the election is over to determine whether there were widespread systemic problems or neglect by the state agencies charged with implementing the law.

E. Interference by Law Enforcement Officials

Presence of state and local law enforcement officers can have a negative impact on turnout and can intimidate legitimate voters. There were allegations in various parts of the country that officers set up road blocks outside polling places to perform random seat belt, drivers license and car registration checks; that officers stood outside polling places with lists of outstanding warrants looking for suspects; and that officers stood outside polls suggesting that voters needed to be able to prove their eligibility to vote by producing some type of identification. These types of allegations can be brought to the attention of state and local authorities who have the ability to intervene during election day and stop any unauthorized activity under color of law. Some such allegations were made in Florida on election day and were investigated by state officials. [FN102]

***432** F. Integrity of Ballot Boxes

In most states, ballot boxes (or the equivalent depending on the system used) are collected at the local level and are transported to central locations for tabulation. The integrity of the count depends heavily on the security of those boxes. There were allegations across the country that ballot boxes were missing; that they were found later but their chain of custody could not be determined; that ballot boxes were left in unsecured areas to which there was unrestricted access; and that the number of ballots counted did not correspond to the number of voters voting. Of course, these types of allegations are not new, nor do they come primarily from Florida. Our popular culture has longstanding jokes about people voting from the grave, living in vacant lots and stuffing ballot boxes from the upper midwest to the Deep South going back to the earliest days of our democracy. However, the accuracy of the vote counted depends on the integrity of the system of guarding and accounting for those votes, and while jokes are made about the past, ballot-counting shenanigans are unacceptable in the 21st century.

G. Lack of Training of Poll Workers

Our system of voting depends heavily on the use of volunteers across the country. While elections are managed under the auspices of state and local boards of elections, in most jurisdictions the polling places themselves are run virtually exclusively by volunteers. There were numerous allegations in 2000 that polling place officials refused to answer questions from confused voters; told voters that there was nothing they could do if they made a mistake in casting their ballots; did not allow voters to access a sample ballot or machine; and did not allow voters to have assistance to which they are entitled under federal law. While it is possible that some of these allegations involved the deliberate giving of incorrect information, it is far more likely that the majority of these problems were caused not by malice of poll workers but because of lack of training and supervision.

H. Absentee Voting Irregularities

Absentee voting problems arose with respect to regular routine absent ballots as well as with the unique problem of military overseas ballots. There were allegations that voters who requested absentee ballots received more than one; that voters who requested absentee ballots but did not receive them were not allowed to vote when they showed up at the polls; that partisan representatives of political parties were allowed by local election officials to complete incompletely filled out absentee ballot envelopes; that absentee ballots were obtained on behalf of nursing home inhabitants that were then voted with the assistance of partisan local officials; and that absentee ballots not properly filled out were counted in some jurisdictions and disallowed

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in others.

***433** In Florida, there was a particular issue with vast numbers of overseas military ballots. Under the terms of a consent decree with the Department of Justice, in Federal elections overseas military ballots must be counted if dated by the date of the election and received within a specified time period. [FN103] There were allegations after the election in Florida in particular that military ballots were counted even though they did not meet the technical requirements, such as the requirement that they be dated.

I. Accuracy of Tabulation and Uniform Standards

As a result of the recount in Florida in 2000, numerous articles and studies have now been written about the relative merits of different types of voting equipment. Accuracy issues are of two kinds: (1) whether the equipment accurately record and read the votes cast by each voter; and (2) whether the equipment correctly tabulate the votes cast. The Florida recounts focused attention on the differences between types of voting machines, their accuracy and the number of ballots routinely disqualified. Prior to the Florida recount it was not widely understood by the public that in any election there are numerous ballots that are disqualified and not counted in precincts across the country. Of course, in an election that is not close, disqualified ballots would not change the outcome of the election and, therefore, are of little concern. In a close election, they could. [FN104] Much of the legislative interest post November 2000 has been on ensuring that state and local governments obtain voting equipment that records accurately as many votes as possible and is as immune as possible from human error. The American public has now become familiar with overvotes, undervotes and other terms that previously were not household words.

In addition to machine failure or inability to accurately read votes cast, the aftermath of election 2000 also drew attention to the lack of uniform standards for counting votes. The Florida pregnant-chad/dimpled-chad debate illustrated the divergent standards (or lack of standards) applied from one precinct to another even within the same state.

J. Bush v. Gore

The opinion of the Supreme Court in Bush v. Gore, [FN105] suggests that states must develop uniform standards for fear of running afoul of equal protection under the Federal Constitution. The per curiam opinion of the Court stated that the Equal Protection Clause of the Fourteenth Amendment applies not only to the granting of the right to vote but also to the manner in ***434** which the right to vote is exercised:

The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another. [FN106]

While the full significance of Bush v. Gore for state administration of elections will evolve over the next few election cycles, it is clear that more attention must be given on a statewide level to the conduct of elections at the local level. The per curiam opinion notes that the question of whether local entities within a State may develop different systems for implementing elections was not at issue in the case. [FN107] However, the Court's equal protection analysis suggests that where state officials confer authority on local officials the state may have a greater burden to ensure the equal application of its laws to voters. [FN108] It may no longer be sufficient to entrust local officials with the same level of discretion they have exercised in the past.

VII. States Should Act Now to Stop Bad Things from Happening to Voters in the Polls.

The states have the authority to regulate activity that is permitted in the polling places on election day, including regulations as to who is allowed in the polls, and to adopt rules to keep order in the polls. As noted above, nearly all of the states have used this authority to pass laws that proscribe vote fraud, and several states have laws that proscribe untoward actions by poll officials or others that deny or abridge peoples' right to vote without intimidation or interference. But the states have delegated to the counties the responsibility for conducting the election and maintaining order in the polls, and by doing so, the states have abdicated their responsibility for preventing bad things from happening to voters in the polls on election day.

The history of injuring voters through administrative action, as reflected in the federal voting rights cases, was one of state malfeasance, in the first instance. Then, when the states' rules and actions were enjoined, the states adopted legislation

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leaving it up to the counties to take the arbitrary actions that deprived people of their right to vote. This pattern continues today, as counties continue to deprive people of their voting rights by misusing the responsibility delegated by the states to conduct elections.

Moreover, deprivations of voting rights today transcend the racially based actions that soil our nation's history. The episodes that came to light in the wake of the presidential election in November 2000, and the United States Supreme Court's analysis of unequal application of administrative rules as violations of the Equal Protection Clause in Bush v. Gore, illustrate ***435** that deprivations of voters' rights because of administrative malfeasance, disregard of the rules or a failure to apply rules equally to all voters and votes is unlawful. Since the states have the authority to set the rules for the conduct of elections, it is up to the states to remedy those deprivations.

The federal observer program as it is administered under the Voting Rights Act illustrates that government officials can design programs to anticipate where there will be an unequal application of state rules at the polls, and to direct remedies at those polling places where the problems are likely to occur. States can do likewise, and could devise even more effective programs to anticipate where voters may be deprived of their rights at the polls, given the states' closer proximity to their counties and more direct knowledge of the activities that occur during elections in the state. States already have much information about undervotes, overvotes and other instances where voters have been ineffective in casting their ballots, and can determine where voters are deprived of their rights at the polls. Once the identity of these polling places is established, state law should give state election officials the responsibility of contacting the county election officials to inform them of the nature of the problem at the polls and of the correct state election procedures. In instances where the county officials are unwilling or unable to take action to assure that the anticipated problems do not occur, state law should give state election directors authority to direct that correct procedures be used, and to use personnel directly responsible to the state officials in the polls in order to insure that state procedures are followed.

The Voting Rights Act does not give the federal observers or the U.S. Department of Justice authority to stop discriminatory action as it occurs. [FN109] But just the presence of disinterested third-party observers under the Voting Rights Act has the prophylactic effect of discouraging errant behavior in the polls, especially when those observers represent a government agency that is intent on ensuring correct behavior toward voters. The states can go much further, and confer on observers authority to inform polling place workers about correct state procedures, and to put state supervisory personnel in contact with county or polling place officials to direct them to follow state voting rules. If the Voting Section of the Department of Justice's Civil Rights Division can do such a fact-directed job from Washington, D.C. and can locate polling places where minority group voters are likely to be disadvantaged or at which there may be efforts to intimidate voters, surely the states, from a closer vantage point, with knowledge of their own procedures and familiarity with their own county election administrators, could do at least as effective a job. After all, the state rules are the ones that are to be followed, and it is their citizens and voters who will be victimized by their own officials.

If the states do not assume the responsibility for conducting effective ***436** elections when the counties fail to do so, then the United States Congress should consider whether federal civil rights voting laws should be expanded to include the deprivations of voting rights at the polls because of administrative malfeasance, disregard of the rules, or a failure to apply rules equally to all voters and votes. At the same time, Congress should consider similarly expanding the unquestionably successful federal observer program.

Such legislation could be constitutionally based on the Equal Protection Clause rationale of Bush v. Gore. There is precedent for this approach in the Voting Rights Act itself. The Act initially was based on the Fifteenth Amendment. The Fifteenth Amendment's protections apply only to deprivations of the right to vote on the grounds of race, color or previous condition of servitude. When the Voting Rights Act was amended in 1975 to prohibit discrimination against language minority groups, the amended provisions were based on the Fourteenth Amendment as well as the Fifteenth Amendment in order to eliminate possible challenges to the new provisions on the grounds that the protected minority language people would not be found to be racial groups. [FN110]

Conclusion

The continuous deprivation of voting rights faced by United States citizens at election polls, coupled with the notoriety of those problems following the November 2000 presidential election, make it incumbent upon the states to use their authority to regulate the election process. States should to adopt procedures for: (1) determining where voters will face obstacles when casting effective ballots at the polls, and (2) intercedding and remedying those obstacles in any county that fails or refuses to

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remedy them on its own. These procedures may follow the federal observer model or may a variation of other models. If states fail to discharge their responsibility, federal legislation should consider expanding the civil rights voting laws and the federal observer program in order to address such deprivation of voting rights.

Reform to correct voter discrimination has financial implications for the states, however. [FN111] For example, there is a widespread belief that voting technology across the country must be updated. This is costly, and federal action to provide funds is critical. But, even beyond the cost of voting machines, establishing an effective system for training election officials, monitoring elections and enforcing the laws will require a substantial commitment of resources by the states--a commitment they may be unable to make without federal financial assistance.

***437** Appendix A

NUMBER OF PERSONS LISTED BY FEDERAL EXAMINERS UNDER SECTION 7 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973e 1965-2000 [FN112]

State	Total People Listed	Non-white People Listed	White People Listed
Alabama [FN113]	66,539	61,239	5,300
Georgia [FN114]	3,557	3,541	16
Louisiana [FN115]	26,978	25,136	1,842
Mississippi [FN116]	70,448	67,685	2,763
South Carolina [FN117]	4,654	4,638	16
Total	172,176	162,239	9,937

***438** APPENDIX B ASSIGNMENT OF FEDERAL OBSERVERS UNDER SECTION 8 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973f BY YEAR AND STATE, 1966-2000 [FN119]
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***440** Appendix C

EXCERPTS FROM PLAINTIFF'S RESPONSE TO INERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS, U.S. v. Conecuh County [FN120]

A white voter waiting in line to vote stated to white poll official John P. Bewley that she was unable to obtain a yellow sample ballot distributed by the Alabama Democratic Conference. The black voter standing next in line had such a ballot. Mr. Bewley stated, "You ain't [sic] of the right color." During the same day, Mr. Bewley stated to federal observer Riddle, "See, the niggers bring in these yellow marked ballots. The nigger preachers run the niggers down here, you know. They tell them how to vote. I don't think that's right." [FN121]

Poll officials instructed white registered voters to confirm their registration status in the office of the Probate Judge. Black voters whose names were not on the list were in each instance simply told that they could not vote, and were given no instruction by poll officials. White voter Salter's name did not appear on the list, and Ms. Salter acknowledged that she resided in a rural precinct and not in box 11-1. Ms. Salter nevertheless was allowed to vote an unchallenged ballot directly on the machine. [FN122]

Ms. Lewis, who required assistance because of a vision problem, signed the poll list and stated that she wished for her companion (unidentified) to provide assistance in voting for her. White poll official Windham stated, "Can't nobody go in there with you." After a pause, Mr. Windham stated to Ms. Lewis, "you can fill out an affidavit and then she can go in with you. Can't you [read]?" Mr. Windham's tone and manner were sufficiently abrasive that Ms. Lewis left the voting place. Some moments later she was observed to remark to a companion, who was trying to persuade her to make another attempt to vote, "I've done had trouble with them twice before and I'm not begging them any more. I'm not scared but I'm not begging anybody." Ms. Lewis returned accompanied by Mr. Richard Rabb, at that time the Chair of the Conecuh county Branch of

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the Alabama Democratic Conference. Ms. Lewis was allowed to vote, and the poll officials provided necessary assistance with the affidavit. Ms. Lewis remained very upset and remarked, "Why couldn't they have let me vote to begin with?" [FN123]

Black voters at box 9-1 (Old Town) were told throughout the day of the October 12, 1982 special run-off election, that no more than two voters were allowed in the polling place at one time. This ***441** restriction was imposed on 30-35 occasions. In no instance were white voters required to conform to this procedure, and the poll officials allowed as many as five white voters in the polling place at a time. [FN124]

Ms. Stacey enforced the limitation on the amount of time a voter could spend in the booth in a random and discriminatory fashion. She enforced the limitation against black voters more frequently than against white voters. During the last hour of voting the requirement was applied exclusively against black persons. On at least two occasions she told black voters that their time had elapsed when, in fact, it had not. [FN125]

During the course of the day, poll officials addressed all black voters by their first names. Older white voters were addressed by the courtesy titles of Mr. and Ms. [FN126]

White poll official James Ellis initiated new procedures for assistance of black voters. Without notice to any person, Mr. Ellis required assistors accompanying voters into the polling place to remain 30 feet outside the polls until Mr. Ellis had finished interviewing the voter and summoned the assistor. [FN127]

Poll officials who assisted black voters did not read the ballot to the voters or otherwise advice the voters of the contests and the candidates. They simply asked the voters, "Who do you want to vote for?

*****

Poll official Lois Stacey marked the ballot for a voter she was assisting in contests in which the voter did not express a preference.

*****

Poll officials frequently served as assistors without asking voters receiving assistance who they wanted to assist them. On a number of occasions, poll officials serving as assistors did not read the complete ballot to the voters. [FN128]

***442** Appendix D

JURISTICTIONS CURRENTLY CERTIFIED FOR FEDERAL EXAMINERS UNDER SECTION 3(A) OF THE VOTING RIGHTS ACT [FN129]

State	Jurisdiction	Term of certification
Illinois	Town of Cicero	October 23, 2000 order, effective until December 31, 2005.
Louisiana	St. Landry Parish	December 5, 1979 order, effective "until further order of the court."
Michigan	City of Hamtramck	August 7, 2000 order, effective until December 31, 2003.
New Jersey	Passaic County	June 2, 1999 order, effective until December 31, 2003
New Mexico	Bernalillo County	April 27, 1998 order, effective until June 30, 2003.
	Cibola County	April 21, 1994 order, effective until April 21, 2004 (originally certified by December 17, 1984 order).
	Sandoval County	September 9, 1994 order, effective until at least

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		September 9, 2004 (originally certified by December 17, 1984 order).
	Socorro County	April 11, 1994 order, effective until April 11, 2004.
Utah	San Juan County	December 31, 1998 order, effective until December 31, 2002 (originally certified January 11, 1984 order)

***443** Appendix E
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***462** Appendix F

FEDERAL OBSERVER REPORT

Names of Federal Observers: Arrival Time Departure

Polling Site Name and Location: Ward and Election Districts (WD/ED):

I. SITE AND VOTING LOCATIONS

Describe any signs/outward indicators to locate the polling place:

_____
_____
_____
_____
_____
_____
_____
_____
Were signs bilingual? Yes ___ No ___

Describe any signs/outward indicators to locate the voting location inside the building: _____

Were signs bilingual? Yes ___ No ___

***463** II. TELEPHONE

Was a telephone available for use at the polling place? Yes___ No ___

Where was it? _____

_____
_____
Did you observe election officials using the telephone at any time to contact election officials? If so, under what circumstances?

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_____
_____
_____

III. INITIAL SET- UP OF POLLING PLACE (For FIRST SITE only...one for each targeted ED)

WD/ED __&uscore

What time did election officials arrive? ____

Did board members have a check list for availability and posting of bilingual materials? Yes ___ No ___

Did they remove all the materials from their supply packet and review them?

Yes ___ No ___

Did the board members read the board etiquette certificate (pay stub) before signing? Yes____ No____

At what time was the ED open for voting? ___ If the ED was not ready for voters at the poll opening time, were any voters turned away? Yes ___ No ___

If yes, how many were turned away? ____

Additional observations during set-up:

_____
_____
_____
_____

***464** IV. CLOSURE OF POLLING PLACE (For LAST SITE only...one for each targeted ED)

WD/ED ___

What time did election officials begin shutting down? ___. What time was the voting machine shut down? ____

Did voters show up after the machines were shut down? Yes____ No____

If so, how many? ___. If so, were they allowed to vote? Yes___ No___ How?

_____
_____

What time did the polls close? ___. Were any persons in line? Yes ___ No ___ If yes, how many ____

Were all persons in line allowed to vote? Yes____ No____ If not, who prevented them from voting and what reasons if any, were given?

_____
_____

What time did election officials leave? ____

Additional observations during closing:

_____
_____
_____
_____

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_____
_____
_____

***465** V. POLLING SITE OFFICIALS

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***466** VI. DESCRIPTION OF POLLING PLACE

Draw a diagram of the polling place that shows the following:

Location of voting machines or booths.

Location of tables for election officials for all E.D.'s (Identify electoral district number.)

Location of: (MB) Master Board Worker, (J) Judge. (I) Inspector, (M) Member, (T) Translator, (C) Challenger, (P) Police Officer, (Z) Investigator, (D) Deputy Attorney General, and Federal observers (O).

Location of telephone, if any.

Location of the provisional ballot bag (orange bag)

The route from the building entrance to voting site (describe if necessary)

Label the location of Spanish, and English language voting instructions, signs, or cards (Labeled by number (see pg. 6) and by language E = English, S = Spanish or B=Bilingual)

VII.BILINGUAL MATERIALS

WD/ED_____

Use the following table to indicate where the following are, circling which items were in English using (E), which were in Spanish using (S), and which were bilingual using (B).

ITEMS TYPICALLY ON WALLS, TABLES ETC.	Where located?
1) Sample voting machine ballot	E, S, B
2) Voter Rights Pamphlet	E, S, B
3) Vote Here/No Voter Turned Away sign	E, S, B
4) Board worker's name tags	N/A
5) Voter Complaint Forms Available Here table sign	E, S, B
6) Voter instructions sign	E, S, B
7) "Write in" instructions sign	E, S, B
8) Interpreter available sign	S
9) Passaic County Superintendent of Election Poll book	E

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10) Voter authority slips (booklet)	B
11) Challenge forms (8 forms)	E, S
12) Challenger Instructions sign	E, S
13) Voter's complaint forms (2 forms)	E, S
14) Provisional ballot Instruction sign	E, S, B
ITEMS TYPICALLY WITHIN BALLOT BOOTH	
15) Instructions on what to do if assistance needed inside of voting booth	E, S, B
16) Machine instructions (how to operate the machine)	E, S, B
17) Voting strips (candidate names)	E, S, B
ITEMS ACCESSIBLE TO BOARD WORKERS	
18) Pre-addressed postage paid envelopes for complaint forms	N/A
19) County polling place material checklist (for board worker's use)	E
20) Affirmation of residency	E, S, B
21) Provisional ballots	E, S, B
22) 3 Simple steps to voting	E, S, B

***468** VIII. CHART SUMMARY

1. LANGUAGE ASSISTANCE FROM CHART A

Did you observe any voters who received assistance in Spanish:

From bilingual board workers? Yes __ No __ How many? __

From bilingual translators? Yes __ No __ How many? __

From bilingual challengers? Yes __ No __ How many? __

Number of disability certificates used? ___

2. PERSONS NOT RECEIVING LANGUAGE ASSISTANCE (Record specific instances on Chart B)

3. PERSONS VOTING WITHOUT ASSISTANCE BY PROVISIONAL OR EMERGENCY BALLOT (Record specific instances on Chart C)

Did you observe any voters who were not permitted to vote by machine? Yes __ No __

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If yes, how many? ___ Of those, how many were Hispanic? ___

a) Were they permitted to vote a provisional ballot? Yes __ How many? __ Of those, how many were

Hispanic? __ Explain the process, including what the board member did with the completed ballot:

b) Were they permitted to vote an emergency ballot? Yes __ How many? __ Of those, how many were

Hispanic? ___ Explain the process, including what the board member did with the completed ballot

***469** VIII. CHART SUMMARY (Continued)

4. PERSONS NOT PERMITTED TO VOTE (Record specific instances on Chart D)

Did you observe any voters who were turned away and not permitted to vote? Yes __ No __

If yes, how many? ___ Of those, how many were Hispanic? ___ Explain the process:

5. PERSONS CHALLENGED (Record specific instances on Chart E)

Did you observe any voters being challenged? Yes __ No __

If yes, how many? __ Of these, how many were Hispanic? ___

a) Were they permitted to vote? Yes __ No __ How many? __ Of those, how many were Hispanic? ___ Explain the process, including what the board member did with the completed ballot:

b) Did the challenger complete a Challengers affidavit for all persons challenged? Yes ___ No ___ If no, How many?___ What were the races of each?

***470** IX. GENERAL QUESTIONS ON ASSISTANCE (Individual accounts of language assistance are to be recorded on Chart A)

1. Was Spanish language assistance available when you were present at the site?

Yes__ No __ If not, specify WD/ED, record time frames and circumstances.

2. Were there any voters who were unable to sign their names?

Yes ___ No ___

If yes, were they Spanish speaking? Yes ___ No ___Were they offered assistance in casting their ballot? Yes ___ No ___

If so, in what language? ___ If no, explain: ___

3. Did you observe voters who verbally sought or appeared to have needed assistance but did not receive it? Yes ___ No ___ If yes, explain. Include WD/ED.

4. What was the average waiting time for assistance?

***471** 5. Did anyone bring a personal assistor (i.e.. a relative or a friend)? Yes ___ No ___ How many? ___

If yes, were voters allowed to take a personal assistor into the booth? Yes ___ No ___ If no, explain:

6. Were voters informed there was a time limit on how long a voter could take to cast the ballot?

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Yes ____ No_____ If so, what was the time limit?

Was it enforced? Yes ___ No ___ If so, explain:

7. Were voters permitted to bring marked sample ballots or other election material into the voting booth?

Yes____ No ___ If no, explain:

8. Based on your observation of assistance, for each ED, explain generally what happens to the voter who needs language assistance from the time they enter the polling place until they leave.

***472** X. TREATMENT OF HISPANIC VOTERS AND HISPANIC BOARD WORKERS

1.Did you observe any Hispanic voter being treated rudely (describe the actual words used and actions taken) by a board worker or translator? Yes ___ No ___ If yes, please explain. Use additional sheets or back of paper if necessary. Please obtain the names and ward and district of Board Workers involved.

2. Did you observe any Hispanic and/or bilingual board worker being treated rudely by a board worker?

Yes ___ No ___ If yes, please obtain the names and ward and district of Board Workers involved.

XI. GENERAL

1. Describe any specific problems that occurred but are not recorded elsewhere in the report.

2. Describe the nature and extent of your contact with board workers, including any noteworthy contact. Please identify by name and election district, and explain.

***473** CHART AASSISTANCE IN A MINORITY LANGUAGE (CHECKLIST)(Purpose: record the assistance process) WD/ED___

Voter _____

Language spoken:_____

Time begin: ___ Time end: ___

Name of: board worker / translator / challenger:

_____

Who initiated the contact?_____

In what language?_____

Assistance occurred: (circle) inside booth outside booth. Was a Disability Certificate Used? (circle one) Yes No

How was the ballot cast? (circle one) machine / provisional / emergency

If voted by provisional or emergency ballot, state reason for not being permitted to vote on the machine:

Did the official providing assistance (circle response):

ask if assistance was needed? YES / NO In English or Spanish?

ask voter for choice of assistor? YES / NO In English or Spanish?

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explain how to operate the machine?YES / NO in English or Spanish?

allow assistor into booth YES / NO in English or Spanish?

(English speaking board worker) play a role when the translator provided assistance? YES / NO in English or Spanish?

interpret each proposition on the ballot (if applicable)? YES / NO in English or Spanish?

name each candidate on the ballot?YES / NO in English or Spanish?

explain when the voter can vote for more than one

candidate for an office (if applicable)? YES / NO in English or Spanish?

***474** explain write-in procedures (if applicable)? YES / NO in English or Spanish?

offer a voter rights pamphlet? YES / NO in English or Spanish?

What else happened during this assistance not captured by the above questions?

CHART BVOTERS NOT RECEIVING LANGUAGE ASSISTANCE(Purpose: record information about voters who need language assistance but do not receive it) Name Race Time WD/ED

Address Language spoken

Did the voter request or ask for assistance? Yes / No

Did the voter appear to need assistance? Yes / No

If yes, state observations:

***475** CHART CVOTING WITHOUT ASSISTANCE (by Provisional or Emergency Ballot) (Purpose: record the provisional and emergency ballot process) (For race use: (A) for Asian, (B) for Black, (H) for Hispanic, (W) for White) Name Race Time WD/ED

Address Language spoken

How Voted (circle) Provisional Emergency

Reason for not being permitted to vote on machine:

***476** CHART DPERSONS NOT PERMITTED TO VOTE IN ANY MANNER(Purpose: record turn-aways) (For race use: (A) for Asian, (B) for Black, (H) for Hispanic, (W) for White) Name Time

Address Race

Language Spoken

Name/title of official not permitting vote WD/ED

Reason for not permitting vote

What did the official suggest the voter do in order to vote?

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Was the voter offered a provisional ballot? Yes / No

Reason voter believes he/she should be permitted to vote

Referred to Federal Examiner Yes / No

***477** CHART EPERSONS CHALLENGED(Purpose: record the challenge process) (For race use: (A) for Asian, (B) for Black, (H) for Hispanic, (W) for White) Name of Challenger (Race) Name of Voter (Race) Vote on Machine (Y or N) Reason for Challenge Did the challenger communicate directly with the voter? What was said? Treatment of voter?

WORK SHEET

(Questions to answer when you call to the command center or questions to be prepared to answer when you call into the command center)

1.Number of voters since initial or last call:

Time Total Number of Voters Of which the following were Hispanic

***478** How many voters needed assistance?

Type of assistance needed?

Provisional/Emergency voting?

Materials - available by WD/ED:

Bilingual Board Workers or Translators available by W/DED:

Any Master Board Workers, Challengers, Police, Plain Clothes Investigators, or Press present?

***479** Appendix G

Interference Laws

Alabama

Code of Alabama § 17-15-1. Grounds.

The election of any person declared elected to any office which is filled by the vote of a single county, or to the office of the said elections a qualified elector for any of the following causes - offers to bribe, bribery, intimidation or other malconduct calculated to prevent a fair free and full exercise of the elective franchise.

Code of Alabama § 17-23-3. Bribing or attempting to influence voter.

Any person who, by bribery or offering to bribe, or by any other corrupt means, attempts to influence any elector in giving his vote, or deter him from giving the same, or to disturb, or to hinder him in the free exercise of the right of suffrage, at any election, must, on conviction, be fined not less than $50 nor more than $500.

Code of Alabama § 17-23-8. Disturbing elector on election day.

Any person who, on election day, disturbs or prevents, or attempts to prevent, any elector from freely casting his ballot must, on conviction, be fined not less than $500.00 nor more than $1,000.00, and also sentenced to hard labor for the county, or imprisoned in the county jail for not less than six months nor more than one year.

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Alaska

Alaska Statute § 15.56.030. Unlawful interference with voting in the first degree.

A person commits the crime of unlawful interference with voting in the first degree if the person: 1) uses, threatens to use, or causes to be used force, coercion, violence, or restraint, or inflicts, threatens to inflict, or causes to be inflicted damage, harm, or loss, upon or against another person to induce or compel that person to vote or refrain from voting in an election; or 2) knowingly pays, offers to pay, or causes to be paid money or other valuable thing to a person to vote or refrain from voting in an election; or solicits, accepts, or agrees to accept money or other valuable thing with the intent to vote for or refrain from voting for a candidate at an election or for an election proposition or question.

***480** Arizona

Arizona Revised Statute § 16-1013. Coercion or intimidation of elector; classification.

It is unlawful for a person knowingly: 1) Directly or indirectly, to make use of force, violence or restraint, or to inflict or threaten infliction, by himself or through any other person, of any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting for a particular person or measure at any election provided by law, or on account of such person having voted or refrained from voting at an election. 2) By abduction, duress or any forcible or fraudulent device or contrivance whatever, to impede, prevent or otherwise interfere with the free exercise of the elective franchise of any voter, or to compel, induce or to prevail upon a voter either to cast or refrain from casting his vote at an election, or to cast or refrain from casting his vote for any particular person or measure at an election.

Arkansas

Arkansas Code of 1987 Annotated § 7-1-104. Miscellaneous felonies - penalties.

It shall be unlawful for any person to make any threat or attempt to intimidate any elector or the family, business, or profession of the elector, and it shall be unlawful to attempt to prevent any qualified elector from voting at any election.

California

California Election Code § 18340. Use of threats to influence voting.

Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years. Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from ***481** voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

Colorado

Colorado Revised Statute § 1-13-711. Interference with voter while voting.

Any person who interferes with any voter who is inside the immediate voting area or is making a ballot or operating a voting machine at any election provided by law is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

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Connecticut

Connecticut General Statute § 53-169. Dispersion of riotous assembly.

Disturbance of meetings and elections. Refusal to assist public officer. Breach of the peace; intimidation; libel. Indecent or harassing telephone calls. Disorderly conduct. False information concerning bombs. Loitering. Soliciting from occupants of vehicles.

Delaware

Delaware Code Annotated - 11 Del. C. § 1207. Improper influence; Class A misdemeanor.

A person is guilty of improper influence when the person threatens unlawful harm to any person with intent to influence the latter's decision, opinion, recommendation, vote or other exercise of discretion as a public servant party officer or voter

Delaware Code Annotated - 15 Del. C. § 5303. Civil remedy for interference with voting.

Whoever, being a duly qualified elector of this State according to the Constitution and laws thereof, is prevented from voting, or obstructed in his or her effort to vote at any election, by reason of any interference by any person or persons, or military power, or other power, exercising or attempting to exercise force, intimidation or threats, or requiring any qualifications or conditions unknown to such Constitution and laws, shall be deemed and taken to have suffered private damage and injury, and shall have civil remedy thereof, in the court of this State, by civil action against every person who promoted such interference, whether by active participation, or by advising, counseling, or in anywise encouraging the same.

***482** District of Columbia

D.C. Code § 1-1001.14. Corrupt election practices

Any person who shall register, or attempt to register, or vote or attempt to vote under the provisions of this subchapter and make any false representations as to his or her qualifications for registering or voting or for holding elective office, or be guilty of violating § 1-1001.07(d)(2)(D), § 1-1001.09, § 1-1001.13, or § 1-1001.14 or be guilty of bribery or intimidation of any voter at an election, or being registered, shall vote or attempt to vote more than once in any election so held, or shall purloin or secrete any of the votes cast in an election, or attempt to vote in an election held by a political party other than that to which he or she has declared himself or herself to be affiliated, or, if employed in the counting of votes in any election held pursuant to this subchapter, knowingly make a false report in regard thereto, and every candidate, person, or official of any political committee who shall knowingly make any expenditure or contribution in violation of Chapter 11 of this title, shall, upon conviction, be fined not more than $10,000 or be imprisoned not more than 5 years, or both.

Florida

Florida Statutes § 104.0515. Voting rights; deprivation of, or interference with, prohibited; penalty.

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or not to vote as that person may choose, or for the purpose of causing such other person to vote for, or not vote for, any candidate for any office at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

Georgia

Official Code of Georgia Annotated § 21-2-566. Interference with primaries and elections generally.

Any person who uses or threatens violence to any poll officer or interrupts or improperly interferes with the execution of his or her duty; willfully blocks or attempts to block the avenue to the door of any polling place; uses or threatens violence to any elector to prevent him or her from voting.

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***483** Hawaii

Hawaii Revised Statutes Annotated § 19-3. Election frauds.

Every person who, directly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise.

Idaho

Idaho Code § 18-2313. Riotous conduct and interference with election.

Any person who willfully disturbs, or is guilty of any riotous conduct at or near, any election place or voting precinct, with intent to disturb the same, or interferes with the access of the electors to the polling place, or in any manner, with the free exercise of the election franchise of the voters, or any voter there assembled, or disturbs or interferes with the canvassing of the votes, or with the making of the returns, is guilty of a misdemeanor.

Illinois

Illinois Compiled Statutes Annotated § 10 ILCS 5/29-18. Conspiracy to prevent vote - liability.

Conspiracy to prevent vote--Liability. If 2 or more persons conspire to prevent by force, intimidation, threat, deception, forgery or bribery any person from registering to vote, or preventing any person lawfully entitled to vote from voting, or preventing any person from supporting or opposing, in a legal manner, the nomination or election of any person for public or political party office, or a proposition voted upon at any election, or to injure any person or such person's property on account of such vote, support or advocacy, and if one or more persons so conspiring do, attempt or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property or deprived of having or exercising any right, privilege or immunity secured by the Constitution or laws of the United States or the State of Illinois relating to the conduct of elections, voting, or the nomination or election of candidates for public or political party office, all persons engaged in such conspiracy shall be liable to the party injured or any person affected, in any action or proceeding for redress.

***484** Illinois Compiled Statues Annotated, Illinois Const., Article 3 § 3. Elections.

All elections shall be free and equal. An election is free where the voters are exposed to no intimidation or improper influence and where each voter is allowed to cast his ballot as his own conscience dictates; elections are equal when the vote of each voter is equal in its influence upon the result to the vote of every other elector--where each ballot is as effective as every other ballot. People ex rel. Elder v. Qutifici, 309 Ill. App. 466, 33 N.E.2d 492 (1Dist. 1941).

Indiana

Indiana Code Annotated § 3-14-3-18. Improper collateral acts or threats to influencevoter's vote.

A person who, for the purpose of influencing a voter or candidate, seeks to enforce the payment of a debt by force or threat of force or damages the business or trade of the voter or candidate commits a Class D felony.

Indiana Statues Annotated § 3-14-3-4. Obstruction or interference with election officers or voters.

A person who knowingly obstructs or interferes with an election officer in the discharge of the officer's duty; or knowingly obstructs or interferes with a voter within 50 feet of the pools; commits a Class D felony.

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Iowa

Iowa Code § 49.107. Prohibited acts on election day.

Interrupting, hindering, or opposing any voter while in or approaching the polling place for the purpose of voting is prohibited on any election day.

Iowa Code § 722.7. Misconduct by election official.

A precinct election official who knowingly causes a voter to cast a vote contrary to the voter's intention or wishes; or changes any ballot, or in any way causes any vote to be recorded contrary to the intent of the person casting that vote; or refuses or rejects the vote of any qualified voter commits a serious misdemeanor.

Kansas

Kansas Statute Annotated § 25-2415. Intimidation of voters.

Intimidation of voters is intimidating, threatening, coercing or attempting to intimidate, threaten, or coerce any person for the purpose of interfering with the right of such person to vote or to vote as he may choose, or of causing such person to vote for, or not to vote for, any candidate for any office or question submitted at any election.

***485** Kentucky

Kentucky Revised Statutes Annotated § 119.155. Preventing voter from casting ballot--interfering with election.

Any person who unlawfully prevents or attempts to prevent any voter from casting his ballot, or intimidates or attempts to intimidate any voter so as to prevent him from casting his ballot, or who unlawfully interferes with the election officers in the discharge of their duties, shall be guilty of a Class D felony. Any person who, by himself or in aid of others, forcibly breaks up or prevents, or attempts to break up or prevent, or obstructs or attempts to obstruct, the lawful holding of an election, shall be guilty of a Class A misdemeanor.

Louisiana

Louisiana Statutes § 14:119. Bribery of voters.

Bribery of voters is the giving or offering to give, directly or indirectly, any money, or anything of apparent present or prospective value to any voter at any general, primary, or special election, or at any convention of a recognized political party, with the intent to influence the voter in the casting of his ballot. The acceptance of, or the offer to accept, directly or indirectly, any money, or anything of apparent present or prospective value, by any such voters under such circumstances shall also constitute bribery of voters. Whoever commits the crime of bribery of voters shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both, for the first offense. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than five thousand dollars or imprisonment at hard labor for not more than five years, or both.

Louisiana Statutes § 18:1462. Acts prohibited on election day; electioneering; exception; enforcement; penalty.

The Legislature of Louisiana recognizes that the right to vote is a right that is essential to the effective operation of a democratic government. Due to a past, longstanding history of election problems, such as multiple voting, votes being recorded for persons who did not vote, votes being recorded for deceased persons, voting by non-residents, vote buying, and voter intimidation, the legislature finds that the state has a compelling interest in securing a person's right to vote in an environment which is free from intimidation, harassment, confusion, obstruction, and undue influence. The legislature, therefore, enacts this Subsection to provide for a six hundred foot campaign-free zone around polling places to provide to each voter such an environment in which to exercise his right to vote. Except as otherwise specifically provided by law, it shall be unlawful for any person, between the hours of 6:00 a.m. and 9:00 p.m., to perform or cause to be performed any of the following acts within any polling place being used in an election on election day or within any place wherein absentee

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voting is being conducted, ***486** or within a radius of six hundred feet of the entrance to any polling place being used in an election on election day or any place wherein absentee voting is being conducted.

Louisiana Revised Statutes § 47:1405. Secrecy of ballot; interference with voter; penalty.

No person shall interfere or attempt to interfere with any voter when marking his ballot, or endeavor to induce any voter before voting to show how he is about to mark or has marked his ballot, or influence or attempt to influence any voter to vote for or against a particular candidate, or otherwise violate any of the provisions of this Chapter or rules adopted pursuant thereto. Whoever violates this Section shall be punished in accordance with R.S. 18:1461, R.S. 14:119, R.S. 14:120, R.S. 14:136, or any other applicable law enacted to punish violations of laws relating to other elections.

Louisiana Revised Statutes § 18:1461. Election Offenses; penalties.

No person shall knowingly, willfully, or intentionally: 1) Offer, promise, solicit, or accept money or anything of present or prospective value to secure or influence a vote or registration of a person. 2) Intimidate, directly or indirectly, any voter or prospective voter in matters concerning voting or nonvoting or registration or nonregistration. 3) Offer money or anything of present or prospective value or use, directly or indirectly, any form of intimidation to influence the action or encourage inaction of any public official with regard to the duties of his office or to influence a commissioner or watcher in his decision to serve or not to serve as such or in the performance of his duties on election day. Whoever violates any provision of this Section shall be fined not more than one thousand dollars or be imprisoned for not more than on year, or both. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than two thousand five hundred dollars or imprisonment for not more than five years, or both.

Maine

Maine Revised Statutes - 21-A. M. R. S. § 674. Violations and penalties

A person commits a Class E crime if that person interferes with a voter attempting to cast a vote or interferes with or attempts to influence a voter in marking that voter's ballot.

Maryland

Maryland Annotated Code, Article 33. § 16-201. Offenses relating to voting.

Generally, a person may not willfully and knowingly influence or attempt to influence a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward.

***487** Maryland Annotated Code Article 33, § 16-101. Offenses relating to registration.

Generally, a person may not willfully and knowingly prevent, hinder, or delay a person having a lawful right to register form registering, through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward.

Massachusetts

Massachusetts Annotated Laws Chapter 56, § 29. Interfering with voter.

Whoever willfully and without lawful authority hinders, delays or interferes with, or aids in hindering, delaying or interfering with, a voter while on his way to a primary, caucus or election, while within the guard rail, while marking his ballot or while voting or attempting to vote, or endeavors to induce a voter, before depositing his ballot, to disclose how he marks or has marked it, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

Massachusetts Annotated Laws Chapter 56, § 30. Willfully obstructing voting.

Whoever willfully obstructs the voting at a primary, caucus or election shall be punished by a fine of not more than one

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hundred dollars.

Massachusetts Annotated Laws - Chapter 56, § 31. Illegal Challenging. Any person challenging a qualified voter for purposes of intimidation, or of ascertaining how he voted, or for any other illegal purpose shall be punished by a fine of not more than one hundred dollars.

Michigan

Michigan Compiled Laws Service § 168.931. Prohibited conduct; violation as misdemeanor; "valuable consideration."

A person is guilty of a misdemeanor if that person either directly or indirectly, discharge or threaten to discharge an employee of the person for the purpose of influencing the employee's vote at an election.

Michigan Compiled Laws Service § 168.932. Prohibited conduct; violation as felony.

A person shall not attempt, by means of bribery, menace, or other corrupt means or device, either directly or indirectly, to influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote at any election held in this state is guilty of a felony.

***488** Minnesota

Minnesota Statutes § 624.72. Interference with use of public property.

For the purpose of protecting the free, proper and lawful access to, egress from and proper use of public property, and for the purpose of protecting the conduct of public business therein or thereon, free from interference, or disruption or the threat thereof, the legislature or any public officer, agency or board having the supervision thereof may to that end promulgate reasonable rules and regulations. Whoever, intentionally, or through coercion, force or intimidation, denies or interferes with the lawful right of another to the free access to or egress from or to use or remain in or upon public property or in like manner interferes with the transaction of public business therein or thereon may be sentenced to imprisonment for not more than one year or a fine of not more than $3,000 or both.

Minnesota Statute § 204C.06. Conduct in and near polling places.

Lingering near polling place. An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote shall stand within 100 feet of the entrance to a polling place. The entrance to a polling place is the doorway or point of entry leading into the room or area where voting is occurring. A violation of this subdivision is a gross misdemeanor.

Minnesota Statute § 211B.07. Undue influence on voters prohibited.

A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, including loss of employment or economic reprisal, undue influence, or temporal or spiritual injury against an individual to compel the individual to vote for or against a candidate or ballot question. Abduction, duress, or fraud may not be used to obstruct or prevent the free exercise of the right to vote of a voter at a primary or election, or compel a voter to vote at a primary or election. Violation of this section is a gross misdemeanor.

Mississippi

Mississippi Code Annotated § 23-17-59. Unlawful to interfere with or influence vote of elector.

It is unlawful for a person to interfere with or influence the vote of an elector on a measure by means of violence, threats, intimidation, enforcing the payment of a debt, bring a suit or criminal prosecution, any threat or action affecting a person's conditions of employment other corrupt means.

***489** Mississippi Code Annotated § 97-3-87. Threats and intimidation; whitecapping.

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Any person or persons who shall, by placards, or other writing, or verbally, attempt by threats, direct or implied, of injury to the person or property of another, to intimidate such other person into an abandonment or change of home or employment, shall upon conviction, be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or in the penitentiary not exceeding five years, as the court, in its discretion may determine.

Mississippi Code Annotated § 97-1-1. Conspiracy.

If two or more persons conspire either to prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use of employment thereof; or to overthrow or violate the laws of this state through force, violence, threats, intimidation, or otherwise;

Missouri

Revised Statutes of the State of Missouri § 155.639 Three hours off work to vote--interference by employer a class four offense.

Any person entitled to vote at any election held within this state shall, on the day of such election, be entitled to absent himself from any services or employment in which he is then engaged or employed, for a period of three hours between the time of opening and the time of closing the polls for the purpose of voting, and any such absence for such purpose shall not be reason for the discharge of or the threat to discharge any such person from such services or employment; and such employee, if he votes, shall not, because of so absenting himself, be liable to any penalty or discipline, nor shall any deduction be made on account of such absence from his usual salary or wages; provided, however, that request shall be made for such leave of absence prior to the day of election, and provided further, that this section shall not apply to a voter on the day of election if there are three successive hours while the polls are open in which he is not in the service of his employer. The employer may specify any three hours between the time of opening and the time of closing the polls during which such employee may absent himself.

Revised Statutes of the State of Missouri § 155.115. Polling places, how designated, exception--notice to voters--voters not required to go to more than one polling place--elderly and handicapped polling places, common site.

Each election within its jurisdiction, the election authority shall designate a polling place for each precinct within which any voter is entitled to vote at the election. No person shall be required to go to more than one polling place to vote on the same day. Each local election authority may ***490** designate one common site as an election day polling place designed for accessibility to the handicapped and elderly. In addition to being able to supply such voters with their appropriate ballots, and being open during regular voting hours, such a polling place shall otherwise be staffed and operated in accordance with law.

Montana

Montana Code Annotated § 45-7-102. Threats and other improper influence in official and political matters.

A person commits an offense under this section if the person purposely or knowingly threatens harm to any person, the person's spouse, child, parent, or sibling, or the person's property with the purpose to influence the person's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter.

Montana Code Annotated § 13-35-218. Coercion or undue influence of voters.

No person, directly or indirectly, by himself or any other person in his behalf, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people, may use or threat to use any force, coercion, violence, restraint, or undue influence against any person; or inflict or threaten to inflict, by himself or any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

Nebraska

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Revised Statutes of Nebraska Annotated § 32-1510. Interference with voter registration; penalty.

Any person who causes any breach of the peace or uses any disorderly violence or threat of violence which impedes or hinders any registration of voters or revision of voter registration lists or interferes lawful proceedings of any deputy registrar shall be guilty of a Class 3 misdemeanor.

Revised Statutes of Nebraska Annotated § 32-910. Polling places; obstructions prohibited; restrictions on access.

Any judge or clerk of election, precinct or district inspector, sheriff, or other peace officer shall clear the passageways and prevent obstruction of the doors or entries and provide free ingress to and egress from the polling place building and shall arrest any person obstructing such passageways.

***491** Nevada

Nevada Revised Statues Annotated § 293.710 Intimidation of voters.

It is unlawful for any person, in connection with any election or petition, whether acting himself or through another person in his behalf, to: (a) Use or threaten to use any force, coercion, violence, restraint or undue influence; (b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another;

New Hampshire

New Hampshire Revised Statues Annotated § 354-A:11 Interference, Coercion or Intimidation.

It shall be an unlawful discriminatory act to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

New Hampshire Revised Statues Annotated § 659:40 Bribing; Intimidation.

No person shall directly or indirectly bribe or intimidate any voter not to vote or to vote for or against any question submitted to voters or to vote for or against any ticket or candidate for office at any election. Whoever violates the provisions of this section shall be guilty as provided in RSA 640:2 or RSA 640:3.

New Jersey

New Jersey Statues § 19:34-29. Obstructing or interfering with voter.

No person shall by abduction, duress or any forcible or fraudulent device or contrivance whatever, impede, prevent or otherwise interfere with the free exercise of the elective franchise by any voter; or compel, induce or prevail upon any voter either to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person or persons at any election.

New Jersey Statues § 19:34-5. Interference with conduct of election.

No person shall, during an election, with intent to hinder or delay same, or to hinder or delay any voter in the preparation of his ballot, remove or destroy any of the ballots or pencils placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot. Any person willfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by fine not exceeding five hundred dollars and imprisonment until such fine and the costs of the conviction are paid.

***492** New Mexico

New Mexico Statues Annotated § 1-20-14. Intimidation.

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Intimidation consists of including or attempting to induce fear in any member of a precinct board, voter, challenger or watcher by use of or threatened use of force, violence, infliction of damage, harm or loss or any form of economic retaliation, upon any voter, precinct board member, challenger or watcher for the purpose of impeding or preventing the free exercise of the elective franchise or the impartial administration of the Election Code. Whoever commits intimidation is guilty of a fourth degree felony.

New York

New York Consolidated Laws Service § 17-150. Duress and intimidation of voters.

Any person or corporation who directly or indirectly: 1) Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or, 2) By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

North Carolina

North Carolina General Statues § 163-271. Intimidation of voters by officers made misdemeanor.

It shall be unlawful for any person holding any office, position, or employment in the State government, or under and with any department, institution, bureau, board, commission, or other State agency, or under and with any county, city, town, district, or other political subdivision, directly or indirectly, to discharge, threaten to discharge, or cause to be discharged, or otherwise intimidate or oppress any other person in such employment on account of any vote such voter or any member of his family may cast, or consider or intend to cast, or not to cast, or which he may have failed to cast, ***493** or to seek or undertake to control any vote which any subordinate of such person may cast, or consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the position, salary, or any part of the salary of such subordinate depends in any manner whatsoever, directly or indirectly, upon the way in which subordinate or any member of his family casts, or considers or intends to cast, or not to cast his vote, at any primary or election. A violation of this section is a Class 2 misdemeanor.

North Carolina General Statues § 163-273. Offenses of voters; interference with voters; penalty.

Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful: 1)For any person to interfere with, or attempt to interfere with, any voter when inside the voting enclosure. 2) For any person to interfere with, or attempt to interfere with, any voter when marking his ballots.

North Dakota

North Dakota Century Code § 12.1-14-02. Interference with elections A person is guilty of a class A misdemeanor if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally: 1)Injures, intimidates, or interferes with another because he is or has been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election. 2) Injures, intimidates, or interferes with another in order to prevent him or any other person from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.

Ohio

Ohio Revised Code Annotated § 3599.24. Interference with conduct of election.

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No person shall attempt to intimidate an election officer, or prevent an election official from performing the official duties.

Oklahoma

Oklahoma Statues - 26 Okl. St. § 16-112. Interference with voter or conduct of election

Any person who interferes with a registered voter who is attempting to ***494** vote, or any person who attempts to influence the vote of another by means of force or intimidation, or any person who interferes with the orderly and lawful conduct of an election shall be deemed guilty of a misdemeanor.

Oregon

Oregon House Bill 2584. Relating to elections.

No person shall obstruct an entrance of a building in which a polling place is located.

Pennsylvania

Pennsylvania Statues - 25 P.S. § 3527. Interference with primaries and elections; frauds; conspiracy.

If any person shall prevent or attempt to prevent any election officers from holding any primary or election, under the provisions of this act, or shall use or threaten any violence to any such officer; or shall interrupt or improperly interfere with him in the execution of his duty; or shall block up or attempt to block up the avenue to the door of any polling place; or shall use or practice any intimidation, threats, force or violence with design to influence unduly or overawe any elector, or to prevent him from voting or restrain his freedom of choice; or shall prepare or present to any election officer a fraudulent voter's certificate not signed in the polling place by the elector whose certificate it purports to be; or shall deposit fraudulent ballots in the ballot box; or shall register fraudulent votes upon any voting machine; or shall tamper with any district register, voting check list, numbered lists of voters, ballot box or voting machine; or shall conspire with others to commit any of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, he shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding $15,000 or to undergo an imprisonment of not more than seven years, or both, in the discretion of the court.

Pennsylvania Statues- 25 P.S. § 3047. Peace Officers; no police officer to be within one hundred feet of polling place, exceptions; presence of soldiers prohibited.

In no event may any police officer unlawfully use or practice any intimidation, threats, force or violence nor, in any manner, unduly influence or overawe any elector or prevent him from voting or restrain his freedom of choice, nor may any such police officer electioneer or directly or indirectly attempt to influence the election or electors while within one hundred feet of a polling place.

***495** Rhode Island

Rhode Island General Laws § 17-23-5. Bribery or intimidation of voters - immunity of witnesses in bribery trials.

Every person who directly or indirectly gives, or offers to agree to give, to any elector or to any person for the benefit of any elector, any sum of money or other valuable consideration for the purpose of inducing the elector to give in or withhold that elector's vote at any election in this state, or by way of reward for having voted or withheld that elector's vote, or who uses any threat or employs any means of intimidation for the purpose of influencing the elector to vote or withhold that elector's vote for or against any candidate or candidates or proposition pending at an election, shall be guilty of a felony, and no person after conviction of this offense shall be permitted to vote in any election or upon any proposition pending before the people, or to hold any public office; and no evidence given by any witness testifying upon the trial of any charge of bribery may be used against the person giving the evidence.

South Carolina

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South Carolina Code Annotated § 16-17-560. Assault or intimidation on account of political opinions or exercise of civil rights.

It is unlawful for a person to assault or intimidate a citizen, discharge a citizen from employment or occupation, or eject a citizen from a rented house, land, or other property because of political opinions or the exercise of political rights and privileges guaranteed to every citizen by the Constitution and laws of the United States or by the Constitution and laws of this State. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both.

South Carolina Code Annotated § 7-13-130. Managers' table; guardrail; general arrangement; preservation of right to vote and secrecy of ballot.

The polling places shall be provided with a table for the managers. The polls shall be provided with a guardrail, so that no one except as herein authorized shall approach nearer than five feet to the booths in which the voters are preparing their ballots. The managers at each voting place shall arrange the table, desk or other place upon which the ballot boxes shall be placed so that there shall be no crowding or confusion immediately around the boxes, and suitable means shall be provided to enable each voter to approach the boxes and deposit his ballot without interference or hindrance. The right to vote of each person so entitled and the secrecy of the ballot shall be preserved at all times.

***496** South Carolina Code Annotated § 7-13-140. Maintenance of order; police powers of managers.

Managers of election are clothed with such police powers as may be necessary to carry out the provisions of this article. The managers shall possess full authority to maintain good order at the polls and to enforce obedience to their lawful commands during an election and during the canvass and counting of the votes. All peace officers shall answer all such calls for help in preserving the peace as may be made by the managers of election.

South Carolina Code Annotated § 7-13-150. Penalty for failure to assist in maintaining order.

Any person who, when summoned or called upon by peace officers shall fail or refuse to assist him in maintaining the peace and good order at the polls shall be fined in a sum not to exceed one hundred dollars or imprisoned not to exceed thirty days.

South Carolina Code Annotated § 7-13-160. Peace officers shall enter polling place only on request or to vote.

No sheriff, deputy sheriff, policeman or other officers shall be allowed to come within the polling place except to vote unless summoned into it by a majority of the managers. On failure of any sheriff, deputy sheriff, policeman or other officer to comply with the provisions of the preceding sentence, the managers of election, or one of them, shall make affidavit against such sheriff, deputy sheriff, policeman or other officer for his arrest.

South Carolina Code Annotated § 7-13-170. Procedure when managers fail to attend, take charge of, or conduct election.

In case all of the managers shall fail to attend at the same time and place appointed for holding such poll or shall refuse or fail to act or in case no manager has been appointed for such poll, it shall be lawful for the voters present at the precinct voting place on that day to appoint from among the qualified voters of such precinct or club the managers to act as managers in the place and stead of the absent managers, and any one of the managers so appointed shall administer the oath to the other managers. But if the duly appointed managers attend in a reasonable time, they shall take charge of and conduct the election.

South Dakota

South Dakota Codified Laws § 12-18-3. Electioneering, offices, communications centers, and polling prohibited near polling place - violation as misdemeanor.

No person may engage in any practice which interferes with the voter's free access to the polls or disrupts the administration of the polling place, or conduct, on the day of an election, any exit poll or public opinion with voters ***497** within 100 feet of a polling place.

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Tennessee

Tennessee Code Annotated § 2-7-111. Posting of sample ballots and instructions - arrangement of polling place - restrictions.

The exercise of free speech rights conflicts with another fundamental right, the tight to case a ballot in an election free from the taint of intimidation and fraud.

Tennessee Code Annotated § 2-3-108. Polling places.

The case law of this state recognizes that statutory violations alone may be sufficient to invalidate an election, especially where they thwart those statuary provisions design to prevent undue influence or intimidation of the free and fair expression of the will of the electors.

Texas

Texas Election Code § 2.054. Coercion Against Candidacy Prohibited.

A person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to not file an application for a place on the ballot or a declaration of write-in candidacy in an election that may be subject to this subchapter. In this section, 'coercion' has the meaning assigned by Section 1.07, Penal Code. An offense under this section is a Class A misdemeanor unless the intimidation or coercion is a threat to commit a felony, in which event it is a felony of the third degree.

Utah

Utah Code Annotated § 20A-5-501. Polling place - prohibited activities.

A person may not obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

Vermont

Vermont Statues Annotated § 2508. Campaigning during polling hours; voter access.

On the walks and driveways leading to a building in which a poling place is located, no candidate or other person may physically interfere with the progress of a voter to and from the polling place.

***498** Virginia

Virginia Code Annotated § 24.2-607. Prohibited conduct; intimidation of voters; disturbance of election; how prevented; penalties.

It shall be unlawful for any person to hinder, intimidate, or interfere with any qualified voter so as to prevent the voter from casting a secret ballot. The officers of election may order a person violating this subsection to cease such action. If such person does not promptly desist, the officers of election, or a majority of them, may order the arrest of such person by any person authorized by law to make arrests, and, by their warrant, may commit him to the county or city jail, as the case may be, for a period not exceeding twenty-four hours. Any person violating this subsection shall be guilty of a Class 1 misdemeanor.

Washington

Revised Code of Washington § 29.51.020. Acts prohibited in vicinity of polling place - prohibited practices as to ballots - penalty.

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No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place. Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction, and may arrest any person creating such obstruction.

West Virginia

West Virginia Code § 3-9-10. Disorder at polls; prevention; failure to assist in preventing disorder; penalties.

Any person who shall, by force, menace, fraud or intimidation, prevent or attempt to prevent any officer whose duty it is by law to assist in holding an election, or in counting the votes cast thereat, and certifying and returning the result thereof, from discharging his duties according to law; or who shall, by violence, threatening gestures, speeches, force, menace or intimidation, prevent or attempt to prevent an election being held; or who shall in any manner obstruct or attempt to obstruct the holding of an election, or who shall, by any manner of force, fraud, menace or intimidation, prevent or attempt to prevent any voter from attending any election, or from freely exercising his right of suffrage at any election at which he is entitled to vote, shall be guilty of a misdemeanor, and, upon conviction, fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.

Any person who, being thereto commanded by the commissioners of election, or either of them, shall fail or refuse to assist to the utmost of his power, in whatever may be necessary or proper to prevent intimidation, disorder or violence at the polls, shall be guilty of a misdemeanor, and, upon *499 conviction thereof, shall be fined not less than ten nor more than one hundred dollars.

Wisconsin

Wisconsin Statutes § 5.35 . Polling place requirements.

No polling place may be situated so as to interfere with or distract election officials from carrying out their duties. The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places.

Wyoming

Wyoming Statues Annotated § 22-15-109. Poll watchers; certification; qualification; authority; removal.

Additional poll watcher from each political party may be accommodated in the polling premises without disrupting the polling process. A poll watcher is authorized to observe voter turn out and registration and may make written memoranda but shall not challenge voters, conduct electioneering activities or disrupt the polling process. The chief judge may remove a poll watcher from the polling premises for disturbing the polling place, or for any other violation of the Election Code.

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[FN1]. "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." U.S. Const. amend. XV, § 1.

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[FN2]. 42 U.S.C. § 1973 et seq. (2001).

[FN3]. "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but Congress may at any time by Law make or alter such Regulations, except as to the Place of Chusing Senators." U.S. Const. art. I, § 4.

[FN4]. "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

[FN5]. See e.g. National Voter Registration Act of 1993, 42 U.S.C. § 1973gg et seq.; Voting Accessibility Act of 1984, 42 U.S.C. § 1973cc et seq.; Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff et seq.

[FN6]. The goal of voter registration was disenfranchisement of blacks and new immigrants. See e.g. Frances Piven & Richard Cloward, Why Americans Don't Vote 78-95 (Pantheon Books 1988); Mark Thomas Quinlivan, One Person, One Vote Revisited: The Impending Necessity of Judicial Intervention in the Realm of Voter Registration, 137 U. Pa. L. Rev. 2361 (1989).

[FN7]. 238 U.S. 347 (1915).

[FN8]. 307 U.S. 268 (1939).

[FN9]. 273 U.S. 536 (1927).

[FN10]. 321 U.S. 649 (1944).

[FN11]. 345 U.S. 461 (1953).

[FN12]. See U.S. v. Alabama, 252 F. Supp. 95, 99 (M.D. Ala. 1966) (stating that "the effect of the new suffrage provisions in the 1901 Constitution on the Negro voters was dramatic"); see Harper v. Virginia Board of Elections, 383 U.S. 663, 666 (1966).

[FN13]. See U.S. v. Louisiana, 380 U.S. 145 (1965); Davis v. Schnell, 81 F. Supp. 872 (S.D. Ala. 1949), aff'd 336 U.S. 933 (1949).

[FN14]. Louisiana, 380 U.S. at 154 (holding that the "provisions of the Louisiana Constitution and statutes which require voters to satisfy registrars of their ability to 'understand and give a reasonable interpretation of any section' of the Federal or Louisiana Constitution violate the Constitution.")

[FN15]. 42 U.S.C. § 1971(a)-(b).

[FN16]. 42 U.S.C. § 1971(c).

[FN17]. Congress has the authority to enact procedures for elections for federal office. See U.S. Const. art I, § 4. See also United States General Accounting Office, Elections--The Scope of Congressional Authority in Election Administration, 2001 WL 250476 (Mar. 13, 2001)(the General Accounting Office providing an overview of federal law in this area).

[FN18]. 42 U.S.C. § 1971(c). These provisions:
- Posited a rebuttable presumption that people were literate who finished the sixth grade;
- Declared that actions by state or local officials were state action.;
- Allowed courts to make pattern or practice findings and thereafter issue declarations that "any person of such race or color within the affected area" was qualified to vote if certain minimal facts were presented;
- Stated that such persons must be permitted to vote in any election;

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• Established court-appointed voting referees who could receive applications for an order that people were qualified to vote and had been deprived of the opportunity to register under color of law, take evidence, and report to the court whether the applicant was qualified to vote. This was followed by a show-cause order within 10 days on why an order should not be entered in accordance with the report; there would be a hearing only if there were genuine issues of material fact; and
• Allowed for three-judge courts if a finding of a pattern or practice of discrimination was requested.

[FN19]. Many, as probate judge or circuit clerk, were the highest administrative county official.

[FN20]. South Carolina v. Katzenbach, 383 U.S. 301, 314 (1966) (stating that "[v]oting suits are unusually onerous to prepare, sometimes requiring as many as 6,000 manhours spent combing through registration records in preparation for trial").

[FN21]. Id. at 313.

[FN22]. id. at 328.

[FN23]. 42 U.S.C. § 1973c

[FN24]. 42 U.S.C. § 1973b. These "tests or devices" were suspended in states and counties determined by a formula in Section 4 of the Voting Rights Act based on the use of literacy tests and other pre-application devices (such as having current voters vouch for your good moral character), and low voter turnout. See 42 U.S.C. § 1973b. Later, this provision was made permanent and nationwide. See 42 U.S.C. § 1973aa. Originally, states and counties covered under the formula could terminate their special coverage ("bail out") after five years by showing, in a lawsuit before a three-judge court in the federal district court for the District of Columbia, that no test or device had been used to deprive anyone of the right to vote during that period. See 42 U.S.C. § 1973b. Since the Act itself suspended those tests or devices for only five years, it was thought that it would be relatively simple for states and counties who complied with the suspension to bail out after the 5-year period. In 1970, the time period was extended to 10 years; in 1975, it was extended to 17 years. In 1982, the approach changed to terminate the special coverage at the end of 25 years following the effective date of the 1982 amendments. See 42 U.S.C. § 1973b(a)(8). In 1982, the bail-out provisions were amended substantially to allow individual counties within a fully covered state to bail out and to set out a number of specific qualifications that a jurisdiction needs to meet in order to bail out. See 42 U.S.C. § 1973b(a)(1)-(3).

[FN25]. 42 U.S.C. § 1973d.

[FN26]. 42 U.S.C. § 1973e.

[FN27]. The examiners are commonly referred to as federal registrars. These were people appointed by the head of the Civil Service Commission, now the Office of Personnel Management, to examine voter applicants as to their qualifications under those portions of state law that were valid under the U.S. Constitution and laws. If the applicants satisfied the state requirements, their names were put on a list that was given to the county registrar, who then had to add them to the county voter registration rolls. In this way, some semblance of state authority over the voter registration process was preserved: registrants satisfied state requirements and a state-authorized official put the voters' names on the rolls. To safeguard against discriminatory purges of those newly enfranchised voters, their names cannot be purged from the voter rolls without the approval of the Office of Personnel Management. 42 U.S.C. § 1973e(b),(d).

[FN28]. See Appendix A for the number of people, by state, registered by federal examiners.

[FN29]. 42 U.S.C. § 1973f. The Act originally named the Director of the Civil Service Commission, which later became the Office of Personnel Management.

[FN30]. Id.

[FN31]. 42 U.S.C. § 1973a(c). Since the federal examiner and federal observer provisions of the Voting Rights Act focus on political subdivisions, which ordinarily are counties, a county must be certified for federal examiners even if the object is to assign federal observers to monitor polling places during a city or other election, such as a school board election, within the

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county. See 42 U.S.C. § § 1973d, l(c)(2).

[FN32]. See Appendix B, Assignment of Federal Observers Under Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f, by Year and State. There were 4,698 federal observers assigned to polling places in five states from 1966 through 1969; 7,034 federal observers were assigned to nine states in the 1970s; 6,598 federal observers were assigned to 11 states in the 1980s, and 3,753 federal observers were assigned to 13 states in the 1990s. In 2000, 640 federal observers were assigned to 11 states.

[FN33]. U.S. v. Conecuh County, No. 83-1201-H (S.D. Ala. June 12, 1984). The federal observers' reports are not public documents, so there are very few examples on the public record of the facts that the observers have witnessed. One such public document is the Plaintiff's Response to Interrogatories and Request for Production of Documents in Conecuh County. Some of the specific examples of the kind of discriminatory treatment that was afforded African-American voters described in the text that follows are taken from the excerpts of the Conecuh County responses at Appendix C, while others are based on the author's first-hand knowledge.

[FN34]. Pl. Resp. to Interrog. & Req. for Prod. of Doc. at 6, Conecuh County, No. 83-1201-H.

[FN35]. . It was claimed by white officials that the sample ballots were campaign material which was prohibited inside the polls.

[FN36]. After the Voting Rights Act enabled African-Americans in the deep south to register to vote, it became common for civil rights workers and local African-American residents to drive the new voters to the polls and to give assistance to those who needed it. This was a natural outgrowth of the organizing required during the civil rights movement to achieve voter registration for black people. It provided transportation--many people did not have cars--and gave confidence and protection to these newly enfranchised voters at the polling places from which they had so recently been excluded by white poll workers and voters who did not want them there. This tradition of "hauling" voters to the polls and giving assistance to voters who need it continues today, especially in many rural areas.

[FN37]. U.S. v. City of Hamtramck, No. 00-73541(E.D. Mich. Aug. 7, 2000).

[FN38]. Id., slip op. at 4.

[FN39]. 42 U.S.C. § 1973b(f)(3).

[FN40]. Id. at § 1973l(c)(3).

[FN41]. Id. at § 1973l(c)(2). The jurisdictions subject to the special provisions of the Voting Rights Act are listed in the Appendix to 28 U.S.C. Part 51.

[FN42]. 42 U.S.C. § 1973b(f)(4). A parallel requirement was added in Section 203 of the Voting Rights Act in 1975 for counties determined by different formula. 42 U.S.C. § 1973aa-1a. Section 203 of the Act does not include the other special provisions of Section 4, such as the preclearance, federal examiner and federal observer provisions. Lawsuits under Section 203 must be brought before a three-judge court. As a result of amendments since 1975, coverage under Section 203 now applies to counties that have more than 5 percent of voting age citizens who are members of a single language minority and are limited-English proficient; have more than 10,000 voting age citizens who are members of a single language minority and are limited-English proficient; or have a part of an Indian reservation, and more than 5 percent of the American Indian or Alaska Native voting age citizens are members of a single language minority and are limited-English proficient; and the illiteracy rate of the language minority group citizens is higher than the national illiteracy rate. 42 U.S.C. § 1973aa-1(a)(2). The counties covered under the language minority provisions of Sections 4 and 203 are listed in the Appendix to 28 U.S.C. Part 55.

[FN43]. Counties in Arizona, New York and Texas were certified by the U.S. Attorney General. Counties in California, New Mexico and Utah were certified by federal district courts under Section 3(c) of the Act, 42 U.S.C. § 1973a(c). Section 3(c) provides for certification in a lawsuit brought "under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment...(1) as part of any interlocutory order...or (2) as part of any final judgment if the court finds that violations of the

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fourteenth or fifteenth amendment justifying equitable relief have occurred..."

[FN44]. From 1990 through 2000, there were 2,449 federal observers assigned to elections in the states of the Deep South, very few of which involved discrimination against language minority group members, and there were 2,215 federal observers assigned to monitor elections in other areas of the country, most of which involved discrimination against language minority group members. See Appendix B.

[FN45]. Mail addressed to streets using the Spanish nickname was delivered because the postal personnel were familiar with the local Spanish language usages, as the poll workers were not.

[FN46]. Anglo candidates compiled lists of Hispanic voters' names for their poll watchers to challenge at the polls on the ground that the voters were not citizens. United States citizenship is required by every state as a qualification to register to vote in state and federal elections. But in order to avoid discriminatory treatment of voters at the polls and disrupting the polling places with election-day challenges, persons who, before an election, have evidence that a registered voter is not a U.S. citizen should be required to present that information to the voter registrar, and to desist from interposing challenges at the polls to voters whose qualifications have been upheld by the registrar.

[FN47]. U.S. v. Passaic City, No. 99-2544, Order Appointing an Independent Election Monitor in Passaic County (D.N.J. Sept. 6, 2000)(three-judge court).

[FN48]. Id. (citing Walter F. Timpone, Office of the Election Monitor, Fifth Report, June 15, 2001, 3-4).

[FN49]. U.S. v. Passaic City, No. 99-2544 (citing Timpone supra n. 48 at 6-7).

[FN50]. U.S. v. Alameda County, No. C95 1266, slip op. at 4 (N.D. Cal. Jan. 22, 1996).

[FN51]. U.S. v. Cibola County, No. 93 1134 (D.N.M. Apr. 21, 1994).

[FN52]. Id.

[FN53]. Trujillo v. Garley, C.A. No. 1350 (D.N.M. August 11, 1948).

[FN54]. Sanchez v. King, C.A. No. 82-0067-M (D.N.M. 1984).

[FN55]. Cibola County, No. 93 1134, slip op. at 5-7.

[FN56]. Residences on the Navajo reservation often are miles apart, with no paved roads, and many homes have no telephones. It is not unusual for reservation residents to pick up their mail periodically at a store or other place far from their homes.

[FN57]. Voters were confused because they voted in tribal elections without problem, and were not told, for example, that under state law they had been purged from the county voter rolls because they did not vote with some particular frequency and in particular elections, such as every two or four years in general elections. To add to the confusion, in many areas the tribal elections and the state elections were held on different dates but at the same locations. Prior to the National Voter Registration Act, 42 U.S.C. § 1973gg et seq., voter registration in many counties in Indian country was conducted only in the county seat, far from reservation housing, until, in some instances, litigation required that deputy registrars be made available at reservation sites, and that voter purge procedures be modified to allow fair notice to Native-American voters. U.S. v. Arizona, No. 88-1989 slip op. at 6-11 (D. Ariz. filed May 22, 1989); First Amended Consent Decree, 5-10 (Jan. 3, 1994).

[FN58]. Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina and Texas are fully covered under the Voting Rights Act's special provisions by the formula in Section 4 of the Act, 42 U.S.C. § 1973b. One or more counties are specially covered under Section 4 in California, Florida, Michigan, New Hampshire, New York, North Carolina, South Dakota and Virginia. All jurisdictions covered under Section 4 of the Act are listed in the Appendix to 28 CFR Part 55.

[FN59]. Certification under Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973b(a), is for a particular term as defined

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by the court. Certification by the U.S. Attorney General under Section 6 of the Voting Rights Act, 42 U.S.C. § 1973f, is for an unlimited time. Jurisdictions certified under Section 6 can seek to have their certification terminated under Section 13 of the Voting Rights Act, 42 U.S.C. § 1973k. Appendix D is a list of the jurisdictions that have been certified for examiners by court order under Section 3(a) of the Act.

[FN60]. The Voting Section is headed by a chief and four deputy chiefs. There also are special counsels who are senior attorneys assigned to perform particular duties. The pre-election work for a particular jurisdiction usually is overseen by a deputy chief if the jurisdiction is a defendant in recent litigation. Otherwise, the pre-election supervision is handled by the special litigation counsel for elections.

[FN61]. Federal observers are assigned and supervised by the Office of Personnel Management. See 42 U.S.C. § 1973f. OPM centralized the observer program in the OPM office in Atlanta, Georgia, over the past several years. Beginning in 2002 the program was centralized in the OPM office in Denver, Colorado.

There is no standing group of people who are federal observers. Rather, the people chosen to serve as federal observers at a particular election are volunteers, usually from among the OPM nationwide staff except when special abilities are required, such as Native-American language ability. General training sessions are held for observers and observer supervisors at selected sites during the year. Often people will volunteer to serve as observers in election after election, but they are not always available for every election because of the demands of their regular work assignments and prior obligations. Because of the need to recruit observers for each election, and the logistical requirements of transportation (airplane tickets, rental cars) and lodging, the OPM coordinator and the Voting Section supervising attorney are in contact throughout the year to discuss observer needs in upcoming elections.

[FN62]. If a county for which federal observers is recommended has not been certified yet for federal examiners, a separate certification of the county by the U.S. Attorney General is necessary. Certifications are effective upon publication in the Federal Register. 42 U.S.C. § 1973b(b). OPM must publish in the Federal Register a location for an examiner's office. 42 U.S.C. § 1973e(a).

[FN63]. In addition, the DOJ attorney in each county calls the supervising attorney often during the day: when the polls open, and every hour after that until it is clear that correct procedures are being followed at the polls in that county, unless continuing problems and their resolution make it necessary to continue frequent contact. This coordination between the supervising attorney and the attorney in the field begins on the day before the election, and does not end until the attorney leaves the county on the day after the election or later.

[FN64]. Initial facts indicating possible violations of the Voting Rights Act most often come to DOJ through complaints by telephone, by mail, or in conversation with DOJ attorneys, paralegals and analysts in the performance of their routine duties.

[FN65]. The federal observers assigned to a particular polling place speak the minority language that is used by the voters at that polling place.

[FN66]. 42 U.S.C. § 1973f.

[FN67]. U.S. v. Conecuh County, No. 83-1201, slip op. at 3-4 (S.D. Ala. Jan. 16, 1984).

[FN68]. Id. at 3-4.

[FN69]. Id. at 4.

[FN70]. U.S. v. Johnson County, No. 393-45, slip op. at 2-3 (S.D. Ga. filed Sept. 14, 1993).

[FN71]. Id. at 6.

[FN72]. This change in practice was reviewed and precleared under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c.

[FN73]. 42 U.S.C. § 1973aa-1a

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[FN74]. See U.S. v. Socorro County, No. 93-1244 (D.N.M. filed Apr. 13, 1994); U.S. v. Sandoval County, No. 88-1457 (D.N.M. filed June 10, 1993); U.S. v. San Juan County, No. C-83-1287, First Amended Settlement and Order (D. Utah filed Aug. 24, 1990); U.S. v. McKinley County, No. 86-0028-M, First Amended Consent Decree and Order (D.N.M. Jul. 20, 1990); Arizona, No. 88- 1989, First Amended Consent Decree in that case (Jan. 3, 1994).

[FN75]. Cibola County, No. 93-1134.

[FN76]. A letter of understanding was developed between DOJ and San Juan County, New Mexico, which required the county to adopt a manual of procedures to comply with the language minority requirements of the Voting Rights Act. The manual would become final after review and concurrence by DOJ. Changes in the procedures would become effective upon the concurrence of DOJ. Letters of understanding have not been widely used by DOJ in its Voting Rights Act enforcement. The letters have the advantage of getting a fast remedy and avoiding the uncertainties of litigation. The main disadvantage of using a letter of understanding is the inability to seek contempt of court sanctions if the county does not follow the steps in the letter or the county's manual of procedures. If the actions that the county fails to take are significant, a legal action would need to be filed at that time, prolonging the time for obtaining a remedy.

[FN77]. U.S. v. Bernalillo County, No. CV-98-156 (D.N.M. Apr 27, 1998).

[FN78]. Id., slip op. at 4.

[FN79]. Id.

[FN80]. 42 U.S.C. § 1973a(c).

[FN81]. Id., slip op. at 6.

[FN82]. N.Y. Election L. § 8-500 (McKinney 2001).

[FN83]. Utah Code Ann. § 20A-3-201 (2001).

[FN84]. See Appendix G.

[FN85]. See e.g. the following states in which violation of laws against voter intimidation or interference are punished as felonies under state law: Cal. Election Code § 18540 (West 2002) ("felony punishable by imprisonment in the state prison for 16 months or two or three years"); Conn. Gen. Stat. § 9-366 (2002) ("shall be imprisoned not more than five years"); Ind. Code Ann. § 3-14-3-4 (West 2001) ("commits a Class D felony"); Ky. Rev. Stat. Ann. § 119.155 (2001) ("shall be guilty of a Class D felony"); N.M. Stat. Ann. § 1-20-14 (2001) ("Whoever commits intimidation is guilty of a fourth degree felony"); 25 Pa. Consol. Stat. § 3527 (West 2001) ("shall be guilty of a felony of the third degree").

[FN86]. Tenn. Code Ann. § 2-3-108. "The case law of this state recognizes that statutory violations alone may be sufficient to invalidate an election, especially where they thrwart those statutory provisions designed to prevent undue influence or intimidation of the free and fair expression of the will of the electors." Tenn. Code Ann. § 2-3-108.

[FN87]. "Whoever, being a duly qualified elector of this State according to the Constitution and laws thereof, is prevented from voting, or obstructed in his or her effort to vote at any election, by reason of any interference by any person or persons, or military power, or other power, exercising or attempting to exercise force, intimidation or threats, or requiring any qualifications or conditions unknown to such Constitution and laws, shall be deemed and taken to have suffered private damage and injury, and shall have civil remedy thereof, in the court of this State, by civil action against every person who promoted such interference, whether by active participation, or by advising, counseling, or in anywise encouraging the same." Del. Code Ann. tit. 15, § 5303 (2001).

[FN88]. Neb. Rev. Stat. § 32-910 (2001) ("Any judge or clerk of election, precinct or district inspector, sheriff, or other peace officer shall clear the passageways and prevent obstruction of the doors or entries and provide free ingress to and egress from the polling place building and shall arrest any person obstructing such passageways."); Wash. Rev. Code Ann. § 29.51.020 (West 2002) ("Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction,

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and may arrest any person creating such obstruction").

[FN89]. "Managers of election are clothed with such police powers as may be necessary to carry out the provisions of this article. The managers shall possess full authority to maintain good order at the polls and to enforce obedience to their lawful commands during an election and during the canvass and counting of the votes. All peace officers shall answer all such calls for help in preserving the peace as may be made by the managers of election." S.C. Code Ann. § 7-13-140 (2001).

[FN90]. "It shall be unlawful for any person to hinder, intimidate, or interfere with any qualified voter so as to prevent the voter from casting a secret ballot. The officers of election may order a person violating this subsection to cease such action. If such person does not promptly desist, the officers of election, or a majority of them, may order the arrest of such person by any person authorized by law to make arrests, and, by their warrant, may commit him to the county or city jail, as the case may be, for a period not exceeding twenty-four hours." Va. Code. Ann. § 24.2-607 (2002).

[FN91]. "The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places." Wis. Stat. § 5.35 (2001).

[FN92]. 10 Ill. Comp. Stat. 5/1A-8 (2001).

[FN93]. Ga. Code Ann. § 21-2-31 (2000).

[FN94]. 25 Pa. Consol. Stat. § 3047 (2001).

[FN95]. S.C. Code Ann. § 7-13-160 (2001).

[FN96]. See e.g. Fla. Stat. § 104.0515 (2001) ("whether acting under color of law or otherwise").

[FN97]. See Caltech/MIT Voting Tech. Program, July 2001 Report: Voting--What Is, What Could Be, (July 2001)(available at <http:// web.mit.edu/newsoffice/nr/2001/VTP_report_all.pdf>); The Consts. Project's Forum on Election Reform, Bldg. Consensus on Election Reform. Aug. 2001) (available at <http://www.constitutionproject.org/eri/CP%20Report.pdf>); The Election Ctr., Natl. Task Force Rpt. on Election Reform, Election 2000: Review and Recommendations by The Nation's Elections Adminstrs. (July 2001)(available at <http://www.electioncenter.org/electionreformreport/COMPLETE%20Final%20Report.htm>); The Fla. Sen., Comm. on Ethics and Elections, Rev. of the Voting Irregularities of the 2000 Pres. Election (Mar. 2001)(available at < http://199.44.254.194/data/Publications/2001/Senate/ reports/interim_ reports /pdf/2001-201ceLONG.PDF>); Election Reform Info. Project, What's Changed, What Hasn't, and Why?, Election Reform Since Nov. 2000 (October 22, 2001)(available at <http:// www.electionline.org/site/docs/pdf/electionline.report.10.22.2001.pdf>); The Gov.'s Select Task Force on Election Procs., Stands. and Tech., Revitalizing Democracy in Fla. (Mar. 1, 2001)(available at <http:// www.collinscenter.org/usr_doc/Revitalizing_Democracy&uscore;in_ Florida. pdf>); U.S. Commn. on Civil Rights, Voting Irregularities in Florida During the 2000 Presidential Election, (June 2001)(available at <http:// www.usccr.gov/pubs/vote2000/report/main.htm>); U.S. Commn. on Civil Rights, The Florida Election Report: Dissenting Statement by Commr. Abigail Thernstrom and Commr. Russell G. Redenbaugh (July 19, 2001)(available at <http:// www.usccr.gov/pubs/vote2000/report/appendix/dissent.htm>); Natl. Assn. of Secs. of State, Election Reform: State by State Best Practices Rpt. (Aug. 1, 2001) (available at <<http://www.nass.org/reports/reform_report.htm>); Natl. Commn. on Election Stands. and Reform, Rpt. and Recommendations to Improve Am.'s Election System, (May 2001)(available at <http:// www.naco.org/programs/infotech/elections/election.pdf>); The Natl Commn. on Fed. Election Reform, To Assure Pride and Confidence in the Electoral Process (August 2001)(available at <http://www.reformelections.org/data/task_t3/t3_ reports/full&uscore;tf_report.pdf>); Natl. Conf. of State Legis., Voting in Am.: Final Rpt. of the NCSL Elections Reform Task Force (August 2001)(available at <http://www.ncsl.org/programs/press/2001/electref0801.htm>); Joseph K. Pika, The 2000 Del. Sen. Race, PS: Pol. Sci. and Pol. (June, 2001)(available at < http://www.apsanet.org/PS/june01/pika.cfm>); U.S. General Acctg. Off., Report to the Cong., Elections, The Scope of Congressional Authority in Election Administration, (March 2001)(available at <http:// www.gao.gov/new.items/d01470.pdf>); U.S. General Acctg. Off., Testimony Before the Subcommittee on Military Personnel, Committee on Armed Services, House of Representatives, Issues Affecting Military and Overseas Absentee Voters, (May 2001) (available at <http://www.secstate.wa.gov/elections/pdf/gao_report.pdf>).

[FN98]. There are some instances in which parties have become aware of election day irregularities which are brought to the attention of the Department of Justice on election day, such as possible violations of outstanding consent decrees.

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[FN99]. Of course, the parties continue to monitor and observe recounts.

[FN100]. The information regarding these allegations comes from the author's personal knowledge, serving as counsel for the Gore/Lieberman campaign. Many of the allegations are similar to those reported to the numerous organizations that conducted reviews of election day 2000.

[FN101]. Missouri ex rel. Bush-Cheney 2000, Inc., Relators v. Honorable Evelyn M. Baker, 34 S.W.3d 410 (Mo. App. 2000).

[FN102]. See U.S. Comm. on Civil Rights, Voting Irregularities in Fla. During the 2000 Pres. Election, supra n. 88 at chapter 2.

[FN103]. U.S. v. Florida, No. TCA-80-1055 (N.D. Fla. 1982).

[FN104]. Historically, very close elections have usually happened where the electorate was very small. There have been recounts in many races at the State and local level in such close races--some of which involved reviews of disqualified ballots. What was unprecedented in 2000 was the realization that the Presidential contest could be so close that disqualified ballots could make the difference.

[FN105]. Bush v. Gore, 531 U.S. 98 (2000).

[FN106]. Id. at 104-105.

[FN107]. Id. at 109.

[FN108]. Id.

[FN109]. The U.S. Attorney General has no cease and desist power in this area. Remedies for discriminatory actions at the polls must be sought in lawsuits in federal district court.

[FN110]. C.f. Sections 3(a), 3(b) and 3(c) of the Voting Rights Act of 1965, Publ. No. 89-110 (Aug 6, 1965), with Sections 3(a), 3(b) and 3(c) of the Voting Rights Act Amendments of 1975, Publ. No. 94-73 (Aug 6, 1975).

[FN111]. It is noted that all reform is not costly. Less expensive changes include clarification of standards and rules governing the conduct of elections and the counting of votes.

[FN112]. This information is extracted from the Semiannual Report of Cumulative Totals on Voting Rights Examining as of December 31, 2000, Prepared by the Office of Workforce Information, Office of Merit Systems Oversight and Effectiveness, U.S. Office of Personnel Management, Washington, D.C. 20415.

[FN113]. People were listed in Autuaga, Dallas, Elmore, Greene, Hale, Jefferson, Lowndes, Marengo, Montgomery, Perry, Sumter, and Wilcox Counties.

[FN114]. People were listed in Butts, Lee, Screven, and Terrell Counties.

[FN115]. People were listed in Bossier, Caddo, DeSoto, East Carroll, East Feliciana, Madison, Ouachita, Plaquemines, and West Feliciana Parishes.

[FN116]. People were listed in Amite, Benton, Bolivar, Carroll, Claiborne, Clay, Coahoma, DeSoto, Forrest, Franklin, Grenada, Hinds, Holmes, Humphreys, Issaquena, Jasper, Jefferson, Jefferson Davis, Jones, LeFlore, Madison, Marshall, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Quitman, Rankin, Sharkey, Simpson, Sunflower, Tallahatchie, Walthall, Warren, Wilkinson, and Winston Counties.

[FN117]. People were listed in Clarendon and Dorchester Counties.

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[FN119]. This information is extracted from the summary of federal observer activity by calendar year, United States Department of Justice, Civil Rights Division, Voting Section. Southern states are listed first in this chart because federal obervers were assigend only to Southern states for the first years shown.

[FN120]. U.S. v. Conecuh County, No. 83-1201-H (S.D. Ala. Filed Jun. 12, 1984).

[FN121]. Id. at 7.

[FN122]. Id. at 8-9.

[FN123]. Id. at 16-17.

[FN124]. Id. at 21.

[FN125]. Id. at 24.

[FN126]. Id. at 35.

[FN127]. Id. at 36-37.

[FN128]. Id. at 40.

[FN129]. Information obtained from Jurisdictions Currently Eligible for Federal Observers as a Result of Orders Under Section 3(a) of the Voting Rights Act, United States Department of Justice, Civil Rights Division, Voting Section, October 22, 2001.

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PREPARED STATEMENT OF THE HONORABLE BRADLEY J. SCHLOZMAN, PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, DEPARTMENT OF JUSTICE, CONCERNING THE VOTING RIGHTS ACT: SECTIONS 6 AND 8, FEDERAL EXAMINER AND OBSERVER PROGRAMS

Chairman Chabot, Ranking Member Nadler, distinguished members of the Subcommittee:

I am Bradley Schlozman, the Principal Deputy Assistant Attorney General of the Civil Rights Division at the Department of Justice. As I have underscored in previous testimony before this Subcommittee, the President has directed the full power and might of the Justice Department to enforcing the Voting Rights Act and preserving the integrity of our voting process. This Administration looks forward to working with Congress on the reauthorization of this important legislation.

It is my privilege today to provide you with an overview of the Justice Department's use of sections 6 and 8 of the Voting Rights Act,[1] which pertain to Federal examiners and Federal observers. As you know, these provisions, like section 5,[2] are slated to expire in August 2007.

FEDERAL EXAMINERS

Let me begin by explaining what "federal examiners" are within the meaning of the Voting Rights Act. Federal examiners are essentially officials assigned to a particular political subdivision to whom certain complaints of voting discrimination can be made. Governed by section 6 of the Act, the authority to appoint Federal examiners was first designed as a congressional response to the racially discriminatory voter registration practices that existed throughout the South at the time of the Act's original passage in 1965. Examiners are charged with processing (or "examining") applicants for voter registration and making a list of those applicants who meet State eligibility rules; the list is then given to the local county registrar, who is required to put those names on the county's voter registration rolls. Those on the examiner's list are commonly called "federally registered voters." The Voting Rights Act also requires the examiners to be available during each of the jurisdiction's elections, and for two days afterward, to take complaints from any federally registered voter claiming that he/she had not been allowed to vote.

Federal examiners can be appointed in two separate ways. The first route is through section 6's empowerment of the Attorney General to "certify" for the appointment of Federal examiners any jurisdiction falling within the coverage of the Voting Rights Act in which there is reason to believe that voters have been denied the right to vote on account of their race or status as a language minority. In particular, the Attorney General must certify that either: (i) he has received complaints in writing from twenty or more residents alleging that they have been denied the right to vote under color of law on account of race or color or because they are a member of a language minority and he believes such complaints to be meritorious; or (ii) in his judgment, the appointment of examiners is necessary to enforce the guarantees of the 14th or 15th Amendments. The second method by which Federal examiners may be appointed is for a Federal court to do so pursuant to section 3(a) as part of an order of equitable relief in a voting rights lawsuit to remedy violations of the 14th or 15th Amendment. Judicial certifications, unlike those of the Attorney General, are not restricted to those political subdivisions covered by section 4 of the Voting Rights Act. Regardless of who makes the formal certification, once the determination is made, the actual selection of the examiner is undertaken by the Director of the Office of Personnel Management (OPM), who then oversees the examiner's activities.

The Voting Rights Act's ban on literacy tests and other discriminatory practices has mitigated many of the voter registration problems that made examiners so important. As a result, the need for, and role of, Federal examiners has greatly diminished over time. Although there are still 148 counties and parishes in 9 States that the Attorney General has certified for Federal examiners,[3] nearly all of these certifications were certified shortly after the Voting Rights Act was passed in 1965 when conditions were radically different from today.[4] Moreover, many of the counties/parishes have not been the source of any race-based voting registration complaints for decades.

According to OPM, there have been no new "federally registered voters" (*i.e.,* voters registered by Federal examiners) added in any jurisdiction throughout the country since 1983. Nor has the Department of Justice received any complaints about covered jurisdictions refusing to register Federal voters in decades.

In addition to the great advances in minority access to the franchise today as compared to 30–40 years ago, the decline in registration-related complaints is also attributable to the passage of the National Voter Registration Act of 1993 (NVRA), which made voter registration dramatically more accessible.[5] Prior to this 1993 Act,

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[1] 42 U.S.C. 1973d, 1973f.

[2] 42 U.S.C. 1973c.

[3] There are also 19 political subdivisions in 12 States currently certified by court order. With two exceptions, all of these certifications pertain to language-minority issues. An additional 14 jurisdictions in eight States previously were certified for Federal examiners by Federal courts under section 3(a), but the designations have since expired.

[4] The complete list of counties certified by the Attorney General, along with dates of certification, can be found on the website of the Department of Justice's Voting Section. *See http://www.usdoj.gov/crt/voting/examine/activ—exam.htm.*

[5] 42 U.S.C. 1973gg *et seq.*

there were few Federal standards for voter registration. Through the NVRA, however, Congress established specific, uniform requirements for voter registration and State maintenance of voter registration lists. All of these requirements are applicable across the United States, not just in those jurisdictions certified for Federal examiners or otherwise covered by the Voting Rights Act. The reality today is that the only real importance of the Federal examiner provision from a practical standpoint is its function as a statutory prerequisite to the Attorney General's ability to call upon OPM to assign Federal observers to monitor particular elections in certified jurisdictions.

FEDERAL OBSERVERS

At any time after a Federal examiner has been appointed to a particular jurisdiction, the Attorney General may request under section 8 that the Director of OPM assign Federal observers to monitor elections in that jurisdiction.[6] These observers are Federal employees who are recruited and supervised by OPM. They are authorized by statute to enter polling places and vote-tabulation rooms in order to observe whether eligible voters are being permitted to vote and whether votes casts by eligible voters are being properly counted.

The OPM observers work in conjunction with attorneys from the Justice Department's Civil Rights Division. Department of Justice attorneys assist OPM with the observers' training,

brief the observers on relevant issues prior to the election, and work closely with them on election day. Federal observers are instructed to watch, listen, and take careful notes of everything that happens inside the polling place/vote-tabulation room during an election. They are also trained not to interfere with the election in any way. After the election, Justice Department attorneys debrief the observers, and the observers usually complete written reports on their observations. These reports are sent on to the Civil Rights Division and can be used in court if necessary.

Most Federal observers dispatched to cover elections find no irregularities. Still, problems occur. Over at least the last decade, most of these have related to compliance with the language minority requirements of section 203.[7] Where problems are discovered, a variety of actions may be taken depending on the relevant circumstances. On occasion, Justice Department personnel will assess the situation and work with county/parish officials on election day to clarify Federal legal requirements and immediately resolve the identified problem. Other times, the Department will send a letter to the jurisdiction following the election in which we identify certain incidents or practices that should be addressed or improved in the future (e.g., removal of certain poll workers, additional training for election-day officials, etc.). Department attorneys likewise may recommend further investigation. If no Federal issues are identified, the matter may be referred to State authorities. If necessary, the Department will commence a civil action (or contempt motion if applicable) to enforce the protections of the Voting Rights Act.

Notwithstanding the general overall compliance with the Voting Rights Act, the Department of Justice has taken full advantage of the Federal observer provisions to help avoid slippage or complacency by covered jurisdictions. In 2004, for example, the Civil Rights Division worked with OPM to send 1,463 observers to cover 55 elections in 30 jurisdictions in 10 different States. Meanwhile, already in 2005, Federal observers have been dispatched to 21 elections in 17 jurisdictions in 10 different States.

In areas of the country where Federal observers cannot be sent, the Civil Rights Division will send it own staff lawyers to monitor elections if it has received complaints or has uncovered credible evidence of possible violations of the Voting Rights Act. In fact, the great bulk of our recent enforcement cases since, say, 1993, have involved jurisdictions (*e.g.,* Massachusetts, California, New York, New Jersey, Florida, Washington, and Pennsylvania) where there is no statutory authority to send Federal observers. We have expended substantial resources in this endeavor. For example, in 2004, the Department of Justice sent 533 departmental personnel to monitor 108 elections in 80 jurisdictions in 27 different States. So far in 2005, the Department has sent 186 personnel to cover 24 elections in 21 jurisdictions in 9 different States. Those monitors helped account for the record-setting work we have done in enforcing the Voting Rights Act in recent years.

As I have said before to this Subcommittee, the Civil Rights Division has made the vigorous enforcement of voting rights a primary objective, and we have been very successful in doing so. Our election monitoring and observer coverage is just

[6] 42 U.S.C.1973f.
[7] 42 U.S.C. 1973aa–1a.

one small part of that effort. I thank the committee for the opportunity to submit this statement.

INSERTED INTO THE RECORD BY CONGRESSMAN WATT DURING THE HEARING: LETTER FROM WILLIAM JENKINS, DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE, TO THE HONORABLES JOSEPH LIEBERMAN, HENRY WAZMAN, AND JOHN CONYERS, JR. REGARDING THE DEPARTMENT OF JUSTICE'S ACTIVITIES TO ADDRESS PAST ELECTION-RELATED VOTING IRREGULARITIES

GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

September 14, 2004

The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

Subject: *Department of Justice's Activities to Address Past Election-Related Voting Irregularities*

Election-day problems in Florida and elsewhere in November 2000 raised concerns about voting systems that included, among other things, alleged voting irregularities that may have affected voter access to the polls. The term voting irregularities generally refers to a broad array of complaints relating to voting and/or elections that may involve violations of federal voting rights and/or federal criminal law for which the Department of Justice (DOJ) has enforcement responsibilities.

You requested that we review activities at DOJ to help ensure voter access to the polls and actions to address allegations of voting irregularities. This report (1) identifies and describes changes DOJ has made since November 2000 to help ensure voter access to the polls; (2) identifies and describes actions that the Voting Section in DOJ's Civil Rights Division has taken to track, address, and assess allegations of election-related[1] voting irregularities received between November 2000 and December 2003; and (3) assesses the Voting Section's internal control[2] activities

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[1]Election-related refers to a preliminary investigation, matter, or case that the Voting Section initiated based on allegations about a specific election. A matter is an activity that has been assigned an identification number but has not resulted in a court filing of a complaint, indictment, or information. A case is an activity that has been assigned the same identification number that it had as a matter and has resulted in the court filing of a complaint, indictment, or information.

[2]Internal controls are integral components of an organization's management that provide reasonable assurances of objectives that include, among other things, efficient operations. They comprise the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, support performance-based management. For additional information on internal controls, see GAO *Internal Control: Standards for Internal Control in the Federal Government*, AIMD-00-21.3.1 (Washington, D.C.:November 1, 1999).

to help ensure relevant, accurate, and reliable recording and documentation of allegations of voting irregularities to accurately track actions taken in response to allegations and provide accurate and complete information to the public and congressional committees.

We primarily performed our work at DOJ's Civil Rights Division, Voting Section. We obtained relevant documentation and interviewed responsible officials regarding DOJ's activities to help ensure voter access to the polls. To identify and describe changes made since November 2000, we reviewed documentation on DOJ's efforts to monitor and observe elections, increase emphasis on enforcement of minority language and overseas voters' rights, disseminate election-related guidance, and increase its resources to address voting issues. To identify and describe actions that the Voting Section took to track, address, and assess allegations of voting irregularities, we reviewed telephone logs and 34 files with information on a preliminary investigation, matters, and cases that the Voting Section considered to be election-related voting irregularities initiated from November 2000 to December 2003. To assess the Voting Section's internal controls, we obtained available documentation of policies, procedures, and techniques the Voting Section has to manage allegations of voting irregularities and considered them in relation to GAO's internal control standards. We also interviewed officials and obtained documentation from DOJ's Criminal Division, Public Integrity Section (PIN), in relation to the coordination between the Voting Section and PIN to address voter access to the polls.

On August 31, 2004, we provided your staffs a briefing document on the results of our work. Enclosure I contains the materials we presented at that time. Our audit work was performed in Washington, D.C., from May 2003 through August 2004 in accordance with generally accepted government auditing standards.

Background

The Voting Section in the Civil Rights Division is charged with the responsibility of enforcing federal voting rights statutes that are designed to safeguard the right to vote of racial and language minorities; disabled, elderly, and illiterate persons; and military and overseas voters, among others. The Voting Section is also charged with the responsibility of enforcing federal statutes that, among other things, address issues such as voter registration, provisional voting, and voter information. Provisional voting permits eligible persons to vote on election day if their names are not on voter registration lists, with the understanding that each person's eligibility will be verified after the election and their votes counted, if eligible. (See enc. I, and attach. I, for more information on statutes that the Voting Section enforces.)

The Voting Section, among other things, monitors election-day activities to ensure voting rights are protected and initiates investigations and opens matters—an activity that has not resulted in a court filing of a complaint, indictment, or information—to examine allegations of voting irregularities that fall within the jurisdiction of the Civil Rights Division. If warranted, a matter may culminate in a case—an activity that has resulted in the filing of a complaint, indictment, or information with a federal court.

The Voting Section also may initiate matters to monitor private lawsuits. Voting Section attorneys are generally responsible for conducting investigations and prosecuting cases.

The Voting Section also coordinates with PIN to refer allegations the Voting Section receives that involve violations of criminal statutes related to voting fraud. For example, in relation to the 2002 federal election, the Voting Section referred three matters deemed to be potential violations of criminal laws to PIN, which assumed responsibility for the investigations. In addition, the Voting Section and PIN have provided joint training to Assistant U.S. Attorneys, with the Voting Section presenting information about civil rights statutes that are to protect the right to vote and PIN presenting information about criminal statutes that are to prevent election fraud.

Results

Since November 2000, DOJ has implemented changes to help ensure voter access to the polls. The Voting Section emphasized the importance of its monitoring of election-day activities and increased its monitoring of these activities. In 2000, DOJ attorneys and professional staff monitored elections in 5 counties in 5 states. By 2002, the number of election jurisdictions monitored by DOJ attorneys and professional staff increased to 19 counties in 10 states, with monitoring of elections in counties in Florida accounting for the bulk of the increase. The Voting Section also (1) placed a greater priority on protecting the voting rights of language minority voters by helping to ensure that certain covered jurisdictions provided bilingual voting materials for elections; (2) placed a priority on enforcing and preparing for compliance with the federal statute to help ensure voting rights of overseas voters; (3) provided additional training to Assistant U.S. Attorneys on civil rights statutes to educate them about voters' rights; and (4) provided guidance to states regarding the implementation of sections of the Help America Vote Act of 2002 (HAVA) that DOJ enforces.[3] For example, the Voting Section provided guidance to states by issuing a press release that outlined provisions of HAVA that took effect on January 1, 2004, such as provisional voting and identification requirements for new voters who register by mail.

The Attorney General directed the Civil Rights Division to work with civil rights leaders, state and local election officials, and U.S. Attorney Offices prior to election day in an effort to help ensure that citizens' voting rights are protected. The Attorney General also directed the Criminal Division to work with these same groups in helping to preserve ballot integrity and prevent election offenses. Almost all of the U.S. Attorney Offices reported that they had contacted various state or local officials prior to the November 2002 election. Voting Section officials reported that the Assistant Attorney General for the Civil Rights Division and staff from that division met with various civil rights organizations.

[3] 42 U.S.C. §§ 15301 to 15545.

According to Voting Section officials, DOJ plans to help ensure voter access for the upcoming November 2004 election include increasing its monitoring of elections, coordinating with civil rights organizations, and establishing procedures for bringing the concerns of civil rights organizations about specific issues or jurisdictions to DOJ on or before election day in November 2004. Voting Section officials also said that final decisions as to where monitoring will be conducted are not made public until shortly before an election. (See enc. I for more information.)

The Voting Section has used several means of tracking allegations of voting irregularities and the Section's actions with regard to those allegations. First, the Voting Section used telephone logs to track telephone calls regarding allegations of voting irregularities it received related to the November 2000 and 2002 elections. According to the Voting Section, contractors were hired to help handle the unprecedented number of calls that were received concerning the November 2000 election situation to help ensure that the public would be able to voice opinions and concerns. Second, DOJ tracks matters and cases through its Interactive Case Management (ICM) system—its formal process for tracking and managing work activities. Prior to opening a matter, the Voting Section may make a determination that an allegation does not fall within DOJ's jurisdiction or may initiate a preliminary investigation about an allegation. Third, the Voting Section tracked monitoring of elections using logs and for some election-monitoring activities they opened matters; thus, it has not routinely tracked election-monitoring activities through the ICM system. (See enc. I for more information.)

Actions that Voting Section attorneys took to address allegations of voting irregularities initiated from November 2000 to December 2003 included contacting cognizant election officials at the state and local levels; obtaining data as appropriate; interviewing voters affected by alleged voting irregularities; meeting with minority groups; and assessing the merits of the allegations to determine what, if any, further action was needed. Attorneys in the Voting Section addressed allegations of voting irregularities by first determining whether the allegations were related to violations of federal civil rights statutes and then, if warranted, initiating a preliminary investigation or matter to determine whether an allegation had merit. If warranted, a matter may culminate in a case that is filed with a federal court. We reviewed files for 1 closed preliminary investigation, 25 closed matters, and 8 open and closed cases that the Voting Section considered election-related. The preliminary investigation and 13 matters were closed because they lacked merit. The remaining 12 matters were closed because the state or voting jurisdiction took action to remedy an issue, a state court issued an order addressing the issue, the voting jurisdiction implemented changes for future elections, or Voting Section attorneys provided election officials feedback following the on-site monitoring of elections. Six cases remain open pending fulfillment of consent decrees entered into on behalf of DOJ and the jurisdiction in alleged violation of federal statute, and two cases were closed because states had taken action in response to consent decrees. Enclosure I and attachment IV provide detailed information on actions taken regarding selected matters and cases that the Voting Section considered as involving election-related voting irregularities initiated from November 2000 to December 2003.

Regarding internal controls, we found that the Voting Section did not have a reliable method to consistently record and document telephone calls received alleging voting irregularities. According to Voting Section officials, the number of calls received following the November 2000 election far exceeded the number received in past elections. As a result, the Voting Section used a contractor to assist in handling the telephone calls. To track some of the telephone calls related to the November 2000 election, Voting Section and contractor staff used telephone logs that had several broad categories to capture the subject of the allegation, rows for states from which the calls originated and, for the most part, tabulated the numbers of calls using tick marks. Voting Section staff also kept two other types of logs to record some telephone calls, which included columns to record a caller's name, state, telephone number, and description of the call. Our analysis of the contractor telephone logs found, among other things, that these logs did not include a way to record calls from 4 states—Arkansas, Kansas, Montana, and North Dakota. According to Voting Section officials, these 4 states were left off the contractor logs inadvertently, although these officials noted that they were unaware of any calls received from these states. Our analysis of logs that Voting Section staff completed found that Voting Section staff recorded having received calls from some of these states. The Voting Section improved upon the telephone log for the November 2002 election by having one log that consistently provided for documenting the caller's name, telephone number, and action taken. Compared with the telephone log that contractor staff maintained and one of the three types of logs that Voting Section staff maintained after the November 2000 election, which had several columns to broadly categorize the subject of the telephone calls, the November 2002 log included one column to capture the subject of the telephone calls. The Voting Section plans to take several actions to address voting irregularities for the November 2004 election, including, among other things, using a telephone log similar to the one used for the November 2002 election. The Voting Section did not provide written instructions to contractors for completing the telephone logs related to the 2000 election. However, for the November 2002 federal election, the Voting Section provided instructions to DOJ staff for how to handle calls from citizens, the press, members of Congress, and others. In addition to its method for recording and documenting telephone calls received regarding voting irregularities, we found that the Voting Section did not routinely track its election-monitoring activities through its ICM system. The Voting Section said that it has plans to assign one identification number to track these activities in the future. (See enc. I for more information.)

In conclusion, lack of specifics about allegations and actions limits DOJ's ability to have accurate and clear information to share with the public or Congress about the types of allegations received and actions taken. Predictions of another close presidential election in November 2004 combined with possible voter confusion over new requirements in the Help America Vote Act—such as the implementation of provisional voting in states that had not previously used provisional voting—and possible questions regarding voting equipment could result in the Voting Section again receiving a very large number of telephone calls. This could result in the need to use contractors to record voter allegations because much of the Voting Section staff will be monitoring election sites on election day. It is important that the

information collected be as complete, accurate, and specific as possible regarding specific allegations. If the Voting Section collects more precise information about voter allegations, it is in a better position to assure the public that it has addressed allegations of voting irregularities. Moreover, if it documents actions taken more precisely, it is better able to reassure the public and Congress of its commitment to enforce federal voting rights statutes.

The Voting Section emphasized the importance of its monitoring of election-day activities, but the monitoring program has not been routinely tracked in the Voting Section's ICM system. We believe the significance of this program warrants a more formal tracking of monitoring efforts and resources dedicated to the program to allow for reliable, relevant, and timely information for management decision making and for external reporting purposes.

Recommendations for Executive Action

Confidence in our election processes is of utmost importance. To help ensure confidence in the integrity of voting processes, the Voting Section plays an important role in addressing voting irregularities. By accurately recording and documenting its activities in as clear a manner as possible, the Voting Section contributes to assuring the public and Congress of the integrity of our voting processes and that allegations of voting irregularities have been addressed.

To reassure citizens of the integrity of our election processes and to reassure the public and Congress of DOJ's commitment to its responsibility to enforce federal voting rights statutes, we recommend that the Attorney General direct the Chief of the Voting Section to take the following two actions

- develop and implement procedures for the November 2004 election to help ensure that the Voting Section has a reliable method of tracking and documenting allegations of voting irregularities and actions taken to address them. Procedures could include more precise categories to record types of allegations and actions taken; development of instructions on completing the telephone logs; and development and implementation of training for contractors, should they be needed; and

- implement a method to track and report on election-monitoring activities in the ICM system.

Agency Comments

We provided a draft of this report to DOJ for review and comment. The draft report sent to DOJ for comment reflected changes made as a result of DOJ's prior detailed review of attachment IV in enclosure I and changes DOJ requested in writing following our exit conference with them. In commenting on the draft, DOJ generally agreed with the report and recommendations. The Deputy Assistant Attorney General for the Civil Rights Division accepted both recommendations and said that the

Assistant Attorney General for the Civil Rights Division has directed their implementation.

In commenting on our recommendation for the Civil Rights Division to track and report on election-monitoring activities in the ICM system, DOJ noted that it currently has procedures that effectively track election-monitoring activities. Our report acknowledges that the Division had information on election monitoring. However, the Voting Section told us that they did not routinely track election-monitoring activities in the ICM system—its formal process for tracking and managing work activities. Because we had asked for clarification of the confusing and unclear information previously provided on election monitoring and tracking, the Civil Rights Division, in a May 25, 2004, written response provided clarifying information that explained the different databases and data from logs that were used to capture information on election monitoring. In this written response, the Civil Rights Division included four charts on election monitoring that had been recently created, one for each calendar year from 2000 through 2003 (but not for 2004, as the Division states it did). In addition, the Civil Rights Division said that it had asked for a program that would provide the types of reports and data that the Division is routinely asked to provide regarding the election-monitoring program. Our recommendation is directed toward improving the Voting Section's tracking of election-monitoring activities, which the Voting Section has emphasized as being a very important part of its efforts to help ensure voter access to the polls. Tracking election-monitoring activities in the ICM system would ensure that this important component of the Voting Section's work is incorporated into the Division's formal process for tracking and managing work activities.

After we provided DOJ with a copy of the draft report that included this correspondence and its enclosure for review and comment, Civil Rights Division officials realized they had not provided us with information on all of the telephone logs used following the November 2000 election. The Civil Rights Division subsequently provided that additional information, which showed that Voting Section staff used two additional types of logs for the November 2000 election. These logs included columns to record callers' names, telephone numbers, states, and descriptions of the calls. This new information was incorporated into our report to accurately reflect the Voting Section's activities to track telephone calls following the November 2000 election. (See p. 5 in this letter and p. 42 in enc. I.) According to the Civil Rights Division, the November 2002 log, which it proposes as the basis for documenting telephone calls related to the upcoming November 2004 elections, was the only one used by Voting Section staff for the November 2002 election.

DOJ noted that the draft report discussion of the Civil Rights Division's use of telephone logs focused almost exclusively on the logs maintained by contractors, that the draft report failed to note that these logs were only a small portion of all the records of telephone calls received by the Division, and that any shortcomings in these logs were extremely unlikely to have changed the course of subsequent investigations. As we note in our report, it was difficult to obtain precise information on the number of calls or the specific nature of alleged irregularities from the

telephone logs on the November 2000 election. The information that the Voting Section collected on its telephone logs was not precise enough to support the Division's statements that upwards of 95 percent of the calls received regarding the November 2000 election reflected citizen frustration or anger over the election, that the vast majority of the calls that contractors received came from New York and California, or that the vast majority of the calls from those two states expressed frustration over the situation in Florida. Moreover, it is important to note that our recommendation with regard to recording complaints about voting irregularities for the November 2004 election is based on the limitations of the log used in November 2002 and the lack of a clear plan for accurately recording a potentially large volume of complaints that may arise from the November 2004 election. For example, November 2004 will be the first national election in which all states will be implementing HAVA's new voter identification and provisional voting requirements with which many voters may be unfamiliar.

In its comments, DOJ said that the Civil Rights Division invited us to meet with Voting Section staff who worked during the time of the November 2000 election and that we declined this invitation. We did not receive an invitation from officials in the Civil Rights Division, who arranged our meetings with Voting Section staff, to meet to discuss the November 2000 election logs. Throughout this review, we requested meetings with Voting Section and Civil Rights Division officials. It is always our preference, as part of our work, to meet with agency officials to discuss issues and questions we may have about agency processes, procedures, and documentation. However, Civil Rights Division officials preferred that we provide questions in writing and to respond to those questions in writing. The Civil Rights Division sometimes took weeks to respond in writing, which contributed significantly to the length of time it took us to complete our review. Had Civil Rights Division officials been more willing to meet with us to explain the Voting Section's processes and discuss the documentation provided to us, rather than rely on written questions and responses, the time required for this review could have been significantly reduced.

DOJ's written comments are in attachment V. DOJ also provided technical comments from the Criminal Division's Public Integrity Section and from the Civil Rights Division, which we incorporated as appropriate. The Civil Rights Division provided additional information on cases initiated for calendar years 2002, 2003, and 2004. The 2002 and 2003 cases involved enforcement under Sections 2 and 208 of the Voting Rights Act and were not clearly identifiable in the ICM system as also involving language minority issues under Section 203 of the Voting Rights Act. The Civil Rights Division subsequently identified these cases as including enforcement of language minority violations, and we have included them in our report. Information on cases initiated in calendar year 2004 had not been included because our review covered complete calendar years, but we have added information on cases initiated in 2004 as of August 2004 as a courtesy to the Division.

As agreed with your offices, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we

will send copies of this report to the Attorney General, Department of Justice; Chairman, Senate Committee on Governmental Affairs; Chairman, House Committee on Government Reform; Chairman, House Committee on the Judiciary; Chairman and Ranking Minority Member, House Committee on House Administration; and Chairman and Ranking Minority Member, Senate Committee on Rules and Administration. Copies of this report will be made available to other interested parties upon request. This report will also be available on GAO's Web site at http://www.gao.gov. If you have any questions, please contact me at (202) 512-8777 or by e-mail at jenkinswo@gao.gov or Linda Watson, Assistant Director, at (202) 512-8685 or by e-mail at watsonl@gao.gov. Key contributors to this report were Katherine Davis, Gina Flacco, Evan Gilman, Geoffrey Hamilton, Mary Martin, Maria Santos, and Daniele Schiffman.

William O. Jenkins, Jr.
Director, Homeland Security and Justice Issues

Enclosures

Enclosure I

Enclosure I

DOJ Activities to Address Past Election-Related Voting Irregularities

Results of work completed for the
Ranking Minority Member of the
House Committee on Government Reform,
Ranking Minority Member of the
House Committee on the Judiciary, and
Ranking Member of the
Senate Committee on Governmental Affairs

August 31, 2004

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Enclosure I

Contents

- Objectives
- Results in Brief
- Scope and Methodology
- Background
- Changes to Ensure Voter Access
- Actions to Track, Address, and Assess Allegations
- Assessment of Internal Controls
- Conclusions
- Recommendations
- Attachment I—Federal Voting Rights Statutes
- Attachment II—Role of the Criminal Division's Public Integrity Section
- Attachment III—Election Jurisdictions Monitored during 2000-2003
- Attachment IV—Election-Related Preliminary Investigation, Matters, and Cases Initiated from November 2000 to December 2003
- Attachment V—Agency Comments

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Enclosure I

Objectives

This briefing addresses the following objectives:

1. Identify and describe any changes the Department of Justice (DOJ) has made since November 2000 to help ensure voter access to the polls.

2. Identify and describe any actions that the Voting Section in DOJ's Civil Rights Division has taken to track (monitoring work initiated and actions taken), address, and assess allegations of election-related voting irregularities received between November 2000 and December 2003.

   - Election-related refers to a preliminary investigation, matter, or case that the Voting Section initiated pursuant to an allegation about a specific election.

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Enclosure I

Objectives

- A **preliminary investigation** is an investigation into an allegation that has not been assigned an identification number. A **matter** is an activity that has been assigned an identification number but has not resulted in a court filing of a complaint, indictment, or information. A **case** is an activity that has been assigned the same identification number that it had as a matter and has resulted in the court filing of a complaint, indictment, or information.

- Voting irregularities, for purposes of this review, generally refer to a broad array of complaints relating to voting and/or elections that may involve violations of federal voting rights and/or federal criminal law for which DOJ has enforcement responsibilities.

3. Assess the Voting Section's internal control activities to help ensure relevant, accurate, and reliable recording and documentation of allegations of voting irregularities for management decision-making and external reporting purposes.

- Internal controls are integral components of an organization's management that provide reasonable assurance of objectives that include, among other things, efficient operations. They comprise the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, support performance-based management.

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Enclosure I

Results in Brief

1. Since November 2000, DOJ has increased its monitoring of election activities on election day, provided additional training to Assistant U.S. Attorneys on civil rights laws, placed a greater priority on protecting the voting rights of language minorities and overseas voters, and provided guidance to states regarding implementation of the Help America Vote Act (HAVA).
2. The Civil Rights Division tracks matters and cases through a case management system. Telephone calls related to the 2000 and 2002 federal elections were tracked using telephone logs. The Voting Section addressed allegations of voting irregularities by contacting cognizant officials, obtaining data if deemed appropriate, and assessing the merits of the allegation to determine what, if any, further action was needed.
3. The Voting Section tracked the unprecedented volume of telephone calls related to the November 2000 election by using logs. Some logs had several broad categories to capture the subject of the calls and rows for states from which the calls originated, while other logs contained callers' names, contact information, and description of the calls. The Voting Section improved upon the telephone log for the November 2002 election by including categories to capture the action taken on each call and to record the caller's name, telephone number, and subject of the call. The Voting Section tracked some monitoring of elections by assigning matter identification numbers.

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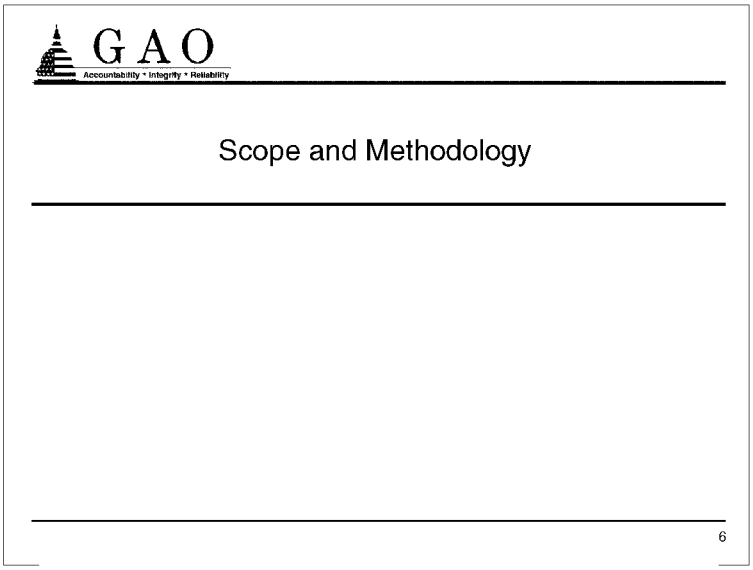
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Scope and Methodology
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Enclosure I

Scope

To address our objectives, we performed work at DOJ's:

- Civil Rights Division's Voting Section,
- Criminal Division's Public Integrity Section (PIN),
- Federal Bureau of Investigation's (FBI) Public Corruption Unit, and
- Executive Office for U.S. Attorneys (EOUSA).

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Enclosure I

Methodology
Objective 1

To identify changes in DOJ's efforts to help ensure voter access to the polls, we

- gathered documentation on DOJ's efforts to
  - monitor and observe elections,
  - increase emphasis on enforcement of minority language and overseas voters' rights,
  - disseminate election-related guidance, and
  - increase its resources to address voting issues, and
- interviewed responsible officials primarily in DOJ's Voting Section and PIN.

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Enclosure I

Methodology
Objective 2

To identify DOJ's actions to track, address, and assess allegations of voting irregularities, we

- interviewed officials in the Voting Section about procedures for tracking, addressing, and assessing allegations of voting irregularities;
- analyzed information on the approximately 11,000 reported telephone calls made to the Voting Section about the November 2000 election; and
- reviewed all files that the Voting Section identified as those it considered to be election-related voting irregularities that were initiated from November 2000 to December 2003. This included 1 closed preliminary investigation, 25 closed matters, and 8 closed and open cases. The Voting Section tracks its matters and cases based on statutes it enforces and not on whether an allegation relates to a specific election. Consequently, the Voting Section had to identify for us the preliminary investigation, matters, and cases that it considered to be election-related voting irregularities.

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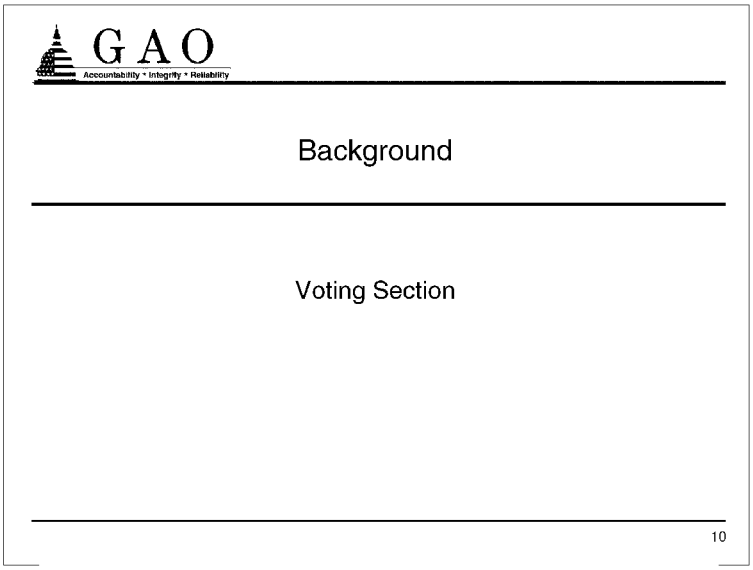
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Background
Voting Section
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Enclosure I

Background
Voting Section

Voting Section responsibilities include:

- enforcing the Voting Rights Act, which is designed to safeguard the right to vote of racial and language minorities and illiterate persons, among other provisions;
- enforcing federal statutes designed to safeguard the right to vote of disabled, elderly, military, and overseas voters; and
- enforcing provisions of the National Voter Registration Act, and the Help America Vote Act (HAVA) which address issues such as voter registration, provisional voting, and voter information.

Attachment I provides more information on statutes that the Voting Section enforces.

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Enclosure I

Background
Voting Section

The Voting Section, among other things, monitors election-day activities to ensure voting rights are protected and initiates investigations and opens matters to examine allegations of voting irregularities that fall within the jurisdiction of the Civil Rights Division. If warranted, a matter may culminate in a case that is filed with a federal court.

Voting Section attorneys are generally responsible for conducting investigations and prosecuting civil cases. The Voting Section also may initiate matters to monitor private lawsuits.

The Voting Section coordinates with the Criminal Division's Public Integrity Section (PIN) to help ensure voters' rights are protected, such as referring three allegations to PIN about possible election crimes related to the 2002 election. (See attach. II for more information about PIN's election-related responsibilities.)

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Enclosure I

Background
Voting Section

The following table provides information on all matters and cases initiated by the Voting Section in calendar years 2000 through 2003.

Year initiated	Matters	Cases	Total
2000	70	18	88
2001	53	6	59
2002	127	18	145
2003	99	4	103
Total	**349**	**46**	**395**

Source: GAO analysis of data from DOJ's Civil Rights Division's Voting Section.

According to Voting Section officials, the number of matters was higher in 2002 because the Voting Section initiated new matters for each of the over 80 newly covered jurisdictions required by the Voting Rights Act to provide bilingual election materials and assistance to language minority citizens. Following the 2000 Census, DOJ, in conjunction with the U.S. Census Bureau, identified these 80 jurisdictions. The Voting Rights Act requires jurisdictions to provide language minority assistance when certain criteria are met, such as when more than 5 percent of the citizens of voting age, or more than 10,000 of the citizens of voting age, are members of a single language minority group, and are unable to speak or understand English adequately enough to participate in the electoral process.

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Enclosure I

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Background
Voting Section

As shown in the following table, the Voting Section's positions for attorneys (authorized and on-board) increased since the beginning of fiscal year 2000.

Time period	Authorized attorney positions	Attorneys on-board
Start FY 2000	34	31
End FY 2000	36	35
End FY 2001	47	40
End FY 2002	47	42
End FY 2003	41	38
As of April 16, 2004	41	39

Source: DOJ's Civil Rights Division's Voting Section.

The number of authorized and on-board attorneys declined at the end of fiscal year 2003 because the number of submissions to the Voting Section for redistricting changes following the 2000 Census began to decline that year, according to Voting Section officials. Every 10 years, after the federal census, states redraw their legislative election districts to make these districts equal in population. The process of drawing new election district boundaries is called redistricting.

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Enclosure I

Changes to Help Ensure Voter Access

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Enclosure I

Changes to Help Ensure Voter Access
Results in Brief

Since November 2000, DOJ focused on ensuring voter access to the polls by

- placing more emphasis on its election-monitoring program,
- providing additional training for certain Assistant U.S. Attorneys who handle election-related issues that included placing more emphasis on handling civil rights issues,
- directing U.S. Attorney Offices to contact election and other officials at the state and local level to offer assistance prior to election day,
- placing greater priority on enforcing the voting rights of language minorities and overseas voters, and
- providing guidance to states regarding HAVA implementation.

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Enclosure I

Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring

In March 2001, the Attorney General announced that DOJ was placing more emphasis on its election-monitoring program. The Attorney General is authorized by law to notify the Office of Personnel Management (OPM) of the need to assign federal observers to monitor polling place activities on election day in counties that the Attorney General has certified under the Voting Rights Act and in counties authorized by federal court orders. The Attorney General delegates the authority with respect to federal observers to the Voting Section. The Voting Section's decision to request federal observers is based on past experience or investigations that indicated observers may be needed to protect voting rights. (See attach. I for information on the law authorizing federal observers.)

In addition to OPM federal observers, the Voting Section assigns DOJ attorneys and professional staff to monitor election day activities in local jurisdictions throughout the United States, whether or not the locations have been certified under the Voting Rights Act. This additional monitoring is part of the Voting Section's investigations of possible voting rights violations. Unlike OPM observers, DOJ attorneys and professional staff do not have specific statutory right of access to polling places and must get authority from the appropriate state and/or local officials for them to enter polling places.

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Enclosure I

Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring

DOJ attorneys and professional staff are assigned to these jurisdictions when there may be insufficient time to arrange for federal observers in covered jurisdictions, or when the results of Voting Section staff's pre-election investigations indicate the need for some limited federal presence.

The Attorney General directed the Voting Section to increase resources devoted to the election-monitoring program through the use of OPM federal observers and DOJ attorneys and professional staff.

The level of resources used and number of elections monitored were greater in federal election years (even-numbered years) than other years, as shown in the next figure.

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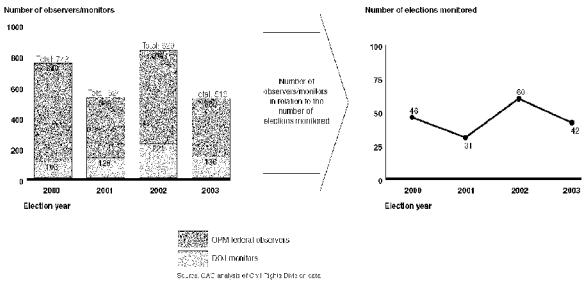
Enclosure I

Changes to Help Ensure Voter Access Emphasis Placed on Election Monitoring

The number of OPM federal observers and DOJ attorneys and professional staff were greater in the 2002 elections than in the 2000 elections. Similarly, more elections were monitored in 2002 than in 2000.



Note: DOJ monitors are attorneys and professional staff.

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Changes to Help Ensure Voter Access Emphasis Placed on Election Monitoring

OPM federal observers are always accompanied by DOJ attorneys and professional staff when monitoring elections and were present for elections held during calendar years 2000 through 2003 in Attorney General-certified and court-ordered counties and jurisdictions in several states. In a few instances, DOJ attorneys and professional staff independently monitored elections in these Attorney General-certified and court-ordered counties and jurisdictions.

DOJ attorneys and professional staff also independently monitored elections in counties and jurisdictions that were not Attorney General-certified or under court order during this 4-year period. In 2000, DOJ attorneys and professional staff monitored elections in 5 counties in 5 states. By 2002, the number of election jurisdictions monitored by DOJ attorneys and professional staff increased to 19 counties in 10 states, with monitoring of elections in counties in Florida accounting for the bulk of the increase.

According to the Voting Section, election monitoring is a high-priority program of DOJ and a very important part of the Section's efforts to address voting irregularities.

See attachment III for more information on election monitoring in Attorney General-certified and court-ordered election jurisdictions and election jurisdictions that DOJ monitored independently.

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Changes to Help Ensure Voter Access Training

Officials in the Voting Section and PIN said that Assistant U.S. Attorneys can attend annual public corruption conferences, where they receive (1) training on handling election crime investigations and prosecutions and (2) periodic updates to DOJ's manual on prosecuting election crimes. Starting in October 2002, additional annual training, referred to as the Ballot Access and Voting Integrity Conference, was provided to Assistant U.S. Attorneys who, in coordination with DOJ headquarters, handle election-related matters for the 93 U.S. Attorneys.

The Ballot Access and Voting Integrity Conference training, according to Civil Rights Division officials, included civil rights issues that had not been covered in the training offered to Assistant U.S. Attorneys prior to October 2002 and was designed to provide them a better understanding of what the Voting Section does to enforce federal voting rights statutes. Also, according to the Civil Rights Division, the presentations that the Voting Section made at this annual training conference placed special emphasis on the election-monitoring program and solicited the Assistant U.S. Attorneys' involvement in helping to enforce federal voting rights laws, ballot access, and the election-monitoring program. According to PIN, this training, which was mandatory for the Assistant U.S. Attorneys designated as district election officers, also covers voting integrity issues important to election crime matters.

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Enclosure I

Changes to Help Ensure Voter Access Training

The Ballot Access and Voting Integrity Conference training was provided to Assistant U.S. Attorneys in October 2002, September 2003, and July 2004.

The training materials for 2002 included topics related to federal voter registration and election-day statutes that the Voting Section enforces, which include the Voting Rights Act, National Voter Registration Act, and the Uniformed and Overseas Citizens Absentee Voting Act, and topics related to handling election crime investigations, trials, and the statutes and theories used to address election crimes.

The 2003 training materials included, in addition to the same topics covered in 2002, information on HAVA and election monitoring by federal observers. According to PIN and the Voting Section, the content of the 2004 training was similar to that provided in previous years.

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Enclosure I

Changes to Help Ensure Voter Access
Contacts with State and Local Election Officials

In October 2002, the Attorney General directed each U.S. Attorney to coordinate with state and local election and law enforcement officials prior to the November 2002 elections to, in part, explore ways that they could work more closely together to deter and detect discrimination and to deter and prosecute election crimes.

According to PIN officials, the Attorney General's October 2002 directive (1) formalized an ad-hoc practice that had existed in DOJ for many years of coordinating elections and election-related matters with state officials and (2) led to a systematic effort to coordinate election issues and matters with these officials.

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Enclosure I

Changes to Help Ensure Voter Access
Contacts with State and Local Election Officials

Prior to the November 2002 federal elections, almost all of the U.S. Attorney Offices reported to PIN that they had contacted various state or local officials either by telephone, in writing, or in person.

The state and local officials contacted varied by each U.S. Attorney Office. For example, according to PIN,

- the three U.S. Attorneys in the state of Florida reported having met with the Florida Secretary of State and
- the U.S. Attorney for the Southern District of California reported having met with the San Diego County Registrar of Voters, Election Administrator, and Deputy District Attorney, and the Imperial County Registrar of Voters and District Attorney.

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Changes to Help Ensure Voter Access
Contacts with Civil Rights and Other Organizations

The Attorney General directed the Civil Rights Division was to work with civil rights leaders, state and local election officials, and U.S. Attorney Offices prior to election day in an effort to help ensure that citizens' voting rights are protected. The Attorney General also directed the Criminal Division to work with these same groups in helping to preserve ballot integrity and prevent election offenses.

According to the Voting Section, the Assistant Attorney General for the Civil Rights Division has met with representatives of civil rights organizations to discuss the Voting Section's election-monitoring program and its plans for monitoring the November 2004 election and has made other presentations concerning voting rights issues at many of these organizations' meetings and conferences. The Voting Section also said that as this election approaches, it plans to ask civil rights organizations what election jurisdictions they believe the Voting Section should consider monitoring.

The Voting Section also said that since October 2002, staff from the Civil Rights Division have made presentations to, met with, or received presentations from various civil rights and other organizations, such as the NAACP, Lawyers' Committee for Civil Rights Under Law, League of United Latin American Citizens, Leadership Conference on Civil Rights, AARP, National Association of Secretaries of State, and National Association of State Election Directors.

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Changes to Help Ensure Voter Access Language Minority Voting Rights

In 2002, the Civil Rights Division made enforcement of voting rights laws that address access to voting for language minority groups one of the Voting Section's highest priorities. DOJ reported in a civil rights accomplishments fact sheet that the Civil Rights Division conducted an outreach campaign with state and local election officials and local language minority groups to help ensure access to bilingual voting materials for language minority groups. This was begun in July 2002 following the certification of covered jurisdictions based on the results of the 2000 census.

- The fact sheet states that the outreach included a July 2002 letter from the then- Assistant Attorney General for the Civil Rights Division to each of the 296 political jurisdictions covered by Section 203 of the Voting Rights Act notifying them of their bilingual access obligations in the upcoming and future elections. According to the Civil Rights Division, attorneys from the Division visited many of the 296 counties covered by Section 203.

- In addition, the fact sheet reported that Civil Rights Division attorneys conducted in-person meetings with state and local election officials and local language minority groups in almost all of the more than 80 newly covered jurisdictions.

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Enclosure I

Changes to Help Ensure Voter Access Language Minority Voting Rights

We analyzed data as of March 15, 2004, on matters and cases related to Section 203 language minority issues recorded in DOJ's Interactive Case Management (ICM) system, which is used to track and manage these data. We found that the Voting Section initiated 7 matters and no cases in 2000, 13 matters and 2 cases in 2001, 94 matters and 1 case in 2002, and 28 matters and no cases in 2003. According to the Civil Rights Division, the Division also initiated the following cases: (1) two language assistance cases in 2002 under Section 2 and Section 208 of the Voting Rights Act; (2) two cases in 2003 under Section 2, Section 203, and Section 208 of the Voting Rights Act; and (3) five cases in 2004 under Section 203 of the Voting Rights Act. Sections 2, 203, and 208 of the Voting Rights Act are described in attachment I.

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Enclosure I

Changes to Help Ensure Voter Access Uniformed and Overseas Citizens

Given the large number of troops deployed overseas and an increase in concerns about late mailing of absentee ballots, Voting Section officials said that the Voting Section placed increased priority in 2004 on enforcing and preparing to ensure compliance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which only applies to federal elections. These officials cited the following enforcement and preparation activities during 2004.

- Obtained a court order in April for emergency relief to remedy an UOCAVA violation committed during the Pennsylvania primary election.
- Negotiated with the state of Alabama in May to obtain a similar emergency relief order from a state court for a county's failure to provide enough time for the mailing to and return of ballots from overseas voters for its primary election.
- Obtained a court order in an UOCAVA lawsuit in July against the state of Georgia for similar emergency relief for its primary election.
- Established a working group of Voting Section attorneys to facilitate communications with the Department of Defense's Federal Voting Assistance Program, which is charged with administering UOCAVA, and to plan for the possibility of more UOCAVA litigation during 2004.

Our analysis of matters and cases in DOJ's ICM system as of March 15, 2004, showed that the Voting Section initiated 3 matters and 2 cases during calendar years 2000 through 2003 involving the issue of absentee voting by uniformed and overseas citizens. All 5 of the matters and cases were initiated in 2002.

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Enclosure I

Changes to Help Ensure Voter Access Guidance to States on HAVA

In October 2002, HAVA established the Election Assistance Commission to, in part, serve as a national clearinghouse and resource to compile information and review procedures related to federal election administration and provide guidance on implementing certain HAVA requirements. Because the Election Assistance Commission was not established until December 2003, the Voting Section provided informal, nonbinding guidance to states on implementing the requirements of HAVA.

The Voting Section's guidance to states on HAVA's requirements included

- interpreting requirements of the law and advising states on how to comply with them based on DOJ's enforcement role under HAVA;
- responding to inquiries from state and local officials;
- making presentations at various meetings and conferences;
- writing letters to the chief state election official, governor, and attorney general in each of the 50 states, the District of Columbia, and the U.S. territories offering to assist the jurisdictions in their efforts to ensure compliance with HAVA and summarizing HAVA provisions;
- creating a HAVA information page on its Web site; and
- issuing a press release that outlined provisions of HAVA that took effect on January 1, 2004, such as provisional voting and identification requirements for new voters who register by mail.

According to the Civil Rights Division, the Voting Section also filed its first enforcement action in California in 2004 against a county for violating the voter information provisions of HAVA.

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Enclosure I

Changes to Help Ensure Voter Access Plans for November 2004 Election

According to Voting Section officials, DOJ's plans for helping to ensure voter access for the November 2004 election include

- increasing its on-site monitoring of elections considerably over prior years through greater use of staff from other sections in the Civil Rights Division. Voting Section officials also said that final decisions as to where monitoring will be conducted are not made public until shortly before an election, but they told us that the Voting Section has prepared a list of jurisdictions for consideration based on consent decrees and will update the list with other jurisdictions being considered for coverage as the election approaches. According to these officials, the Voting Section has not established a specific goal for achieving an increase in staff or elections to be covered, and

- coordinating with civil rights organizations that will be monitoring the election and establishing procedures for bringing their concerns about specific issues or jurisdictions to DOJ on or before election day in November 2004.

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Enclosure I

Actions to Track, Address, and Assess Allegations

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Enclosure I

Actions to Track, Address, and Assess Allegations Results in Brief

In our review, we found that the Civil Rights Division had formal procedures to track matters and cases to address voting irregularities. Specifically, the Voting Section tracks investigative matters and cases through the Division's ICM system using unique identification numbers. In addition, the Voting Section tracked telephone calls alleging voting irregularities for the November 2000 and November 2002 elections using telephone logs.

Voting Section attorneys addressed and assessed allegations of election-related voting irregularities initiated from November 2000 to December 2003 in various ways, depending on the allegation. Our review of files related to 1 preliminary close investigation, 25 closed matters, and 8 open and closed cases generally found that attorneys contacted cognizant officials and assessed the legal merits of evidence of alleged violations of civil rights laws.

In our review of files, we found that Voting Section attorneys generally addressed allegations of voting irregularities initiated from November 2000 to December 2003 through a preliminary investigation or investigative matters and took actions such as interviewing election officials at state and local levels, interviewing voters affected by alleged voting irregularities, and meeting with civil rights groups.

Our review of Voting Section files also found that Voting Section attorneys, in conjunction with supervisory attorneys, assessed information collected and determined whether (1) federal voting rights laws were violated; (2) an investigation should be closed; or (3) further action was needed by the Voting Section, such as filing a complaint with a federal court or continued monitoring.

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Enclosure I

Actions to Track, Address, and Assess Allegations
Tracking Allegations of Voting Irregularities

The ICM is a database system that the Voting Section uses to track and manage matter and case data for the Section and can be used to generate reports.

Each matter and case is assigned a DJ number, which is an unique identification number. Information on matters and cases can be searched by the identification numbers, statutes, and other information maintained in the system.

The system is set up to automatically enter certain data and has required fields for which data must be entered. Voting Section staff can enter other data into the system, as appropriate.

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Enclosure I

Actions to Track, Address, and Assess Allegations Tracking Allegations of Voting Irregularities

Officials told us that the Voting Section

- receives numerous citizen calls, comments, and questions daily;
- receives telephone calls, e-mails, faxes, letters, and packages. Most of the calls and written allegations from citizens do not concern issues within the jurisdiction of the Civil Rights Division and, in such instances, the caller is often notified of this determination over the telephone and referred to other state or federal agencies with possible jurisdiction;
- documented telephone calls received at the Section's toll free telephone number using telephone logs for the 2000 and 2002 elections;
- found that only a small percentage of allegations that it received following the November 2000 election fell within its jurisdiction or presented substantive issues that merited further review. Notations on logs documenting telephone calls related to the November 2000 election indicated that some of the calls– we were unable to quantify the number of calls because of the way calls were recorded– were related to dissatisfaction with the outcome of the election or other issues such as general complaints about the election process that contained no specific allegations of violations of federal laws;
- in addition to following up with people who called the Voting Section after the November 2000 election, Voting Section staff pursued other avenues of complaints, such as complaint logs generated by the NAACP Voter Fund, hearings conducted by the U.S. Commission on Civil Rights and the NAACP, and incidents receiving a large amount of publicity, to determine if federal laws had been violated; and
- expects attorneys to find new matters for investigation in addition to assignments made by Section management.

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Enclosure I

Actions to Track, Address, and Assess Allegations
Tracking Allegations of Voting Irregularities

Voting Section officials told us that on election day

- in addition to calls received by the Section at its toll-free number, an OPM federal examiner maintains a toll-free telephone number to receive calls. An examiner is a federal employee assigned by OPM to receive complaints of racial or minority language discriminatory voting practices. (See attach. I for the statute related to federal examiners.) Any allegations taken by the examiner that are deemed to require immediate attention are routed to the Civil Rights Division when received, while other allegations are transmitted after the election and reviewed to determine if further action is needed. According to the Chief of the Voting Section, they received few, if any, allegations from examiners in relation to the November 2000 election, and
- a small number of Civil Rights Division staff remain available at the Voting Section on major election days to take citizen calls, with the vast majority of Section staff at various locations around the country for monitoring purposes. Major problems that arise from these calls are routed to attorney supervisors to determine what actions are needed.

Our review of files included five matters that were initiated to monitor elections. According to Voting Section officials, this activity is not routinely tracked through the ICM, but they plan to designate a single identification number to track this activity.

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Enclosure I

Actions to Track, Address, and Assess Allegations
Actions to Address Allegations

The following presents information on the Voting Section's process for addressing allegations related to voting irregularities.

- If the Voting Section deems that a voting allegation falls within its jurisdiction and appears to have merit, an attorney is assigned to make inquiries about the allegation. The attorney performs some investigative work to determine whether the allegation should be pursued.
- If an attorney believes a matter should be investigated, the attorney discusses this with the Deputy Chief responsible for the state in which the matter rises. The Section Chief and Deputies decide whether or not to formally open a matter. The Voting Section assigns a number to the matter for tracking purposes.
- When Voting Section staff monitor elections and receive allegations of or information about voting irregularities while on site, they make efforts to resolve allegations by contacting local election officials immediately. Further investigation of such irregularities is conducted after an election if the allegation was not resolved on election day or if it is deemed otherwise necessary to prevent such problems from arising in the future.

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Enclosure I

Actions to Track, Address, and Assess Allegations
Actions to Address Allegations

Our file review found that the Voting Section generally took the following actions during its investigations initiated from November 2000 to December 2003:

- Interviewed state and county election officials, other state and county officials who may provide insight into the investigation, state Attorneys General, voters raising the allegations, and representatives from the NAACP and other minority groups.
- Requested documentation detailing certain election procedures.
- Facilitated the resolution of allegations and issues that arose during elections, when monitoring elections. If Voting Section staff monitoring elections received allegations about voting irregularities, they immediately took steps to resolve the allegations by contacting local election officials.
- Where deemed appropriate, filed enforcement actions in federal court against jurisdictions that allegedly violated federal voting rights laws by either obtaining judgments against them or entering into consent decrees with jurisdictions that agree to remedy their alleged violations of federal voting statutes.

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Enclosure I

Actions to Track, Address, and Assess Allegations
Actions to Assess Allegations

Following the investigation of a preliminary investigation or matter, a Voting Section attorney, in conjunction with a supervisor, determines whether the allegation has merit, whether the preliminary investigation or matter should be pursued further, or whether the preliminary investigation or matter should be closed. The determination to close a matter or pursue it as a case is a legal judgment and is often based on whether there is deemed to be a sufficient evidence of violations of voting rights laws and whether the state or local election officials have taken action to correct problems.

The Voting Section identified a total of 34 closed investigations and open and closed cases initiated between November 2000 and December 2003 that it considered to involve election-related voting irregularities: 1 closed preliminary investigation, 25 closed matters, and 8 open and closed cases.

The preliminary investigation was closed because the Voting Section concluded that the allegation lacked merit.

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Enclosure I

Actions to Track, Address, and Assess Allegations
Actions to Assess Allegations

For the 25 closed matters:

- 13 were closed because the Voting Section concluded that the allegations lacked merit;
- 5 were closed because the state or voting jurisdictions took actions to resolve the issues (e.g., one state passed an election law, and the Voting Section approved changes to election procedures that one city had proposed);
- 4 were closed following the completion of elections, and the Voting Section provided feedback or observations related to election procedures while monitoring elections;
- 2 were closed because voting jurisdictions implemented changes for future elections; and
- 1 was closed because a state court issued an order addressing the issue.

For the 8 cases:

- 6 are open pending fulfillment of consent decrees entered into on behalf of DOJ and the jurisdiction in alleged violation of statute, and
- 2 are closed because consent decrees entered into on behalf of DOJ and the jurisdictions in alleged violation of statutes required states to take corrective actions and states did so by passing legislation, among other actions.

Attachment IV provides detailed information on the results of our file review of the 34 closed preliminary investigation and matters and open and closed cases initiated from November 2000 to December 2003 that the Voting Section considered as involving election-related voting irregularities.

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Enclosure I

Assessment of Internal Controls

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Enclosure I

Assessment of Internal Controls
Results in Brief

In our review, we found that

- the Voting Section tracked telephone calls related to the November 2000 election by using telephone logs. Some logs had several broad categories to capture the subject of the calls, rows for states from which the calls originated and, for the most part, tabulated the numbers of calls using tick marks. Other logs that the Voting Section used contained information such as callers' names, telephone numbers, and descriptions of the calls. The Voting Section improved upon the telephone log for the November 2002 election by including columns to record the action taken on each call in addition to recording the caller's name and telephone number, but has one column to capture the subject of the call, and
- as mentioned previously, the Voting Section tracked some monitoring of elections by opening matters and assigning each matter an identification number. According to Voting Section officials, it has not routinely tracked election-monitoring activities through the case management system but is considering assigning one identification number to track election-monitoring activities.

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Enclosure I

Assessment of Internal Controls
November 2000 Election Telephone Logs

The Voting Section received an unprecedented volume of telephone calls in November and December 2000 related to the unusual events surrounding the November 2000 presidential election.

- The Voting Section reported to the Senate Committee on the Judiciary that it received approximately 11,000 calls related to the November 2000 election. In comparison, the Voting Section told us it received several hundred calls related to the November 2002 election. The Voting Section told us it does not have records of telephone calls related to other elections except to the extent that such telephone calls generated investigations that became matters or cases.
- According to the Voting Section, contractors were hired in November 2000 to help handle the unprecedented number of incoming telephone calls received concerning the November 2000 election to help ensure that the public would be able to voice opinions and concerns. Hiring contractors was not intended as a mechanism to gather specific allegations.
- Voting Section staff and contractors kept telephone logs that consisted of tables with columns identifying broad categories of allegations or comments and rows with the state from which a call originated. Voting Section staff also kept two other types of logs, which included the caller's name, state, telephone number, and description of the call. Calls were recorded on most logs as tick marks, while some logs included limited narrative on the nature of the call.

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Enclosure I

Assessment of Internal Controls
November 2000 Election Telephone Logs

Our analysis of the telephone call logs completed by contractors found the following:

- It was difficult to count how many calls were received because, for example, one caller could have made multiple complaints and some logs appeared to be duplicates.
- The call logs did not include a way to record calls from 4 states—Arkansas, Kansas, Montana, and North Dakota. According to Voting Section officials, these 4 states were left off the contractor logs inadvertently, although these officials noted that they were unaware of any calls received from these states. Our analysis found that Voting Section staff recorded having received calls from some of these states.
- Columns that were used to record callers were labeled voter fraud, irregularities, request investigation, re-vote, and general comments. In some of the logs, the columns were re-labeled manually to tally additional types of comments. The broad nature of these column labels to record information about the nature of the calls and the limited narrative sometimes included on logs did not always provide sufficient information to determine whether the Voting Section should initiate an investigation.
- The telephone logs did not include information on callers' contact information such as telephone numbers.

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Enclosure I

Assessment of Internal Controls
November 2000 Election Telephone Logs

Some of the telephone logs that Voting Section and contractor staff completed included comments indicating allegations that people may have been prevented from voting. According to the Voting Section, Voting Section personnel reviewed logs on an ongoing basis and efforts were made to contact callers who provided telephone numbers and whose messages indicated possible violations of federal civil rights statutes. The Voting Section does not have records indicating how many such return calls were made and noted that return telephone contact information was not always provided or asked for.

According to Voting Section officials, an assessment of the calls led them to determine that most of the calls focused on concerns about the election situation in Florida, often from citizens in states other than Florida, and that few allegations included substantive information about possible violations of federal law. However, the information on the November 2000 telephone logs is not precise enough to document this assessment.

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Enclosure I

Assessment of Internal Controls
November 2002 Election Telephone Logs

For the November 2002 federal election, the Voting Section assigned staff to receive calls; provided instructions for how to handle calls from citizens, the press, members of Congress, and others; and provided state contact information to refer callers to state officials, when appropriate.

According to Voting Section officials, a telephone log was used to record calls received. The telephone log included columns to record time of call; caller information for name, city, state, and telephone number; subject; and action. No instructions were provided with the telephone log about how to complete it regarding the type of information to be included in the subject or action columns.

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Enclosure I

Assessment of Internal Controls Plans for the November 2004 Election

According to the Civil Rights Division, the Voting Section plans to ensure that it has full capability to receive and respond, as appropriate, to all calls related to the November 2004 general election in the most expeditious way possible. Division officials further stated that the Voting Section has procedures in place to track and respond to telephone calls that it might receive in relation to the November 2004 general election.

- Specifically, the Civil Rights Division told us that the Voting Section plans to use a telephone log such as the one used for the November 2002 election to record information on the caller's name, time of call, city and state, telephone number, subject of the call, and action taken on the call. The Division noted that the November 2002 log or any log that the Voting Section might use for the November 2004 election is a tool to ensure that the Voting Section does not miss calls raising important concerns over which it has jurisdiction and is not intended to definitively track all election-related allegations received.

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Enclosure I

Assessment of Internal Controls Plans for the November 2004 Election

The Civil Rights Division also cited other procedures that the Voting Section plans to use to track and respond to possible telephone calls related to the November 2004 general election. These procedures will include the Voting Section

- continuing its practice of assigning its staff to specific states for the purpose of reviewing citizen calls and letters;
- keeping a sufficient number of staff and supervisory attorneys in headquarters on election day to handle calls and to respond to allegations referred from Voting Section staff monitoring elections in the field on that day; and
- using contractors, if needed, to take telephone calls. The Division plans to determine the need to use contractors on a case-by-case basis.

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Conclusions and Recommendations

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Enclosure I

Internal Controls Conclusions

- The Voting Section received an unprecedented number of calls related to the November 2000 election and took steps to document telephone calls. According to the Voting Section, it also documented calls for the November 2002 election for which far fewer calls were received. The 2000 and 2002 election telephone logs differed somewhat in format, and improvements were made regarding how information was collected on the 2002 election telephone log. The Voting Section did not provide written instructions to contractors in November 2000 about how to complete the logs, but did provide written instructions to DOJ staff on completing some of the information for the 2002 logs. However, both logs lack precision for documenting the nature of the call and actions taken because broad categories were used to capture information on the call.

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Internal Controls Conclusions

- Predictions of another close presidential election in November 2004, possible voter confusion over new requirements in the Help America Vote Act, and possible questions regarding voting equipment could result in the Voting Section again receiving a large number of telephone calls and possibly result in the use of contractors to handle calls since most of the Voting Section staff are monitoring election sites on election day. If the Voting Section collects more precise information about such calls, it is in a better position to assure the public that it addressed allegations of voting irregularities; if it documents actions taken more precisely, it is better able to reassure the public and Congress of its commitment to enforce federal voting rights statutes.

- The Voting Section has emphasized the importance of its monitoring of election day activities, yet the monitoring program has not been routinely tracked in the ICM system, its formal process for tracking and managing work activities. Voting Section officials told us they were considering tracking this program in the future, and we believe the significance of this program warrants a more formal tracking of monitoring efforts and resources dedicated to the program.

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Enclosure I

Recommendations

Confidence in election processes is of utmost importance. To help ensure confidence in the integrity of our voting processes, the Voting Section plays an important role in addressing voting irregularities. By accurately recording and documenting its activities in as clear a manner as possible, the Voting Section contributes to assuring the public and Congress of the integrity of our voting processes.

To reassure citizens of the integrity of our election processes and to reassure the public and Congress of DOJ's commitment to its responsibility to enforce federal voting rights statutes, we recommend that the Assistant Attorney General for the Civil Rights Division direct the Chief of the Voting Section to

- develop and implement procedures for the November 2004 election to ensure that the Voting Section has a reliable method of tracking and documenting allegations of voting irregularities and actions taken to address them. Procedures could include more precise categories for recording types of allegations, more precise categories to record actions taken, development of instructions on completing the telephone logs, and development and implementation of training for contractors, should they be needed, and

- implement a method to track and report on election monitoring program activities in the Interactive Case Management system.

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Attachment I

Voting Laws Enforced by the Voting Section Relevant to Contents of Briefing and Its Attachments

According to the Voting Section, to carry out its mission, the Voting Section brings lawsuits against states, counties, cities, and other jurisdictions to remedy denials and abridgements of the right to vote; defends lawsuits that the Voting Rights Act authorizes to be brought against the Attorney General; reviews changes in voting laws and procedures administratively under Section 5 of the Voting Rights Act; and monitors election day activities through the assignment of federal observers under Section 8 of the Voting Rights Act. Provided below are short descriptions of some of the primary voting laws enforced by the Voting Section.

Voting Rights Act Provisions

- Section 2 of the Voting Rights Act (42 U.S.C. § 1973)

  Section 2 of the Voting Rights Act establishes a nationwide ban against any state or local election practices or procedures that deny or abridge a citizen's right to vote on account of race, color, or membership in a language minority group.[4] The Voting Rights Act provides that plaintiffs may establish a violation of Section 2 by demonstrating that "the political processes leading to nomination or election" deny members of the protected classes an equal opportunity to participate in the political process and to elect representatives of their choice. A court, under the Voting Rights Act, may also consider the extent to which members of the protected class have been elected to office in the jurisdiction, though Congress made clear that Section 2 does not confer upon protected classes a right to proportional representation.

- Sections 203 and 4(f)(4) of the Voting Rights Act (42 U.S.C. §§ 1973aa-1a, 1973b(f)(4))

  Sections 203 and 4(f)(4) are the language minority provisions of the Voting Rights Act and require certain covered jurisdictions to provide bilingual election materials and assistance based on census data pertaining to the population of citizens of voting age with limited English proficiency and their rate of illiteracy. With respect to Section 203, the Voting Rights Act requires jurisdictions to provide language minority assistance when certain criteria are met, such as when more than 5 percent of the citizens of voting age or more than 10,000 of the citizens of voting age are members of a single language minority group, and are unable to speak or understand English adequately enough to participate in the electoral process.

[4] 42 U.S.C. §§ 1973, 1973b(f)(2).

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- Section 208 of the Voting Rights Act (42 U.S.C. § 1973aa-6)

  Section 208 of the Voting Rights Act authorizes voting assistance for blind, disabled, or illiterate persons. A voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

- Section 5 of the Voting Rights Act (42 U.S.C. § 1973c)

  Under Section 5 of the Act, "covered"[5] jurisdictions may not change their election practices or procedures until they obtain federal "preclearance" for the change. The act provides for either judicial or administrative preclearance. Under the judicial mechanism, covered jurisdictions may seek declaratory judgment from the United States District Court for the District of Columbia that the change has neither the purpose nor the effect of discriminating against protected minorities in exercising their voting rights. Under the administrative mechanism, covered jurisdictions may seek the same determination from the Attorney General. The Attorney General may deny preclearance by interposing and objection to the proposed change within 60 days of its submission.

- Section 6 of the Voting Rights Act (42 U.S.C. § 1973d)

  Section 6 of the Voting Rights Act provides for the appointment of federal examiners by order of a federal court or, with respect to certain covered jurisdictions, upon certification by the Attorney General. Federal examiners help to register voters by determining whether a citizen meets state eligibility requirements and must therefore be included in the registration rolls. A federal court, under the Voting Rights Act, may order the appointment of federal examiners to any jurisdiction sued under any statute to enforce certain constitutional voting guarantees.[6] In covered jurisdictions, the Attorney General may appoint examiners upon certification that the Attorney General has received at least 20 meritorious written complaints of voting discrimination or that the Attorney General otherwise believes that the appointment of examiners is necessary to protect voting rights.

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[5] The jurisdictions targeted for "coverage" are those evidencing discriminatory voting practices, based upon a triggering formula, as defined in Section 4 of the Voting Rights Act (42 U.S.C. 1973b). The Attorney General and the Director of the Census have responsibility for determining which jurisdictions are covered by the triggering formula, and their determinations are not reviewable in any court and are effective upon publication in the *Federal Register*.

[6] See also, section 3 of the Voting Rights Act (42 U.S.C. § 1973a).

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- Section 8 of the Voting Rights Act (42 U.S.C. § 1973f)

  Under Section 8 of the Voting Rights Act, federal observers may be appointed, upon request of the Attorney General, in any jurisdiction where an examiner is serving. Federal observers are to monitor elections and report whether persons entitled to vote were allowed to vote and whether their votes were properly counted.

- Section 11(b) of the Voting Rights Act (42 U.S.C. § 1973i(b)

  Section 11(b) of the Voting Rights Act prohibits persons, whether acting under color of law or not, from intimidating, threatening, or coercing, or attempting to intimidate, threaten or coerce, any person for voting or attempting to vote. Section 11(b) further prohibits intimidation, threats, or coercion of those persons aiding other persons in voting or exercising certain powers or duties under the Act.

Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. §§ 1973ff to 1973ff-6)

The Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), in general, requires states and territories to allow absent uniformed service voters, their spouses and dependents, and certain other overseas voters to register and vote absentee in elections for federal office. UOCAVA requires, for example, that a presidential designee prescribe a federal write-in absentee ballot for all overseas voters in federal elections. The ballot is to be used if the overseas voter applies for, but does not receive, a state absentee ballot.[7] While state law, in general, governs the processing of these federal write-in ballots, UOCAVA requires that states permit their use in federal elections.[8]

National Voter Registration Act (42 U.S.C. §§ 1973gg to 1973gg-10)

The National Voter Registration Act of 1993 (NVRA) established procedures designed to "increase the number of eligible citizens who register to vote in elections Federal office," while protecting "the integrity of the electoral process" and ensuring the maintenance of "accurate and current voter registration rolls."[9] NVRA requires all states to adopt certain federal voter registration procedures, except for those states that have no registration requirements or that permit election-day registration with respect to federal elections.[10] NVRA, for example, requires states to allow applicants for driver's licenses to register to vote on the same form.[11] NVRA also requires states

[7] 42 U.S.C. § 1973ff-2(a).
[8] Id. § 1973ff-1(3).
[9] 42 U.S.C. § 1973gg.
[10] 42 U.S.C. § 1973gg-2.
[11] Id. § 1973gg-3(a).

to provide voter registration forms and accept completed applications at various state agencies, including any office in the state providing public assistance, any office in the state that provides state-funded disability programs, and other agencies chosen by the state, such as state licensing bureaus, county clerks' offices, public schools and public libraries.[12] NVRA also contains detailed requirements regarding state removal of names from federal registration rolls.[13]

Voting Accessibility for the Elderly and Handicapped Act of 1984 (42 U.S.C. §§ 1973ee to 1973ee-6)

Congress has passed legislation intended to improve access for elderly and handicapped individuals to registration facilities and polling places for federal elections. The Voting Accessibility for the Elderly and Handicapped Act of 1984 requires, with some exceptions, that political subdivisions within each state that are responsible for conducting elections assure that polling places and registration sits are accessible to handicapped and elderly voters.[14] If the political subdivision is unable to provide an accessible polling place, it must provide an alternative means for casting a ballot on election day upon advance request by the voter.[15] The act's requirements also include, for example, that each state or political subdivision provide a reasonable number of accessible permanent registration facilities, and that each state make available certain types of voting and registration aids such as large-type instructions and information by telecommunication devices for the deaf.[16]

Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131 to 12134) (enforced by the Disability Rights Section of the Civil Rights Division)

Title II of the Americans with Disabilities Act prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State and local governments. According to the Voting Section, as construed by the courts, Title II requires that polling places be accessible to persons with disabilities with certain exceptions.

Help America Vote Act (42 U.S.C. §§ 15301 to 15545)

The Help America Vote Act of 2002 (HAVA), among other things, established a program to provide funds to states to replace punch care voting systems, established the Election Assistance Commission to assist in the administration of federal elections and to otherwise provide assistance with the administration of certain

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[12] Id. §§ 1973gg-5(a)(2), (a)(3), (a)(4), (a)(6)(A)(i).
[13] Id. § 1973gg-6(b).
[14] 42 U.S.C. §§ 1973cc to 1973cc-6.
[15] Id. § 1973ee-1(b)(2)(ii).
[16] Id. § 1973ee-2, 1973ee-3.

Attachment I

federal election laws and programs, and established minimum election administration standards for States and units of local government with responsibility for the administration of federal elections. Certain HAVA provisions including those relating to voting system standards, provisional voting and voting information requirements, and computerized statewide voter registration lists are to be enforced by the Attorney General.[17]

[17] 42 U.S.C. § 15511.

Attachment II

Role of the Criminal Division's Public Integrity Section in Federal Elections

The Public Integrity Section (PIN), in conjunction with the 93 U. S. Attorneys and the FBI, is responsible for enforcing federal criminal laws applicable to federal election fraud offenses, among other things. Election fraud is conduct that corrupts the electoral processes for: (1) obtaining, marking, or tabulating ballots; (2) canvassing and certifying election results; or (3) registering voters. Election fraud can be committed with or without the participation of voters. Examples of election fraud that does not involve voter participation are ballot box stuffing, ghost voting, and "nursing home" frauds. Examples of election fraud that involves, at least to some extent, voter participation are vote buying schemes, absentee ballot fraud, voter intimidation schemes, migratory-voting or floating-voter schemes, and voter "assistance" fraud in which the voters' wishes are ignored or not sought. According to a PIN official, its attorneys spend about 10 percent of their time on election fraud investigations and trials.

PIN is also responsible for overseeing the U.S. Attorneys' and the FBI's investigation and prosecution of federal election fraud, one of the most common types of alleged federal election crimes. PIN's oversight entails (1) advising investigators and prosecutors on the application of federal criminal laws to election crimes, (2) reviewing all major election crime investigations and all proposed election crime charges, and (3) assisting with implementing DOJ's District Election Officer (DEO) program. Under the DEO program, PIN asks each of the 93 U.S. Attorneys to appoint an Assistant U.S. Attorney to serve a 2-year term as a DEO and provides training and guidance to DEOs on carrying out their responsibilities. DEOs, whose responsibilities are performed in conjunction with their other responsibilities, are to

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

Attachment II

Our analysis of information from PIN on election fraud matters showed that U.S. Attorneys and PIN attorneys initiated a total of 61 election fraud matters, or investigations, related to election years 2000 through 2003. Most of the 61 matters related to elections held in 2002. Matters were initiated in 28 states and 1 U.S. territory (the U.S. Virgin Islands) and ranged from 1 to 7 matters per state/territory over the 4-year period. The most frequent allegations of election fraud were for absentee ballot fraud and vote buying. According to PIN, many of these matters resulted in indictments and subsequent convictions.

According to the Criminal Division, the information provided by PIN does not include all election fraud investigations that the U.S. Attorneys have initiated because (1) U. S. Attorneys are not required to consult with PIN for preliminary investigations as opposed to grand jury investigations, which require consultation; (2) PIN did not track election fraud investigations prior to October 2002; and (3) election fraud investigations are sometimes initiated under non-election statutes.

Attachment III

Election Jurisdictions Monitored during Calendar Years 2000 through 2003

Table 1: Attorney General-Certified Election Jurisdictions Monitored during Calendar Years 2000 through 2003

State	Election jurisdictions monitored during			
	2000	2001	2002	2003
	Hale County		Hale County	
	Selma (Dallas County)[a]		Chambers County	
	Lowndes County			
Arizona	Apache County		Apache County	
	Navajo County		Navajo County	
Georgia	Randolph County[a]		Randolph County	
	Brooks County			
	Sumter County			
	Twiggs County			
Louisiana	Tensas Parish			
Mississippi	Aberdeen (Monroe County)[a]	Clarksdale (Coahoma County)[b]	Adams County	Greenville (Washington County)
	Bolivar County	Isola (Humphreys County)	Amite County	Humphreys County
	Grenada County	Macon (Noxubee County)	Centreville (Wilkinson County)	Noxubee County[a]
	Neshoba County	Sunflower (Sunflower County)	Drew (Sunflower County)	Neshoba County
	Newton County			Newton County
				Kemper County
		Vicksburg (Warren County)[a]		Leake County
		Webb (Tallahatchie County)		Jones County
				Winston County
New York	Kings County	Kings County	Kings County	
	New York County	New York County	New York County	
		Bronx County		
South Carolina	Marion County[a]	Ridgeville (Dorchester County)	Ridgeville (Dorchester County)[a]	
Texas	Irving (Dallas County)	Irving (Dallas County)	Titus County	
Total jurisdictions	**19**	**11**	**13**	**9**

Source: GAO's analysis of election monitoring data provided by DOJ's Voting Section.

[a]Elections were monitored by DOJ attorneys and professional staff only, not OPM federal observers.
[b]Three elections were held in Clarksdale (Coahoma County), Mississippi, in calendar year 2001. Only DOJ attorneys and professional staff monitored one of the three elections, held on June 5, 2001. For the remaining two elections held that year, DOJ attorneys and professional staff accompanied OPM observers in monitoring the elections.

Attachment III

Table 2: Court-Ordered Election Jurisdictions Monitored during Calendar Years 2000 through 2003

State	Election jurisdictions monitored during			
	2000	2001	2002	2003
California	Alameda County[a]			
Illinois		Cicero (Cook County)		Cicero (Cook County)[b]
Louisiana	[c]	[c]	[c]	[c]
Michigan	City of Hamtramck	City of Hamtramck	City of Hamtramck	City of Hamtramck
New Jersey	Passaic County	Passaic County	Passaic County	Passaic County[d]
New Mexico	Bernalillo County		Bernalillo County	
	Cibola County		Cibola County	
	Sandoval County		Sandoval County	
	Socorro County		Socorro County	
Pennsylvania		Reading (Berks County)[b]	Reading (Berks County)[b]	Reading (Berks County)
Utah	San Juan County[e]		San Juan County[e]	
Total jurisdictions	**8**	**4**	**8**	**4**

Source: GAO's analysis of election monitoring data provided by DOJ's Voting Section.

[a]The court order for Alameda County, California, was in effect until January 22, 2001.
[b]Elections were monitored by DOJ attorneys and professional staff only, not OPM federal observers.
[c]A court order for St. Landry Parish was entered into on December 5, 1979. Data from the Voting Section shows that as of August 26, 2003, the court order was still in effect and that no elections were monitored at this parish during calendar years 2000 through 2003.
[d]Four elections were held in Passaic County, New Jersey, in calendar year 2003. Only DOJ attorneys and professional staff monitored one of the four elections, held on May 13, 2003. For the remaining three elections held that year, DOJ attorneys and professional staff accompanied OPM observers in monitoring the elections.
[e]The court order for San Juan County, Utah, was in effect until December 31, 2002.

Attachment III

Table 3: Other Election Jurisdictions Monitored during Calendar Years 2000 through 2003

	Election jurisdictions monitored during			
State	**2000**	**2001**	**2002**	**2003**
California			San Francisco County	San Francisco County
Connecticut			Waterbury (New Haven County)	
Florida		Osceola County	Osceola County	
			Duval County	Duval County
			Miami-Dade County	Miami-Dade County
			Century (Escambia County)	
			Orange County	
			Broward County	
Georgia	Putnam County		Atlanta (Fulton County)	
Hawaii				Honolulu County
Kentucky				Jefferson County
Louisiana			St. Martinville (St. Martin Parish)	Baker (East Baton Rouge Parish)
			Winnsboro (Franklin Parish)	Tangipahoa Parish
Massachusetts		Lawrence (Essex County)		Lawrence (Essex County)
Michigan	Flint (Genesee County)			
Missouri		St. Louis	St. Louis	St. Louis
New Jersey			Hudson County	
			Middlesex County	
New Mexico	McKinley County[a]		San Juan County	
New York		Queens County[a]	Queens County	New York City (Queens County)
		Suffolk County	Suffolk County	Brentwood Union Free School District (Suffolk County)
Ohio		Maple Heights (Cuyahoga County)		
South Carolina	Marion County			
Texas	Forth Worth (Tarrant County)	Bexar County	Kenedy ISD (Karnes County)	Harris County
		Comal County	Seagraves (Gaines County)	Moore County
		Guadalupe County		
Total jurisdictions	**5**	**9**	**19**	**13**

Source: GAO's analysis of election monitoring data provided by DOJ's Voting Section.

Note: DOJ attorneys and professional staff monitored the election jurisdictions shown in this table unless otherwise noted.

[a]OPM federal observers also monitored elections in these counties even though the counties are not under Attorney General-certification or court order.

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Summaries of Election-Related Preliminary Investigation, Matters, and Cases Initiated from November 2000 to December 2003

Election-Related Closed Matters and Open Case Initiated during November or December 2000

No.	Matter/Case	Jurisdiction	Date matter initiated	DJ No.
1	Matter	Florida	December 2000	No[a]
2	Matter	Hillsborough County, Florida	November 2000	No[a]
3	Matter	Palm Beach County, Florida	November 2000	Yes
4	Matter	Several counties in Florida	November 2000	Yes
5	Matter	DeKalb County, Georgia	December 2000	Yes
6	Matter	Gwinnett County, Georgia	November 2000	Yes
7	Case	St. Louis, Missouri	November 2000 (case filed in August 2002)	Yes

Source: DOJ Civil Rights Division.

[a]For the matters that the Voting Section initiated in Florida after the 2000 election, the Voting Section initially used a general DJ number for all work on investigations and inquiries related to the Florida election. This number was opened in November 2000. Subsequently, the Voting Section assigned separate DJ numbers for individual matters. The 2000 matters in Florida and Hillsborough County, Florida, were inadvertently not given an individual DJ number.

Summary of Election-Related Closed Matters and Open Case Initiated during November or December 2000

Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
1. The Voting Section received a large number of complaints alleging that Florida voters arrived at the polls expecting to be properly registered to vote, but were told that their names were not on the voter rolls. Some people who tried to vote but whose names were not on the voter rolls were often told to stand in another line so election officials could be called to verify their registrations, but many voters alleged that office phones were busy all day and registrations could not be verified. Some voters apparently left and some remained at the polls until they closed, at which time they were apparently told they could not vote because the polls were closed.	Voting Section staff contacted individuals mentioned in complaints that the NAACP had forwarded to determine the nature of their alleged registration problems. Voting Section staff monitored election-related hearings and lawsuits in Florida to see what steps the state was going to take. The Voting Section reviewed election reform legislation that Florida enacted in 2001.	Interviews by Voting Section staff with individuals mentioned in the complaints did not reveal a distinct pattern of registration problems in any one Florida county sufficient to warrant litigation, but taken as a whole the registration complaints seemed to indicate general problems with the state of compliance with NVRA provisions for clarity and processing of voter registration forms, transmission of the forms to election officials, education of registration personnel, adherence to NVRA registration deadlines, maintenance of registration lists, ability to verify registration at the polls, and education of voters, state registration personnel, election officials, and poll workers.	Florida enacted election reform legislation in 2001 requiring, among other things, that the state implement a statewide voter registration database, permit provisional voting, and provide funds to counties for voter education and poll worker training. The Voting Section reviewed this law under Section 5 of the Voting Rights Act and precleared it on March 28, 2002. With respect to this investigation, the Voting Section noted that these reforms should help address the problems alleged to have occurred in 2000. While the Voting Section further noted that the

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			new state legislation did not appear specifically to address all the NVRA-related issues, such as the voter registration process and education of motor vehicle agency and other state agency employees regarding state registration procedures and requirements in federal law, such issues could be addressed through design and implementation of the forthcoming election procedures to carry out the requirements of the new law. Therefore, the Voting Section determined that it would monitor Florida's NVRA actions in the future in light of the new state legislation and ongoing federal legislative efforts in election reform which might also impact Florida's election procedures. The Voting Section closed the matter because, based on its monitoring of the situation and the provisions in the state law pertinent to registration that had been precleared, it concluded that the problems which occurred in the 2000 election were being adequately addressed.
2. The NAACP National Voter Fund alleged (1) that on Election Day 2000, sheriff's deputies in marked cars in Hillsborough County, Florida, blocked access to a polling place, (2) that their presence	Voting Section staff met with, among others, officials from the county sheriff's office and several local residents, and spoke with a poll watcher to gather additional	The sheriff's office reported that the presence of sheriff's deputies near the polling place was related to a burglary nearby. One of the sheriff's deputies	The Voting Section closed the matter because the complaint lacked merit since there was no evidence on any of the

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had an intimidating effect on voters, and (3) that at least on one occasion they harassed a voter. An African-American man approached sheriff's deputies after they left the scene of a burglary complaining that he was not allowed to vote.	observations.	learned two days after the election that the same man who had approached the deputies on Election Day returned to the polling place and successfully voted. A poll worker observed the presence of the sheriff's cars around the same time they were responding to the burglary, and observed that no voter had been deterred from voting due to the police activity.	allegations raised.
3. It was alleged that the design of the butterfly ballot in Palm Beach County, Florida, violated federal voting rights laws.	The Voting Section opened a matter related to this issue and reviewed federal law for which the Section had enforcement authority to determine if any action was appropriate.	The Voting Section determined that there was no basis for asserting federal jurisdiction.	The Voting Section concluded that because it had no jurisdiction concerning this matter, no further action was warranted. In addition, according to the Voting Section, the new Florida election reform law should help to alleviate faulty ballot design by providing for greater oversight of ballot design.
4. Four state troopers with the Florida Department of Highway Safety and Motor Vehicles ran a driver's license checkpoint on Election Day 2000 in Leon County, Florida. This checkpoint was located near (about a mile from) a voting precinct. Another checkpoint was held in Bay and Escambia Counties. According to a highway patrol official, this checkpoint was not located near a voting precinct.	The Voting Section opened a matter to investigate this issue and asked the Florida State Office of the Attorney General about the checkpoint in Leon County. A Voting Section attorney also spoke with an African-American voter who was stopped at one of the driver's license checkpoints.	The Voting Section's investigation revealed that the Florida Highway Patrol had set up a traffic check stop close to a polling place (about a mile away) located in a predominantly African-American neighborhood. The Voting Section investigation also indicated that the troopers' traffic stop plan had not been pre-approved by their commander, as is the standard procedure. Further investigation revealed that the traffic checkpoint was in effect for about 3 hours, and a higher number of white drivers were stopped than African-American drivers. According the Voting Section, an African-American voter who was	The Voting Section closed the matter because there was no evidence of intimidation or racial intent to affect or intimidate voters.

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		stopped was treated courteously and proceeded to vote without incident.	
5. A U.S. Representative raised concerns regarding long voting delays in predominantly African-American precincts in DeKalb County, Georgia during the November 2000 election. It was alleged that there were no corresponding delays in majority white precincts. In one predominantly African-American precinct, several hundred voters apparently left the precinct without voting after waiting in line for several hours. In districts with a majority of white residents, voting lines apparently moved quickly with some people being able to vote in less than 15 minutes. In addition, two people complained about possible voting irregularities during a March 2001 election.	A Voting Section attorney met with the following in Georgia to address these concerns: (1) the DeKalb County Elections Supervisor, (2) the Chairman of the DeKalb County Elections Board, (3) the Gwinnett County Elections Supervisor, (4) the president of the DeKalb County NAACP, (5) the Assistant DeKalb County Attorney, and (6) one of the representative's staff members. The Voting Section attorney received and reviewed documents from both counties' elections departments regarding the November 2000 election. The Voting Section attorney requested additional documents from the Assistant DeKalb County Attorney and DeKalb County Elections Supervisor to determine if there was an unequal division of resources among African-American and white districts. These documents outlined the budget for expenses related to the elections from 1998 through 2000. The Voting Section attorney also spoke with the president of the DeKalb County NAACP and the U.S. Attorney for the Northern District of Georgia. The Voting Section attorney spoke with the two persons alleging fraud during the March 2001 election.	The Voting Section attorney's analysis of the documents that DeKalb County provided revealed that most of the county's polling places that stayed open past closing time were located in majority African-American precincts. The polls' extended hours almost uniformly resulted from there being large numbers of people in line as well as insufficient numbers of poll workers and voting machines. The attorney also determined that there had been no unequal division of electoral resources between majority white and majority African-American precincts. According to investigations of the November 2000 election by the county's elections department, the area manager and his assistants at the main precinct of concern failed to contact the precinct office about the long lines and insufficient voting machines. The former area manager also denied the poll workers' requests for additional voting machines, stating none were available. The president of the DeKalb County NAACP, staff in the office of the U.S. Attorney for the Northern District of Georgia, and the DeKalb County Elections Supervisor did not receive complaints related to Election Day in DeKalb County. With respect to the March 2001 allegations, the Voting Section attorney noted that the two	The county implemented the following changes for the March 2001 election: (1) increased the number of voting machines, (2) assigned additional poll workers and managers, (3) assigned at least 10 additional staff members to answer telephones at the Elections Department and installed 10 more telephone lines, and (4) gave the Elections Department and area managers cell phones in case regular telephone lines were busy. The Voting Section determined that a dramatic improvement resulted from these remedial actions and, as a result, closed the matter.

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		persons could not identify the precincts where alleged irregularities occurred, and that they did not have allegations of racial intimidation or vote suppression. The Voting Section attorney determined that their complaints seemed to concern Georgia state law, suggested that they explore their state law remedies, suggested that they contact the county elections department and the office of Georgia's Secretary of State, and asked them to keep the Voting Section attorney informed of developments.	
6. The Voting Section received information that people in Gwinnett County, Georgia who had registered to vote via the Georgia Department of Public Safety (DPS) were not on the voter registration rolls and were not allowed to vote. DPS operated vehicle registration sites in Georgia. Subsequently, DPS began the process of transitioning National Voter Registration Act (NVRA) responsibilities to the state's newly created Department of Motor Vehicles (DMV). It was alleged that voters were turned away from the polls and were not offered provisional ballots. Some voters were told to go to the county registration office, but officials there told them they were not allowed to vote.	The Voting Section spoke with staff in the Georgia Attorney General's office and the Georgia DPS and DMV, a voter who raised the allegations, and the Deputy Director of Elections in the Secretary of State's Office. The Voting Section monitored the transition of NVRA responsibilities from DPS to the new DMV from April 2001 to April 2002.	The Voting Section's investigation revealed that the problem likely arose from the DPS paperless system to obtain and renew a driver's license. The process seemed to result in people believing they had been registered to vote when they had not. A person who indicated the intention to register to vote did not receive any confirmation at the time of the transaction. The Voting Section's investigation revealed that since DPS implemented a paperless system in 1996, the percentage of those who registered to vote at DPS sites when they applied or renewed their licenses had dropped almost every year. There was also evidence that DPS officials knew of concerns regarding the agency's paperless registration system from its implementation.	The Voting Section closed the matter in April 2002 mostly because the state had created a new agency, the Department of Motor Vehicle Safety, to which responsibility for voter registration was in the process of being transitioned. The Voting Section determined this system would remedy the problem.
7. DOJ, on behalf of the United States, alleged that the St. Louis Board of Election Commissioners' (referred to hereafter as the Board) placement of eligible voters on	Following an investigation, DOJ filed a complaint with the U.S. District Court in the Eastern District of Missouri on August 14, 2002. On the same date,	The Voting Section alleged that the state was in violation of NVRA and filed a complaint.	The consent order gives court jurisdiction over the proceeding until January 31, 2005. The consent order

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inactive status, when combined with election-day procedures that inactive voters were required to follow to restore their active voter status and vote during the November 2000 and March 2001 elections, constituted a removal of those voters from the voter registration rolls in violation of Section 8 of NVRA. As of the November 2000 general election, more than 54,000 registered voters in St. Louis had been designated as inactive and excluded from the lists of eligible voters following a series of mail canvasses that the Board conducted of its voter registration rolls. These mail canvasses did not include the notices required by Section 8(d)(2) of NVRA. The Board did not make an effort to notify inactive voters that their registration status had changed, that their names would not appear on the voter registration lists, or that they would face more administrative efforts on election day before being permitted to vote. As a result, certain eligible, but inactive voters, were not able to vote in the November 2000 general election and March 2001 municipal primary election due to the lack of an adequate infrastructure (i.e., insufficient phone lines, working telephones, and staff) in place to enable voters to complete the verification procedures required by the Board on election day. For the November 2000 election, over 300 eligible inactive voters were able to obtain authorization to vote after going to the Board's headquarters as instructed by the election judges.	DOJ entered into a consent order with the city of St. Louis.		requires the Board to initiate procedures to remedy the problems that occurred during the November 2000 election, such as improved methods of notifying voters who are moved to an inactive status, improved methods of canvassing, and improved resources to process eligible voters not included on the rolls on Election Day. This relief included requiring that every polling place have a complete list of registered voters, including inactive voters, and a polling place locator to assist voters in finding their correct precincts. The consent decree is valid until January 31, 2005. The case remains open to monitor implementation of the consent order.

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Election-Related Closed Matters and Open Cases Initiated during Calendar Year 2001

No.	Matter/Case	Jurisdiction	Date matter initiated	DJ No.
1	Matter	Florida	March 2001[b]	Yes
2	Matter	Florida	June 2001[b]	Yes
3	Matter	Florida	June 2001[b]	Yes
4	Matter	Florida	August 2001[b]	No [c]
5	Matter	Broward County, Florida	October 2001[b]	Yes
6	Matter	Miami-Dade County, Florida	June 2001[b]	Yes
7	Matter	Miami-Dade County, Florida	June 2001[b]	Yes
8	Matter (election monitoring)	New York, New York	July 2001	Yes
9	Matter	Georgetown County, South Carolina	April 2001	Yes
10	Matter	Seagraves, Texas	July 2001	Yes
11	Case	Miami-Dade County, Florida	March 2001 (case filed in June 2002)[b]	Yes
12	Case	Orange County, Florida	June 2001 (case filed in June 2002)[b]	Yes
13	Case	Osceola County, Florida	June 2001 (case filed in June 2002)[b]	Yes
14	Case	Berks County, Pennsylvania	March 2001 (case filed in February 2003)	Yes
15	Case	Tennessee	April 2001 (case filed in September 2002)	Yes

Source: DOJ Civil Rights Division.

[b] Each of these Florida matters was initiated in the period shortly after the November 2000 election—i.e., in November or December 2000—and was reported under the general DJ number for Florida discussed previously (see note a under the summary table for November and December 2000 and note c below). The above dates are the dates they received individual DJ numbers.

[c] For the matters that the Voting Section initiated in Florida after the 2000 election, the Voting Section initially used a general DJ number for all work on investigations and inquiries related to the Florida election. This number was opened in November 2000. Subsequently, the Voting Section assigned separate DJ numbers for individual matters. The 2000 matters in Florida and Hillsborough County, Florida, were inadvertently not given an individual DJ number.

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Summary of Election-Related Closed Matters and Open Cases Initiated during Calendar Year 2001

Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
1. There were allegations made by students at Florida A&M University (FAMU) in Tallahassee (Leon County), Florida, and Bethune-Cookman College in Daytona Beach, Florida, regarding discriminatory treatment of African-American students in the registration process or at the polls. First-time voters, apparently unfamiliar with the registration process, had greater difficulty registering to vote. Older students did not seem to have such difficulty.	The Voting Section's investigation consisted of phone interviews with Bethune-Cookman students, on-campus interviews of FAMU students and student government leaders, and a review of statements taken by a representative of the Service Employees International Union legal department working in association with the NAACP. A Voting Section attorney interviewed three students on FAMU's campus who claimed to experience difficulty voting, but were able to vote. The Voting Section attorney left his contact information with FAMU's student government association for any individuals who wanted to give statements regarding voting problems but could not meet with the attorney. The Voting Section attorney attempted to contact all ten students from Bethune-Cookman, but was only able to speak with three. The attorney sent letters to the remaining students but never received responses to the letters. The Voting Section attorney followed up with his contacts at FAMU, but the Voting Section did not receive any response from students to its efforts to conduct further inquiries. The student government association	The Voting Section determined that the problems were likely attributable to voter confusion, not racial animosity. The Voting Section noted that the incidents of the three FAMU students who successfully voted were isolated incidents, and since each student ultimately voted, the problems they suggested did not suggest a pattern of intimidation or attempted vote denial. The Voting Section concluded that most of the allegations were likely to have been the result of students not being familiar with the voting process. Many students had registered at their permanent home addresses and did not understand they had to re-register in Leon County. The Voting Section found that voter inexperience and confusion were to blame at Bethune-Cookman, not any pattern of discriminatory treatment.	The Voting Section closed the matter because it lacked merit based on the evidence gathered during the investigation.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	also posted and distributed flyers and sent out internet notices with the attorney's contact information. Neither the attorney nor the student association at FAMU received additional allegations of voting irregularities.		
2. Beginning in 1999, under Florida state law, the state contracted with a firm to compare names of registered voters with names of convicted felons who under Florida law were disqualified from voting. The state elections division sent lists of felon names for each of Florida's 67 counties to election officials in those counties for investigation and purging. The Voting Section was concerned that county and state actions with regards to the purging process may have been flawed and impermissible under NVRA. The Voting Section questioned whether eligible voters had been inadvertently removed from the voter rolls.	The Voting Section reviewed testimony from Florida election officials and representatives of the company that compiled the database and obtained information on how the lists of felons' names were matched to voter registration lists. The Voting Section also did extensive additional investigation to determine whether the method in which Florida compiled a list of felons and how they purged these felons violated any of the statutes enforced by the Voting Section. In addition, the Voting Section reviewed Florida's 2001 election reform law pursuant to Section 5 of the Voting Rights Act. This review included provisions of the new law related to the voter purge procedures that were the subject of the investigation.	The evidence gathered by the Voting Section showed that the matching at the state level was set up in a way that it captured names that were less than definite matches. The Voting Section also learned that after receiving the state-generated list, counties' actions varied. For example, some counties refused to use the list because they perceived it to contain many errors. Other counties sent letters to all the people on the state's list telling them that their names were matched to those of disqualified felons, and they would be required to show their eligibility to vote or be removed from the rolls. The Voting Section determined that evidence gathered for this matter was inconclusive, but showed there was a possibility that voters could have been removed in violation of federal law. With respect to the Section 5 review of the 2001 election reform law, this law was precleared on March 28, 2002 after careful review. Preclearance was granted only after receiving explicit assurances from the Attorney General of Florida describing how the law would be implemented with respect to voter purge lists	The Voting Section closed the matter in April 2002. The closing memo noted that the new statute appears to require no additional procedures for accurate name matching compared to the old law. It also noted that the new statute appeared to codify a procedure used by many counties under prior law where voters whose names are matched by the state must affirmatively prove their eligibility to avoid removal. However, the Voting Section closing memo also noted that the new voter purge procedures (which included the assurances made by the Attorney General of Florida to protect voters from erroneous purging) had been precleared on March 28, 2002. It further stated that the Florida felon purge statute in effect at the time of the 2000 election no longer existed and that any litigation against it based on how that law was implemented would be moot. Based on these two factors, the matter was closed. The memo also stated that the Voting Section may open a new investigation depending on any information received regarding the operation of the new statute and related regulations. Finally, the closing memo

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
		generated by the state pursuant to the new state law. These assurances included (1) a statement that there would not be a presumption in favor of the accuracy of the statewide database, and any presumption would be in favor of the voter and (2) the appearance of a voter's name on any voter purge list of potentially ineligible voters generated by the state would not by itself confirm a voter's ineligibility, and that the burden of determining ineligibility was on county supervisors of elections, a burden which must meet the highest degree of proof. These assurances were specifically noted when preclearance was issued by the Voting Section.	also made note of pending litigation in the case of *NAACP* v. *Harris*, which included allegations that the voter purge list used in 2000 violated the NVRA. Subsequent to the April 2002 closing of this matter, a settlement was reached in this case which required new procedures for how the state was to complete its voter purge lists in the future. This change in voter purging procedures was precleared under Section 5 of the Voting Rights Act in 2003.
3. A newspaper article provided to DOJ by a member of the U.S. Senate provided information that officials in several Florida counties disabled a feature in optical scan voting machines used during the November 2000 election to detect ballots spoiled by over-voting and allow voters to correct the error.	A Voting Section attorney analyzed rates of ballot spoilage in counties that had disabled the spoilage detection function in their optical scan machines and compared those rates to those of ballot spoilage in counties that had not disabled this function.	The investigation found that Florida counties with optical scan machines that activated the spoilage detection technology had lower rates of ballot spoilage than counties that did not have or did not use the technology. Some counties that had this detection feature disabled it on their voting machines. There were also isolated instances where the technology was either disabled or failed to function properly. The Voting Section determined that there was no evidence that the disabling of this feature was done with a discriminatory effect or purpose.	The Voting Section closed this matter because it found no evidence indicating a violation of federal law. Moreover, election reform legislation enacted in Florida in May of 2001 requires all counties to acquire voting machines with precinct-based spoilage detection technology by September 2002. The election reform law also requires counties to activate this technology during voting. The Attorney General, under Section 5 of the VRA, precleared election procedures provided for in this legislation.
4. The U.S. Commission on Civil Rights issued a report that posed questions regarding	The Voting Section reviewed the findings of the Commission's report regarding ballot	Several analyses suggested patterns of racial disparity in the ballot rejection practices	The Voting Section concluded that there was no basis for bringing a Section 2 lawsuit against

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
spoiled ballots in Florida during the November 2000 election. The Commission questioned whether the racial disparity in spoiled ballots that occurred in Florida in 2000 was a violation of Section 2 of the Voting Rights Act. The Commission stated that the U.S. Department of Justice (DOJ) should specifically investigate whether the racial disparity in spoiled ballots violated Section 2.	rejection disparity and several newspaper studies of the spoilage issue. It then prepared a factual and legal analysis of issues raised in the Commission's report to determine if a Section 2 violation had occurred.	of a few Florida counties during one election. However, the Voting Section determined that the disparity alone did not meet the standards for a Section 2 lawsuit. The Voting Section noted that more investigation, analysis, and careful thought would have to be given to the causes of ballot rejection problems in Florida, the actual level of racial disparities, and the role played by state and county officials before a decision could be made concerning a Section 2 violation.	Florida on the basis of the evidence of racial disparities found in spoilage rates. Furthermore, it was determined that because Florida's 2001 election reform law required new election machines, significant steps had been taken by Florida towards remedying the election problems with respect to voting machines. The Voting Section also concluded that it would make sense to monitor the actions of Florida and its counties over the subsequent few years to see whether they would follow through in acquiring new voting machines with error detection technologies and educating voters to see what impact such actions would have on ballot rejection rates.
5. DOJ received allegations of inaccessible polling places and voting booths in Broward County, Florida.	The Voting Section opened a matter and looked into the county's compliance with the Voting Accessibility for the Elderly and Handicapped Act (VAEHA). The Voting Section sent a letter to the Broward County Supervisor of Elections requesting specific information regarding procedures in place to ensure the physical accessibility of polling places for federal elections pursuant to VAEHA. Attorneys from the Voting Section and the Civil Rights Division's Disability Rights Section met with the county supervisor of elections and the supervisor's attorney to discuss physical accessibility of polling places and	Based on information that the county provided, the Voting Section found that the county conducted polling place surveys in 1999 and conducted another survey devised to address the problem of disabled voters' access to the polls. The investigation revealed that the people conducting the surveys had no training in accessibility standards. The county provided the Voting Section attorney with a memo and a plan stating that Florida intended to purchase new touch-screen voting machines with an audio component for the blind or visually impaired, with one such voting machine available per precinct.	As a result of the problems experienced in the 2000 election, the Florida legislature enacted changes to its accessibility requirements for polling places and voting machines. In light of this and the Voting Section's determination that the new Florida law went further than the requirements in VAEHA, the investigation was closed.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	purchase of new voting machines. The Voting Section and Disability Rights Section's attorneys requested documentation such as copies of county surveys covering accessibility procedures, a list of polling place changes spurred by accessibility concerns; a list of disability community contacts with whom officials from the office of the county supervisor of elections met, and procedures for reassignment or curbside voting. The county provided both attorneys with a demonstration of the new touch-screen voting machines with an audio component for the blind or visually impaired. The Voting Section attorney also contacted the county supervisor of election's attorney requesting information on VAEHA compliance.		
6. It was alleged that a crowd of persons attempted to intimidate election officials on the canvassing board of Miami-Dade County, Florida, during the presidential vote recount after the November 2000 election. It was alleged that this group's activities at the county courthouse during the recount intimidated the canvassing board into abandoning the recount.	The Voting Section attorney reviewed the allegations along with numerous accounts of events that transpired that day.	Based on the information gathered, the Voting Section determined that no cause of action existed under the civil enforcement provisions of the federal voting laws that the Voting Section is charged with enforcing.	The Voting Section concluded that no further investigation was warranted and closed the matter.
7. There were allegations made after the November 2000 election that ballot boxes in two predominantly minority precincts in Miami-Dade County, Florida, had not been picked up on	The Voting Section attorney examined voter turnout data for the two precincts in question. The Voting Section attorney also held discussions with the First Assistant County	The discussions that the Voting Section conducted with counsel for Miami-Dade County indicated that all of the county's ballot boxes had been accounted for on that day. According to the county	The Voting Section closed the matter because it lacked merit. According to the Voting Section, the evidence that the Voting Section collected made it seem doubtful that there were any missing ballot

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
Election Day, and that they were allegedly later found in the polling places.	Attorney in Miami-Dade County, who in turn contacted the county supervisor of elections.	supervisor of elections, the boxes that were later located in the two precincts contained election supplies, not ballots. Analysis of data from the two precincts indicated that both precincts reported voter turnout rates in the expected range given the county's overall turnout rate.	boxes.
8. The Voting Section opened this matter in August 2001 to initiate the monitoring of an election in New York City in November 2001 on the basis of observations made during the November 2000 election. Thirty federal observers and seven DOJ staff members monitored polling place procedures during municipal general elections in 2001 in Kings County (also known as Brooklyn) and in Bronx County. The Attorney General had previously certified both counties for federal observers pursuant to Section 6 of the Voting Rights Act. Also, 17 federal observers and 5 Voting Section attorneys monitored polling place procedures during the general election in 2002 in Brooklyn.	In pre-election activities, two Civil Rights Division attorneys met with officials from the New York City Board of Elections to discuss concerns about preparations for the election, including the need for poll worker training for the election, the need for voting machines to accommodate the number of registered voters, the need for Spanish-language voter registration materials for poll workers to distribute minority language assistance, and consolidation of polling places. A Voting Section attorney also attended four poll-worker training classes. After the election, the Voting Section attorneys met with several Board of Elections officials to debrief them.	Thirty federal observers monitored activities at 31 polling places in Bronx County and 12 polling places in Brooklyn County during the municipal general elections. Three staff members from DOJ's Civil Rights Division and one AUSA for the Southern District of New York traveled with the observers to provide additional monitoring. Two Voting Section staff members visited six polling places in both counties. During the election, observers found that materials to be displayed to inform Spanish-speaking voters of assistance to interpret the ballot were not always clear or in public view at nearly half of the polling places in both counties. The Board of Election officials were informed of this and took action. These officials noted that it was up to each polling place inspector to display the materials they are given. Poll workers were observed asking voters for identification, which was in violation of New York State law; Board of Election officials were notified of this and went to the polling place to address the issue. DOJ monitors did not witness any Spanish-speaking poll workers at the 12	The Voting Section closed the matter because the monitoring of the election was completed. Voting Section staff could not comprehensively identify failure by individual poll workers to post or provide all materials to Spanish-speaking voters because of the large number of election districts—nearly 2,000—and the small number of observers. However, the Voting Section found that the Board of Elections was very responsive to all of the Voting Section's concerns and sent Board officials to places where problems arose, usually within 30 minutes.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
		polling locations visited in Brooklyn; this was discussed with Board of Election officials; however, DOJ officials found that appropriate language assistance was available in both counties. Seventeen federal observers and five attorneys from the Civil Rights Division monitored polling place procedures during the general election in Kings County. The Voting Section attorney who attended four poll-worker training classes found that the classes appropriately addressed minority language issues and assistance.	
9. The Voting Section received an allegation from an African-American voter that a supervisor at a voting precinct in Georgetown County, South Carolina, discriminated against African-American voters during the 2000 presidential election. The voter alleged that the supervisor treated African-American voters in a rude and discriminating manner. In talking to the complainant and others, it was learned that there were also alleged voter registration problems during the 2000 election related to precinct changes and the local DMV.	The Voting Section attorney interviewed officials with the Georgetown County Board of Registration and Elections, representatives of the Republican and Democratic parties, voters, and an attorney representing the county. The Voting Section attorney also interviewed an official who managed the Georgetown County DMV office regarding the second-hand allegations from a Democratic party representative regarding possible registration problems at the local DMV. After interviewing the DMV official and examining the forms that the DMV provides to drivers applying for new licenses to simultaneously allow them to register to vote, the Voting Section	Voting Section staff wrote to the Voter Registration and Election Commission for Georgetown County outlining the allegations concerning the rude treatment by the poll worker and the Voting Section's findings and asked the commission how it planned to respond. The county's Voter Registration and Election Commission responded in writing that the election supervisor was informed by letter that she would be reassigned to another precinct and not permitted to serve in a supervisory capacity for the June 11, 2002, election. She decided not to work the June 2002 election. Other issues examined in this investigation were not raised with the county in this letter. With respect to the precinct change allegations, the Voting Section learned that confusion as to proper	The Voting Section closed the matter on March 9, 2004. As of that date, the Voting Section had not received additional complaints concerning the treatment of African-American voters in Georgetown County or about voting registration issues previously investigated. According to the complainant, the election held on June 11,2002, went smoothly.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	attorney noted that the form on the DMV driver's license application did not contain a box for people to check if they wanted to register to vote and that this might not adhere to the NVRA provision for a simultaneous process to apply for a driver's license and register to vote. In addition, in the interview with the employee in the local DMV office, the Voting Section attorney learned that they may have been only asking people applying for new drivers' licenses, not people renewing their licenses, if they wanted to register to vote. However, this employee further informed the Voting Section attorney that in October 2000 she received instructions from the head of the state DMV to ask every person who was applying for a driver's license whether he or she wished to register to vote, and she followed that instruction through the election.	voting precincts was likely the result of a change in the method of identifying addresses of voters. With respect to allegations about the DMV procedures, the Voting Section received no complaints from voters who indicated that the alleged problems at the DMV existed or resulted in denying them the right to vote. In addition, after the examination of the DMV forms and interview with the local DMV employee, it was concluded that there did not appear to be a violation of the NVRA.	
10. The Voting Section received a complaint alleging that the Seagraves Independent School District and the City of Seagraves, both in Texas, held elections without bilingual judges or bilingual training.	A Voting Section attorney visited Seagraves and the Seagraves Independent School Board. The Voting Section also contacted a newspaper to review published articles regarding the school board election.	Information in a newspaper article indicated that the allegations were untrue, and that all election material was produced in English and Spanish. The Voting Section attorney was told that confusion existed for all voters because of the present districting system. The Seagraves City Secretary wrote a letter to the Voting Section attorney stating that each year the city names a Hispanic judge who is also bilingual. The City	The Voting Section attorney suggested that the town should make an effort to educate voters of district boundaries by methods other than newspaper advertising. Subsequent to the election, the city of Seagraves sent a map of district boundaries and candidates running in each district to each city household. The Voting Section closed the matter.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
		Secretary also provided the Voting Section attorney with minutes of prior city council meetings highlighting the nomination and approval of the election judges, and a sample ballot printed in both English and Spanish.	
11. During the November 2000 election, Miami-Dade County, Florida, allegedly engaged in practices that prevented the county's Creole-speaking Haitian-American voters with limited ability to speak English from securing assistance at the polls. In circumstances where the county permitted voter assistance from persons of the voters' choice, the scope of the assistance was limited (e.g., standing next to voters during poll worker demonstrations) and of little value to voters once they entered the voting booths.	After a full investigation, the Voting Section initiated litigation against Miami-Dade County because of its alleged violation of Section 208 of the Voting Rights Act. Prior to initiating litigation, the Voting Section conducted an investigation of the county's voter assistance practices during the 2000 election. DOJ filed a complaint with the U.S. District Court in the Southern District for Florida on June 7, 2002.	Evidence gathered during the investigation demonstrated that Creole-speaking Haitian-American voters at several precincts were denied assistance from persons of their choice in violation of Section 208 of the Voting Rights Act. Oftentimes, only poll workers, who did not speak Creole, were permitted to assist the voters, and they limited their assistance to voter demonstrations outside the voting booths. The Voting Section did not find evidence that noncompliance with Section 208 was the result of intentional discrimination. In this regard, it was noted that the Miami-Dade Board of County Commissioners passed ordinances in 1999 and 2000 mandating that Haitian-Creole ballot translations be available in voting booths located at precincts where "significant" numbers of Haitian-American people vote.	A consent order was entered into on June 17, 2002, that, in part, prohibited the county from denying Haitian-American voters assistance from persons of their choice and mandated that the county take certain steps to prevent violations of Section 208 and to redress the harm caused these voters, such as modifying poll worker training to include instruction on how to handle requests for language assistance. The consent order is in effect through December. 31, 2005. The case is open to monitor implementation of the consent order.
12. As described in DOJ's complaint, DOJ alleged that various election practices and procedures in Orange County, Florida, unlawfully denied or abridged the voting rights of Spanish-speaking citizens. The challenged practices concerned the alleged failure of the county to: (1) provide an	After investigating these allegations, DOJ filed a complaint in the U.S. District Court for the Middle District of Florida on June 28, 2002, and entered into a consent decree with Orange County on October 9, 2002.	In the complaint, the Voting Section alleged that Orange County violated VRA Sections 203 and 208.	The case is open to monitor implementation of the consent decree. The consent decree permits DOJ to monitor elections in Orange County from October 9, 2002 until January 31, 2005. The consent decree also mandates policies and procedures that Orange County must adopt with

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
adequate number of bilingual poll workers trained to assist Hispanic voters on Election Day; (2) ensure that poll officials allow Spanish-speaking voters to have persons of their choice assist them in casting their ballots; and (3) translate certain written election materials into Spanish.			regards to treatment of Spanish-speaking voters. The consent decree is valid until January 31, 2005. DOJ did not contend that Orange County's failure to adhere to VRA Sections 203 and 208 was the result of intentional discrimination.
13. As described in DOJ's complaint, DOJ alleged that Osceola County, Florida, engaged in various election practices and procedures that unlawfully denied Spanish-speaking citizens an opportunity equal to that of other citizens to vote. The challenged practices concerned: (1) the failure of poll officials to communicate effectively to Spanish-speaking voters necessary information concerning their eligibility to vote, voter registration status, identification requirements, and polling place changes and assignments; (2) the refusal of poll officials to allow certain Spanish-speaking voters assistance in voting by persons of their choice; and (3) hostile remarks by poll officials directed towards Hispanic voters with limited English proficiency.	After investigating the matter, DOJ filed a complaint in the U.S. District Court for the Middle District of Florida on June 28, 2002, and entered into a consent decree with Osceola County on July 22, 2002.	In the complaint, the Voting Section alleged that Osceola County violated VRA Sections 2 and 208.	The case is open to monitor implementation of the consent decree. The consent decree allows DOJ to monitor elections held in Osceola County from the date of the consent decree through January 31, 2005. It specifies procedures that the Osceola County Board of Elections must implement with regards to the treatment of Spanish-speaking voters and efforts the county must engage in to facilitate voting by Spanish-speaking voters. The consent decree is valid through January 31, 2005. DOJ did not contend that Osceola County intended to deny Spanish-speaking voters an equal opportunity to participate in the political process.
14. It was alleged that, in conducting elections in Reading City, Pennsylvania, Berks County denied Hispanic citizens with limited English proficiency an equal opportunity to participate in the political process and elect the representatives of their choice.	After extensive investigation, which included the monitoring of several elections held in the county, the Voting Section initiated litigation against Berks County because of its alleged violation of several provisions of the Voting Rights Act. DOJ filed a complaint with the U.S. District Court for the Eastern District	In the complaint, the Voting Section alleged that actions contributing to the denial by Berks County to provide Hispanic citizens with limited English proficiency an equal opportunity to participate in the political process and elect the representatives of their choice included the following: poll officials directed hostile remarks	On July 17, 2003, DOJ filed a motion for (1) permanent injunction and entry of final judgment that sought to permanently enjoin the county's conduct of elections using policies, practices, procedures, and methods that violate certain VRA requirements and (2) the court to issue an order authorizing OPM to appoint federal

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	of Pennsylvania on February 25, 2003.	at, and acted in a hostile manner toward, Hispanic voters to deter them from voting and make them feel unwelcome at the polls; poll officials engaged in election practices including the failure to communicate effectively with Spanish-speaking voters regarding necessary information about their eligibility to vote, voter registration status, identification requirements, and polling place changes and assignments, and turning away Hispanic voters at the 2001 and 2002 elections; and Berks County failed to recruit, train, and maintain an adequate pool of Hispanic and bilingual poll officials despite their knowledge of the needs of Hispanic voters with limited English proficiency.	examiners pursuant to VRA to serve in Berks County through June 30, 2007. The court granted the United States' motion on August 20, 2003. The case remains open for monitoring and several elections have been monitored since entry of the consent decree.
15. As described in DOJ's complaint, DOJ alleged that the state of Tennessee engaged in practices that unlawfully denied certain citizens full and complete opportunities to register to vote in elections for federal office as mandated by NVRA. The challenged practices included the failure of the state and agency officials to: (1) provide applications to register to vote simultaneously with applications for motor vehicle driver's licenses (including renewal applications); (2) request only the minimum amount of information necessary to prevent duplicate voter registration and enable state election officials to assess the eligibility of the applicant and to administer voter registration and other part	After investigating this matter, DOJ filed a complaint against the state of Tennessee in the U.S. District Court of Tennessee on September 27, 2002. On that same day, the state of Tennessee entered into a consent decree with DOJ.	In the complaint, the Voting Section alleged that Tennessee violated provisions in NVRA.	The case is open to monitor implementation of the consent decree. The consent decree requires the state and state agencies to develop uniform procedures with regards to the voter application process and the implementation of NVRA and report progress to DOJ annually while the consent decree is in effect. The consent decree expires on August 1, 2005.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
of the election process; (3) distribute voter registration applications with every application for public assistance or services to persons with disabilities; and (4) transmit completed voter registration applications in a timely manner.			

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Election-Related Closed Preliminary Investigation and Matters and Closed Cases Initiated during Calendar Year 2002

No.	Preliminary Investigation/Matter/Case	Jurisdiction	Date investigation or matter initiated	DJ No.
1	Preliminary investigation	Hinds County, Mississippi	November 2002	No
2	Matter (election monitoring)	Apache and Navajo Counties, Arizona	September 2002	Yes
3	Matter (election monitoring)	Broward County, Florida	November 2002	Yes
4	Matter (election monitoring)	Duval County, Florida	November 2002	Yes
5	Matter	Georgia	October 2002	No[d]
6	Matter	Minnesota	October 2002	Yes
7	Matter	New Jersey	October 2002	Yes
8	Matter (election monitoring)	Bexar County, Texas	October 2002	Yes
9	Matter	Hidalgo County, Texas	December 2002	Yes
10	Case	Oklahoma	August 2002 (case filed in September 2002)	Yes
11	Case	Texas	March 2002 (case filed in March 2002)	Yes

Source: DOJ Civil Rights Division.

[d]According to the Voting Section, this matter did not receive a DJ number inadvertently.

Summary of Election-Related Closed Preliminary Investigation and Matters and Closed Cases Initiated during Calendar Year 2002

Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
1. The wife of a soldier from Hinds County, Mississippi, assigned to Guantanamo, Cuba, alleged that her husband and approximately 50 other soldiers from that county did not receive their absentee ballots in the mail. Hinds County acknowledged receiving their requests in mid-September of 2002, and the circuit clerk confirmed they were mailed in the first week of October 2002. The Mississippi Secretary of State's office suggested that the soldiers fax in federal ballots but was not sure the ballots would be counted. That office also suggested to the soldier's wife that she contact the Voting Section. She reported to the Voting Section that soldiers from Madison and Rankin counties, also in Mississippi, did not receive their ballots until after the election. She also contacted the Assistant U.S. Attorney (AUSA) for Hinds County.	A Voting Section official discussed the allegation with an official in the Federal Voting Assistance Program (FVAP) under the Department of Defense (DOD), who said that someone in Hinds County told FVAP on November 20, 2002, that about 20 ballots had been sent to soldiers in Guantanamo. Voting Section staff also phoned the AUSA in Jackson, Mississippi, and noted in a memo that the AUSA had directed a local Federal Bureau of Investigation (FBI) agent to interview the chancery clerk, the registrar, and all others in the chain of custody of the ballots. The Voting Section also discussed asking FVAP to monitor transit of absentee ballots to soldiers from Hinds and Brandon Counties	The AUSA told the soldier's wife that an investigation revealed the ballots had been lost in the mail. The FBI agent concluded that the county officials had mailed the ballots to the soldiers, but they had been lost or disappeared. The private company that processed mail for the county told the FBI agent that they were unable to check the zip codes of mail processed on a particular day.	The Voting Section closed the preliminary investigation after the AUSA concluded, and the Voting Section agreed, that there was no basis for bringing charges against anyone involved in the handling of the ballots because the ballots had been lost in the mail and no further action was needed.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	during the next election in response to the soldier's wife January 2003 request that the Voting Section keep these counties on its "radar screen."		
2. On November 5, 2002, federal election observers and Voting Section staff monitored polling place activities at 21 locations in Apache and Navajo Counties, Arizona. The Attorney General, pursuant to VRA Section 6, had certified these counties for federal observers. Since then, federal observers have documented problems related to the counties' inability to provide consistently effective Navajo language assistance to voters and other related circumstances affecting the Navajo voting population. The Voting Section was concerned about the following issues related to the primary held in September 10, 2002, and the general election held in November 5, 2002: (1) the counties' provision for Navajo language assistance, (2) voters being turned away at the polls, (3) crossover voting, and (4) polls not opening on time. During the 2000 election cycle and 2002 primary, federal observers documented several problems with the counties' provision of Navajo language assistance to voters. The Voting Section suggested that both counties distribute cassette tapes containing Navajo language ballot translations to poll workers. The counties committed to preparing and distributing the tapes to poll workers. Officials from both counties also informed the Voting Section that they would use updated flip charts for the November election. These charts, which were used for the September primary at the Voting Section's suggestion, displayed pictorial representations and written Navajo translations of each of the offices on the primary election ballot. There had been confusion in previous elections among many	In September 2002, the Voting Section met with the Apache County Election Director, the Apache County Deputy County Attorney, the Navajo County Election Director, the Navajo County recorder, and two Navajo County outreach workers to discuss several issues related to elections in the two counties. The Voting Section provided suggestions on how to prevent prior problems from recurring. The Voting Section observed the November 2002 election. The original poll worker training schedules that the two counties had provided to the Voting Section allotted approximately 2 hours for training. The Voting Section suggested having all-day training sessions, and the schedules were revised to allot 6-½ hours for training. The Voting Section suggested that both counties provide each polling place on the Navajo Reservation with voter registration lists from both counties, and train poll workers to check both lists and check with the appropriate county election department before turning voters away. Both counties agreed to adopt this suggestion. The Voting	The counties' implementation of their Navajo Language election information program was inadequate. While the counties provided language assistance to many voters, the assistance was frequently insufficient and failed to provide consistent and accurate language translation of the offices and propositions on the ballot's 14 propositions. The Voting Section concluded that the counties must improve and expand their training program for interpreters. The federal observers reported that the interpreters and poll workers believed more training in Navajo language translation was necessary. Some poll workers told the observers that the audiotapes containing Navajo translations were too long and confusing. One polling place was not well organized, resulting in very long lines. The Voting Section reported this to the Navajo County Elections Director, who sent an outreach worker to remedy the problem. The line was moving more quickly by mid-afternoon. The number of voters turned away from the polls was less than during the September	A November 22, 2002, memo discussing the monitoring of the November 5, 2002, election indicated that the Voting Section would meet in the future with election officials from both counties to discuss the November 5, 2002, election and develop methods to improve the counties' provision of language assistance and overall Election Day performance. The matter was closed after the election. According to the Voting Section, this is standard Voting Section procedure when irregularities are observed during election coverage. In the case of Navajo language assistance in these counties, the Voting Section stated that such outreach has been continuous for many years. Another memo discussing compliance and outreach efforts since the 2002 election indicates many improvements in Navajo language assistance efforts as a result of this outreach, including: (1) improved poll worker training which included the use of pictorial flip charts to assist voters in

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
elderly Navajo voters who live near the Navajo/Apache county line about polling place and voter registration. These voters often vote in different locations for tribal and state/federal elections. Tribal elections do not recognize county boundaries. Poll workers at polling places near the county line apparently turned away dozens of elderly voters because of voting location confusion during the 2000 primary and general elections and the 2002 primary. In 2000, poll workers gave affidavit ballots to other crossover voters in the mistaken belief that the ballots would be accepted later. However, since these voters were not registered in the counties where they voted, their votes were considered invalid.	Section also expressed concern about polling places that opened late for the September primary. The counties agreed to address this prior to the November 2002 election.	primary. However, while all the polling places had both counties' registration books, poll workers at most locations did not use them. Some did not know the books were available. At one Apache County location, observers reported that the Navajo county list was not present. The Voting Section informed the county elections director, who showed the Navajo County book to the polling place inspector. The poll workers had not removed the book from the elections supply box. The Voting Section felt that more training and practice would make the poll workers more familiar with this new system. There were no complaints about polls not opening on time.	understanding the ballot; (2) outreach and voter registration efforts on the reservation at various events; (3) the opening of new early voting locations on the Navajo Reservation; (4) the opening of a new satellite election office on the reservation to disseminate voter information and register voters; and (5) greater cooperation among the counties providing Navajo language assistance.
3. Voting Section personnel and 2 AUSAs monitored 84 precincts in Broward County, Florida, during the November 2002 election.	Actions taken by DOJ staff included interviewing the clerk of the precinct where a white male precinct worker who allegedly harassed African-American voters was employed about any complaints or problems with the assistant precinct clerk in question. DOJ staff spoke with four voters at this precinct regarding their experience voting and asked election officials to make chairs available for the disabled and elderly waiting in line to vote. They contacted county election officials about a voter who was told he could not vote because he had already sent an absentee ballot; the precinct clerk eventually verified that the voter	Voting Section staff provided assistance to help correct issues that arose during the monitoring. Examples of issues/problems observed were: (1) African-American voters felt somewhat harassed by a white male precinct worker; (2) a poll official did not want to allow a person to vote who said he had requested an absentee ballot but did not receive it; and (3) persons were turned away because of precinct changes due to redistricting, because they moved, and for other reasons.	The Voting Section closed the matter because the election being monitored was completed.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	had not been sent an absentee ballot, and the voter was allowed to cast his vote on election day. With regard to the absentee ballot issue, DOJ staff advised the poll official to contact the Broward County Election Board. In addition, DOJ staff: (1) gave a voter the toll-free telephone number for the Voting Section because the voter wanted to complain about the lack of voting machines; (2) asked a poll clerk and poll workers if they had received complaints about not having enough voting machines; and (3) spoke with two voters who complained about a precinct being hard to find.		
4. At the request of Florida's Secretary of State, the Voting Section monitored the election in November 2002 in Duval County, Florida.	Voting Section attorneys monitored the election and facilitated the resolution of problems that arose by communicating proper election procedures to the Supervisor of Elections. Prior to monitoring the election, Voting Section attorneys met with the Supervisor of Elections, minority leaders in the community, leaders of the NAACP, and representatives from the local Democratic and Republican parties. They exchanged telephone information and invited each person or group to contact them with details of any problems that they might help address. They also provided guidance on issues that might arise to provide a	While monitoring the election, the Voting Section found various areas of clarification and improvement. One issue involved absentee ballots and Florida law allowing a person who requested an absentee ballot but did not submit it to vote at the polls. There was confusion when absentee ballots were submitted but rejected as being incomplete because they lacked voters' signatures and voters then being able to vote at the polls. Voters who submit absentee ballots are considered to have voted and cannot vote at the polls on election day if the absentee ballot is rejected. Also, poll workers had given incorrect ballots to	The Voting Section closed the matter because the election being monitored was completed.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	common understanding of action that should be taken if a particular problem arose. The Voting Section attorneys worked with the Supervisor of Elections to improve election processes and were invited by the Supervisor of Elections to monitor elections in April and May 2003 to further improve upon their election processes.	some voters. Voters were turned away who lacked signed photo identification and were not allowed to vote by provisional ballot. There were also a few instances of insensitivity to minority voters and voters with disabilities.	
5. Georgia state law requires counties to have absentee ballots on hand 45 days before a general election. Georgia missed the September 20, 2002, deadline for the November 5, 2002, general election because of the compressed election schedule in 2002. The 45-day deadline was set to comply with federal mandates to make it easier for U.S. military personnel stationed outside the United States to vote. Georgia had compressed its 2002 primary and runoff election schedules such that the runoff was held only 49 days before the November 5 general election. This precluded the printing of the general election ballot in time for the mailing deadline required under state law. Georgia election officials had contacted FVAP during the first week of October regarding the state's compliance with the Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA). Catoosa County ballots omitted the names of the Republican candidate for the U.S. Senate and the Republican gubernatorial candidate from the ballot. An allegation was made that this, among other absentee ballot irregularities, violated UOCAVA because the correct ballots, even if sent at the time this concern was raised on October 16, 2002, would not be received in time. Georgia's Secretary of State asked DOJ to bring suit against the state to extend the deadline for receipt of	FVAP advised the Voting Section that a senior official in Georgia's Elections Division said that election officials in each of Georgia's counties would photocopy all necessary ballots and send them to every military and overseas citizen absentee voter from whom an application had been received in time. All 154 Georgia counties had done this by October 7. A Voting Section attorney asked the source of the allegation in Catoosa County to keep in touch and gave the person who made the allegation the phone number and Web site for FVAP for additional information about FVAP's role in this process. The Voting Section attorney contacted FVAP, and a FVAP official agreed to contact officials in Catoosa and Ben Hill counties to get copies of their ballots and get back to the Voting Section attorney. The Voting Section attorney also contacted a state election official.	FVAP favored going forward with the suit that Georgia's Secretary of State had suggested, but the Voting Section did not because (1) the number of voters affected was very small, less than 132 overseas; (2) UOCAVA was amended in 1986 to add the federal write-in absentee ballot as a back-up ballot when timely requested ballots do not reach voters in a timely matter (the Voting Section relies on the use of the back-up ballot as a remedy in UOCAVA lawsuits brought in primary elections, and had no reason to believe it was an inadequate remedy); and (3) the Voting Section believed the Secretary of State's true interest in the lawsuit stemmed from the large number of regular absentee ballots that were mailed late, and such ballots could not be part of any UOCAVA remedy.	The Voting Section closed the matter.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
military and other absentee ballots.			
6. The Voting Section conducted an investigation under UOCAVA and monitored a lawsuit in Minnesota over absentee ballots used in the November 2002 general election. At issue was the removal of Senator Paul Wellstone's name on the ballots and issuance of new ballots. Senator Wellstone died 11 days prior to the election, and former Vice President Mondale was designated the replacement candidate for the Democratic-Farmer-Labor party. This party argued for mass mailing of new absentee ballots, and the Republican party argued to do the mailing based on requests.	In an e-mail, the Voting Section attorney expressed concern about ballots being mailed, filled out, and returned between October 31 and November 5 (6 days).	The Voting Section monitored state actions to address this issue.	The Voting Section closed the matter after the state Supreme Court issued an order addressing the absentee ballot issue. The order specified the procedures for absentee ballots that included various options based on whether a voter had or had not already voted for Senator Wellstone.
7. A suit arose from the resignation of Senator Robert Torricelli from the general election and ballot for Democratic nomination to the U.S. Senate. The New Jersey Democratic party brought suit to secure a declaration that the New Jersey Democratic State Committee was permitted to select a qualified candidate to replace Sen. Torricelli. The New Jersey Supreme Court ruled in favor of the state Democratic party and required that a new ballot be prepared under the direction of the state Attorney General and a state court judge. Military and overseas ballots were to be given precedence and an explanatory letter was to be sent to all voters who received the new ballots. The Voting Section was concerned about the late transmittal of ballots to military and overseas voters.	The Voting Section prepared a discussion memo evaluating the impact that the New Jersey Supreme Court ruling would have on overseas absentee voters. The Voting Section monitored the New Jersey Democratic party lawsuit and state remedies to address this issue.	The Voting Section noted that late transmittal of ballots to voters by airmail generally raises concerns that overseas voters would not have sufficient time to receive, mark, and return their ballots to local election officials. The Voting Section staff determined that New Jersey state law contains several unique features that obviate the need for 20-40 days of roundtrip airmailing. In addition, DOD provides a backup ballot available at military installations and U.S. embassies/consulates. This is referred to as a federal write-in absentee ballot. The Voting Section noted that the question might arise regarding how the state would address ballots that had already been transmitted to overseas voters and may have already been returned. The Voting Section determined that this was a question for state officials to resolve, and that the Voting	The Voting Section concluded that New Jersey state law provides for several methods for UOCAVA voters to participate in federal elections over and above the use of regular absentee ballots sent by airmail. The Voting Section closed the matter due to lack of merit.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
		Section planned to raise this issue when speaking with state officials in October 2002.	
8. An attorney for Bexar County, Texas, requested, in a letter to the Voting Section dated October 18, 2002, expedited review of changes in the county's early voting process in the joint general and special election on November 5, 2002. Changes included: (1) the one-time use of two-page ballots for partisan contested races, (2) procedures for counting ballots with straight-party votes, and (3) one-time use of a single two-sided ballot for partisan contested races supplemented by a separate sheet with duplicate voting instructions for the November 5, 2002, general election. Prior to that request, the League of United Latin American Citizens filed suit in U.S. District Court for the Western District of Texas alleging that Bexar County implemented changes to the conduct of the November general election without obtaining preclearance from DOJ.	The Chief of the Voting Section wrote a letter back to the attorney for Bexar County. The Voting Section had telephone discussions with various people regarding the ballot format issues.	In a letter dated November 1, 2002, The Voting Section stated that the Attorney General did not interpose any objection to the specified changes, but noted that Section 5 of the Voting Rights Act provides that failure of the Attorney General to object does not bar subsequent litigation to enjoin enforcement of the changes. After the League of United Latin American Citizens filed the lawsuit, Bexar County advised the court that they initiated Section 5 preclearance submission procedures on October 18, 2002, and October 21, 2002. The county had not obtained preclearance from DOJ at the time the lawsuit was filed. The court agreed with both parties that the changes were required and allowed the changes to proceed pending the preclearance. On October 31, 2002, the court decided to retain jurisdiction over the case through the conclusion of the 2002 election process and ordered the parties to advise the court as to their positions on the case on or before December 1, 2002.	The Voting Section closed the matter because it granted preclearance for the changes.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
9. A U.S. Representative sent a letter to the Attorney General regarding possible voter suppression in Alabama, Arkansas, Florida, Indiana, Louisiana, Maryland, Michigan, New Jersey, New Mexico, Pennsylvania, and Texas. In Arkansas, Louisiana, and Maryland, it was alleged that African-Americans were victims of voter suppression. In New Jersey and Texas, allegations of voter suppression involved Hispanics. The victims of voter suppression in the other states were not specified. According to the Voting Section, many of the matters referred to in the letter were matters under the jurisdiction of the Criminal Division and were being investigated by that Division when the letter was received. The Voting Section investigated two of the allegations referred to in the letter, including one in Hidalgo County, Texas, where it was alleged that the Republican party intimidated Hispanic voters countywide to dampen their turnout at the general election. The second allegation that the Voting Section investigated that was referred to in the letter was in New Jersey; the Voting Section opened a matter in 2003 to investigate this allegation (see information provided in this attachment for 2003). The most direct form of alleged intimidation in Hidalgo County was reported to have occurred when two poll watchers for a Republican candidate challenged Hispanic voters at early voting on the basis that a study indicated that 13,000 dead or ineligible voters were in the county's voter registration rolls. The Republican party held a press conference two weeks before the election where party representatives alleged that voter fraud could be a significant problem with the number of people listed incorrectly on the voter rolls.	A Voting Section memo referred to an allegation received from the U.S. Representative regarding possible intimidation at the November 2002 election held in Hidalgo County, Texas. The Voting Section attorney requested several pieces of documentation from the county elections administrator, including newspaper articles, letters between the elections administrator and the Republican elections administrator, and information regarding a study regarding the possibility of 13,000 dead or ineligible voters on the county voter rolls. The Voting Section attorney spoke with Hispanic voters and other minority contacts. The Voting Section attorney also analyzed voter turnout data for Hidalgo County and compared it to the state of Texas for 2002 and previous elections.	The Voting Section determined that Hidalgo County's election administrator handled the situation well by expelling the poll watchers when the voting supervisors alerted the election administrator that two poll watchers for the Republican candidate were making random challenges to Hispanic voters. The Voting Section further determined that efforts on the part of the Republican party did not dampen minority turnout and did not discover instances of voter intimidation at the polls on election day. The Voting Section noted that minority contacts in the county: (1) did not think that the allegations of dead voters on the rolls dampened turnout; (2) did not believe that the challenges made by the two poll watchers caused fewer Hispanic voters to vote; and (3) did not report problems of voter intimidation at the polls. The Voting Section did not find apparent differences between the voter turnout data in the 2002 election compared to other elections.	The Voting Section closed the matter on June 25, 2003, because it lacked merit. The Voting Section attorney observed that there was a tense atmosphere in Hidalgo County between some of the white Republicans and the Hispanic citizenry. The Voting Section recommended that this is an area that should be monitored in future elections.
10. As described in DOJ's complaint, DOJ alleged that the state of Oklahoma was not in compliance with UOCAVA. Election	After an expedited investigation, DOJ filed a complaint in the U.S. District Court for the	In the complaint, the Voting Section alleged that the state of Oklahoma violated	The consent decree required the state to take corrective actions so that all

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
officials in Oklahoma could not mail absentee ballots to military and civilian overseas voters on a date sufficiently in advance of the September 17, 2002, primary runoff election to allow voters to receive the ballot, cast a vote, and return the ballot to election officials by the deadline established by state law.	Western District of Oklahoma on September 12, 2002, and entered into a consent decree with the state of Oklahoma on September 17, 2002.	UOCAVA.	uniformed military personnel and citizens living overseas who filed a timely request to receive an absentee ballot are given the opportunity to vote. The state did so through, among other things, the passage of UOCAVA compliance legislation in May 2003.
11. As described in DOJ's complaint, DOJ alleged that as a result of the compressed period of time between the Texas primary and runoff elections, election officials in the state of Texas failed to mail absentee ballots to military and civilian overseas voters on a date sufficiently in advance of the April 9, 2002, federal primary runoff election to allow such voters to receive the ballot, cast a vote, and return the ballot to election officials by the deadline established by state law.	After an expedited investigation, DOJ filed a complaint and motion for a temporary restraining order and preliminary injunction in the U.S. District Court for the Western District of Texas on March 22, 2002.	In the complaint, the Voting Section alleged that the state of Texas violated UOCAVA.	The court entered a temporary restraining order and preliminary injunction on March 25, 2002, permitting qualified Texas voters to use federal write-in absentee ballots for the April 9, 2002, election. According to the terms of the court order, the state was required to take actions to remedy absentee ballot issues in the future. This included permitting voters to submit write-in ballots if their ballots are not sent to them in time and counting the write-in ballots as valid as long as the voters living outside the United States are qualified to vote in Texas. A stipulation of dismissal was entered in February 2004 following passage by the state legislature of legislation remedying the United States' complaint.

Attachment IV

Election-Related Closed Matter Initiated during Calendar Year 2003

No.	Matter	Jurisdiction	Date matter initiated	DJ No.
1	Matter	New Jersey	January 2003	Yes

Source: DOJ Civil Rights Division.

Summary of Election-Related Closed Matter Initiated during Calendar Year 2003

Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
1. This matter was the second matter opened by the Voting Section in response to the November 2002 letter from a U.S. Representative referred to in the previously described 2002 matter for Hidalgo County, Texas. There were allegations of voter intimidation in New Jersey. According to a newspaper article, e-mails were sent to Latino lawyers urging them to engage in an aggressive campaign to ensure ballot fairness. Attorneys for both the Democratic and Republican National Committees presented their case before the U.S. district court. The judge ruled a few days before the November 2002 election that there was "nothing sinister" in the Republican ballot fairness plan and characterized the plan as legitimate campaign activity.	The Voting Section attorney contacted a Latino political activist in the New York metropolitan area, the Treasurer of the New Jersey Hispanic Bar Foundation, and a community activist and attorney based in Newark, New Jersey.	The people that the Voting Section attorney contacted were not aware of the e-mail or any other threats or intimidation tactics against Latino voters. The Voting Section noted that its investigation yielded results similar to the judge's findings—that the ballot fairness plan mentioned in the e-mail did not raise concerns about Latino voter intimidation during the November 2002 general election.	The Voting Section closed the matter because it lacked merit.

Attachment V

Comments from the Department of Justice

U.S. Department of Justice

Civil Rights Division

Office of the Deputy Assistant Attorney General *Washington, D.C. 20530*

August 27, 2004

William O. Jenkins, Jr.
Director
Homeland Security and Justice Issues
United States Government Accountability Office
Washington, D.C. 20548

Re: *Department Of Justice's Activities to Address Past Election-Related Voting Irregularities - Draft Report GAO-04-1041R*

Dear Mr. Jenkins:

Thank you for providing the Department of Justice with a copy of a draft of the Government Accountability Office (GAO) report entitled "Department of Justice: Activities to Address Past Election-Related Voting Irregularities." This letter constitutes the Justice Department's formal comments, and I request that it be included in the final report.

The Department appreciates the GAO's, and the requesting members', interest in this most important issue. Indeed, of all the areas of responsibility charged to the Civil Rights Division, none ranks more highly than protecting the franchise.

Since 2001, the Division has worked steadily to protect federal voting rights. We have directed substantial resources to implementing the electoral reforms of the Help America Vote Act of 2002 ("HAVA"), including working with all states and territories to facilitate their preparedness to comply with the HAVA provisions that took effect on January 1, 2004. We also have taken unprecedented steps to protect the rights of language minority voters. And we have moved strongly to ensure that all American citizens overseas, including our men and women in uniform, have an opportunity to participate in the democratic process. Finally, as your draft report demonstrates, the Division has significantly increased the numbers of monitors and observers deployed to ensure compliance with federal voting rights. In short, this Division has been fully attentive to the challenge of protecting federal voting rights, and we are gratified to see our successful record reflected in your draft report.

With regard to the specific recommendations your draft report has made, we are pleased to accept both. In the Division's view, each will be a salutary addition to the many steps already taken to improve protections of federal voting rights. For that reason, the Assistant Attorney

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General for Civil Rights has already directed implementation of your recommendations.

With regard to the balance of the draft report, we appreciate the opportunity to have worked with GAO personnel on this audit. As with any report on an issue of such a critical nature, it is of the utmost importance that the report be both complete and accurate. Accordingly, we also appreciate the opportunity to provide comments. We must, however, register our disappointment that, while GAO took more than fifteen months to investigate and compile its draft report, you offered the Civil Rights Division only one week to review and comment on the voluminous document. Moreover, when the Division explained the difficulties and potential for error raised by such an abbreviated review, GAO offered just one additional week. This restriction has severely hampered our ability to provide the type of thorough review appropriate to such an important document, a particularly unfortunate consequence given that the draft report fails to capture accurately substantial portions of the Voting Section's work. Nevertheless, we have endeavored to provide as detailed and illuminating a set of comments as possible in the permitted time. Our specific comments follow:

1. Tracking Election Monitoring Activities

First, the GAO recommends establishing within the Department's ICM system a mechanism for tracking and reporting election-monitoring activities. As noted, the Assistant Attorney General has already taken steps to implement this recommendation, and the Division will implement an electronic means of tracking such data.

At the same time, however, it is important that the draft report not leave the reader with the suggestion that the Division presently lacks any system for tracking its election monitoring activities. *See* Letter at v; Draft Report at 41. This would be incorrect. The Voting Section does currently have procedures that effectively track election monitoring activities. Since the mid-1980s, the Voting Section has maintained logs detailing this information. As your records should show, the Division provided your investigators with a full explanation of these procedures in its May 25 response to your inquiries. The Division also provided you with the actual charts used for this tracking for the years 2000-2004. These charts provide detailed information about the state, the name of the jurisdiction monitored, the date of election, and the number of OPM observers and DOJ personnel who monitored the election. The Voting Section has found this system to be adequate and effective. Moreover, the existing logs are accurate and easily accessible.

2. Incorrect and Outdated Data Regarding Section 203 Work

It is also important that the final report reflect the most up-to-date information possible about the Voting Section's enforcement activities. Specifically, with regard to the Division's enforcement of Section 203 of the Voting Rights Act, while the draft report purports to have reviewed data through March 15, 2004, it discusses enforcement of Section 203 only through 2002. *See* Draft Report at 27. We have previously noted to you that the Division undertook a significant number of additional cases related to Section 203 and language minority issues in

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2002, 2003, and 2004. Yet, the draft report fails to mention these. The Division thus respectfully requests that the draft report be corrected to reflect our full record. Specifically, Civil Rights Division attorneys contacted all, and personally visited many of, the 296 counties covered under Section 203 to help guide local election officials in complying with the law's dictates. In 2003, the Division also initiated an additional two lawsuits (one under Section 2 and Section 208 of the Voting Rights Act and one under Section 203 of the Voting Rights Act) not reflected in the draft report, and we filed an additional 5 cases in 2004 (each under Section 203 of the Voting Rights Act). The cases are referenced in Attachment 1 to this letter. To put this in perspective, the Division has filed as many Section 203 cases since May 2004 as were filed in the previous eight years. Moreover, the cases filed since May 2004 have provided comprehensive minority language election programs to more voters than all previous Section 203 cases combined.

In addition to the foregoing filings, a number of additional jurisdictions voluntarily modified their practices after being contacted by the Division. In this respect, it is important to note a substantial restraint on the Division's authority. The remedies provided under the voting rights laws only provide for prospective relief for violations. In other words, even if the Department's investigation reveals that a particular jurisdiction may have violated the law in the past, if the jurisdiction changes its election procedures to comply with the law so it is no longer in violation, our investigation becomes moot and we cannot litigate to ask for remedies that are no longer needed. Unlike private plaintiffs filing litigation in tort cases, the Department cannot obtain relief for past violations that are no longer occurring. This is especially important to keep in mind when reviewing matters in states that passed voting reform legislation changing their election administration.

3. Updated Information on UOCAVA Work

On page 28 of the draft report, the third bullet point about the lawsuit filed in Georgia under the Uniformed and Overseas Citizens Absentee Voting Act of 1986 should be corrected to reflect that a court order was granted:

"~~Filed~~ Obtained a court order in an UOCAVA lawsuit in July against the state of Georgia ~~requesting a~~ for similar emergency relief ~~order~~ for its primary election."

4. Updated Information on HAVA Work

On page 29 of the draft report, the summary of the Division's activities under the Help America Vote Act of 2002 fails to mention the first HAVA enforcement action filed by the Voting Section. We respectfully request that the following bullet point be added:

Filed its first enforcement action in California against a county for failing to fully implement HAVA

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The case is *United States v. San Benito County, California* (N.D. Cal.). A complaint was filed on May 26, 2004 alleging, in addition to a violation of Section 203, a violation of the voter information provisions of HAVA. A consent decree requiring actions by the county to remedy the violations is pending review and approval by the court.

5. Documentation of Complaints of Alleged Election 2000 Voting Irregularities

As the GAO draft report itself notes, "[c]onfidence in our election processes is of utmost importance." Draft Report at vi. Moreover, confidence is assisted by "accurately recording and documenting [election related] activities in as clear a manner as possible." *Id.* This is no less true for your report as for our record-keeping. Accordingly, it is imperative that the final report accurately capture the full facts surrounding the Division's efforts during the 2000 election. At present, the draft report fails to do so.

Your draft letter to Congress and draft report repeatedly references the Division's documenting of public telephone calls during the 2000 Presidential election. These references may be construed to imply that an alternate means of documenting such public contacts would have enabled the Division to identify the existence of violations of federal law warranting further investigation. It is important that the GAO be clear that it is reaching no such conclusion, because such a conclusion simply would not be accurate.

The chief difficulty in the draft report's summary is its nearly exclusive focus on telephone logs maintained by contractors hired by the Department to record calls coming into the Department's main switchboard in the days after the 2000 election. The draft report contends that these logs were insufficiently detailed. However, the draft report fails to note that these logs made up only a small portion of all of the records of phone calls received by the Division. Therefore, any shortcomings in these logs are extremely unlikely to have changed the course of subsequent investigations.

As we previously advised GAO, (DOJ Response to April 7 Information Request), these contractors were hired to take phone calls from the public only during the weekend following the election, when the Division's offices would normally otherwise have been closed. The Division decided to afford the public this extra service after the Department's main switchboard received thousands of calls from around the country inquiring into the situation in Florida. In addition, the Voting Section's telephone lines received an elevated number of calls.

In focusing almost exclusively on the contractor logs, the draft report overlooks the call logs maintained by the Voting Section itself in 2000. These provided extensive documentation about callers and a description of the callers' complaints, and have proved reliable and accurate. Moreover, the vast majority of calls received were tracked through these logs. Therefore, the Division respectfully notes that during the 2000 election it did have an effective means of tracking election-related phone calls.

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In our April 2004 response, we provided you substantial detail regarding this additional means for tracking public election-related inquiries. Specifically, the Division's 800 number system was modified to permit as many persons as possible to express their views. It was temporarily reconfigured to provide four caller options to: (1) allow persons to express general opinions about the election (which represented the overwhelming majority of the calls); (2) provide specific information about voting-related incidents outside Florida; (3) provide specific information about voting-related incidents inside Florida; or (4) provide specific information about non-2000 election-related matters.

This modified system took effect late in the day on Thursday, November 9, 2000, and was discontinued following resolution of the Presidential election. The calls coming into the temporary 800 system were reviewed regularly by Voting Section personnel beginning on November 13, 2000. Return calls were made when there was some indication that the caller had substantive information about a specific voting rights violation[1] Separate log forms tracked each of the 800 number options. Calls expressing general views without conveying specific information about voting rights violations were recorded on forms similar to the contractor logs, with category columns listed for each state (although these forms were changed periodically to reflect the changing Florida election situation). Calls made under the other options were recorded on log forms providing for much more specific information, including name, phone number, and a detailed description of the complaint. We recently provided GAO with these logs. In addition, we invited GOA staff to meet with Voting Section staff involved in dealing with the public during the 2000 election. Regrettably, GAO declined this invitation.

6. Nature of the Calls Received After the 2000 Election

In addition to focusing on only a subsection of the calls received, the draft report also fails to properly note the substance of the vast majority of phone calls received by the Department following th November 2000 election.

First, the draft report fails to note the fact that of the thousands of calls received by the Department's switchboard during this period, upwards of 95 percent did not provide specific complaints of possible violations of federal voting rights laws, but rather simply reflected citizen frustration or anger over the ongoing election dispute. This assessment was made by the Voting Section's experienced, career professional staff, including both trial attorneys and management. Moreover, determinations were made by staff only after receiving initial reports from the Department's switchboard operators, engaging in hundreds of conversations with citizens calling into the Voting Section's phone lines, and reviewing the contractor logs that were faxed to the Voting Section on an hourly basis.

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[1] In our suggested changes to the section entitled "November 2000 Election Telephone Logs" of your draft Statement of Facts, which we sent to you on August 4, 2004, we explained the specifics of this additional call tracking system. Unfortunately, these changes were not incorporated in GAO's draft report.

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Second, the draft report fails to note that the vast majority of the calls received by the contractor lines came from New York and California; the number of calls from Florida was relatively small. The vast majority of these expressed frustration over the situation in Florida, and were based on second-hand information and media stories.

The same was also true for the majority of calls originating from Florida. Voting Section personnel followed up with callers from Florida to determine whether they had substantive information about the Florida election. Again, however, the vast majority of these callers were calling to express frustration at the ongoing election dispute and had no specific information about federal law violations. In addition to following up with these callers, Voting Section personnel also pursued other avenues of complaints (*e.g.*, calls made by voters directly to the Voting Section, complaint logs generated by the NAACP Voter Fund, hearings conducted by the U.S. Commission on Civil Rights and the NAACP, incidents receiving a large amount of publicity, etc.) to determine if federal laws had been violated.

As noted at the outset, it is imperative that the draft report accurately reflect these facts. At the same time, the Division fully concurs in the GAO's recommendation that an expanded recording system be implemented. For the 2004 election, the Division will continue to refine its tools for recording election-related calls to allow the public access to the Voting Section's complaint process.

7. Criminal Investigations

As you are aware, the GAO audit also examined the work done by the Criminal Division's Public Integrity Section, which is responsible, along with United States Attorneys' Offices, for investigating and prosecuting federal election crimes. The Chief of the Public Integrity Section, Noel Hillman, has asked us to include his comments to the portion of the draft report that pertains to the work of the Criminal Division. The first paragraph on page 22 of the draft report provides incorrect information about the training received by Assistant U.S. Attorneys. There are annual public corruption training conferences held by the Justice Department for Assistant United States Attorneys (AUSAs), and these include presentations on federal election crimes. These conferences are available to all AUSAs, including the AUSAs who are the designated district election officers. Some, but not all, of the 93 AUSAs who are their district's designated election officers may attend these conferences. In addition to these public corruption conferences, the district election officers are now attending the annual Ballot Access and Voting Integrity Conference, the first of which was held in 2002, to receive training on both civil rights issues important to ballot access as well as voting integrity issues important to election crime matters. Please note that the name of this annual conference is the "Ballot Access and Voting Integrity Conference," not the "Voting Integrity Conference."

In conclusion, we appreciate the opportunity to work with your staff concerning the important work of the Voting Section in enforcing federal voting rights. We are hopeful that the

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misstatements and inaccurate characterizations in this draft report will be corrected prior to its release.

Sincerely,

Bradley J. Schlozman
Deputy Assistant Attorney General

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