



Securing the Vote

An Analysis of Election Fraud

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Preface

When the Help America Vote Act (HAVA) was enacted last fall, a new era began in the history of electoral reform. The law provides sweeping guidance to the states on how to overhaul their voting systems and provides new funding for reform measures. Unfortunately, this major step forward has been shadowed by bitter partisan divisions over how best to prevent election fraud. As finally enacted, the new election law contains requirements for verifying the identity of voters that many critics worry will create obstacles to full voter participation.

As the states begin to implement HAVA, and as they consider other important electoral reforms such as election day registration, many claims and counterclaims are being heard about the problem of election fraud. In the absence of strong empirical research, anecdotal stories too often drive these debates. This report represents an important contribution to our understanding of the problem of election fraud. Based on an extensive research effort, it is the most in-depth examination of election fraud issues to date. The research, led by Barnard College professor Lori Minnite, used several approaches to analyzing the incidence of election fraud nationwide, as well as in a handful of major states. The report also examines claims about whether various electoral reforms—such as the National Voter Registration Act, mail-in voting, and election day registration—have led to increased fraud.

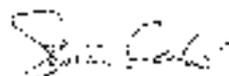
The overall conclusion of the report is that the incidence of election fraud in the United States is low and that fraud has had a minimal impact on electoral outcomes. The report also finds that the important electoral reforms of recent years have not led to increased election fraud and, in some cases, have helped reduce the potential for fraud. More generally, the report observes that the conditions that have historically led to election fraud have been on the decline for many years. Technological improvements in voting technology, stronger enforcement efforts, and changes in election administration can further reduce the likelihood of fraud.

Based upon these research findings, we strongly believe that the states should work to make registering and voting as accessible as possible to all Americans and can feel confident in doing so without increasing the chances of fraud. Dēmos is proud to be part of an energetic national network of reform groups that are seeking to maximize electoral participation.

We hope that public officials, reform advocates, and others will find this report to be a useful resource. Please do not hesitate to contact Dēmos for further information or assistance.



Miles Rapoport
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Executive Summary

Election fraud is a hotly contested topic in public debates about electoral reform. Debates over election fraud are not new. They have been a staple part of discussions about elections and democracy in the United States for more than a century. But in recent years, issues of fraud and voting integrity have increasingly come to the forefront of public policy discussions over the health of America's democracy.

Since the 2000 election, a historic effort has been underway to strengthen voting systems across the 50 U.S. states and also to address obstacles to broader electoral participation. However, at both the federal and state level, efforts to move forward a reform agenda have frequently been complicated by heated debates over issues of election fraud and the integrity of voting systems.

In Congress, disagreement over voter identification provisions in federal election reform legislation resulted in an acrimonious legislative process that delayed passage of the Help America Vote Act.

The 2002 election further underscored the salience of the issue in U.S. electoral politics. With control of the U.S. Senate hanging on the outcome of at least eight Senate races too close to call, the integrity of all ballots was viewed as a matter of grave importance. Allegations of fraudulent registration and balloting, as well as voter intimidation, were made in a number of states.

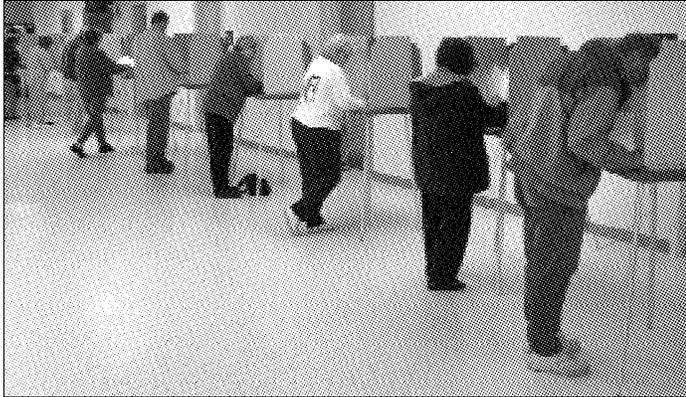
Opponents of efforts to make voting easier and more accessible often cite the potential for election fraud as a reason to oppose reforms, such as election day registration, aimed at addressing one of the most challenging issues facing our electoral system: low voter turnout.

As federal and state officials consider future reform efforts, as well as the merits of existing reforms, and begin implementing the new Help America Vote Act, there is an acute need for better information and analysis about election fraud issues.

Yet to date *there have been no major studies of election fraud in the United States*. Too often, hearsay and anecdotal stories are put forth as fact during critical policy deliberations. This research report provides a new foundation of information and analysis to inform public discussions about the integrity of America's electoral system.

Approach

Election fraud is defined in this report as the corruption of the process by which votes are cast and counted. Fraud may involve wrongdoing by either individual voters or, as is more commonly the case, by organized groups such as campaigns or political parties. This report examines both kinds of fraud. Drawing on a wide range of sources, we address the following questions: How often does election fraud occur? How serious a problem is fraud, compared



to other problems with the election process, such as those that occurred in Florida in the 2000 election? What kinds of voting methods are most vulnerable to corruption? What administrative, technological, and legal steps can be taken to reduce the chances of election fraud while also expanding the opportunities to register and vote?

Central Findings

Available evidence suggests that the incidence of election fraud is minimal across the 50 U.S. states and rarely affects election outcomes.

- Election officials generally do a very good job of protecting against fraud in the system and ensuring that election outcomes fairly reflect the intentions of voters.
- Conditions that give rise to election fraud have steadily declined over the last century as a result of weakened political parties, strengthened election administration, and improved voting technology.
- There is little available evidence that election reforms such as the National Voter Registration Act, election day registration, and mail-in voting have resulted in increases in election fraud.

- The disenfranchisement of voters through antiquated voting systems, system error, and improper management of registration databases, as occurred in Florida in the 2000 election, is a far bigger problem than traditional forms of election fraud.

Efforts to make it easier to register and vote are compatible with the prevention of election fraud. Fears of election fraud should not inhibit electoral reform efforts aimed at addressing the problem of low voter participation.

- States can reduce the potential for fraud by integrating and computerizing state voter registration records, as mandated by the new federal election law, the Help America Vote Act. These same reforms also reduce problems at the polls and make registration and voting easier.
- Reduced partisanship among election officials decreases the chances of fraud and also helps create more professionalized election administration.
- Election day registration (EDR), which has been proven to increase voter participation, also reduces the possibility for fraud as more registrations are handled by election officials.
- Vigorous signature-matching procedures can prevent fraud under mail-in voting election systems.

Best practices in select states show how to prevent fraud while keeping voting accessible.

- Ten states have very effective unified, computerized statewide records that are checked against other records, such as state death records and the National Change of Address database. Under the Help America Vote Act, all states must now develop similar registration databases, which will go a long way toward preventing opportunities to commit fraud.
- A number of states have voter identification requirements that allow a wide range of voter I.D., which can be used when implementing HAVA's I.D. requirements for certain first-time voters.
- A few states have made strides toward reducing partisan control of elections by having bipartisan state elections boards oversee elections. An even better practice would be the adoption of nonpartisan state elections boards.

Policy Recommendations

- **Upgrade technology in the states.** The new Help America Vote Act, which mandates the creation of state-wide computerized registration systems and also provides states with money to upgrade voting machines, should be fully funded and effectively implemented in a uniform and nondiscriminatory manner. It is especially important that new state-of-the-art registration systems allow for interagency networking (for prompt and proper transmittal of registration information under NVRA) and local polling place access to systems (through laptops or other means).
- **Implement I.D. requirements that do not burden voters.** The new federal election law puts undue burdens on voters to prove their identity at the polls. The law should be modified to expand the list of acceptable identifying documents and to allow state or local officials discretion to incorporate or expand forms of identification currently in use. State officials should ensure the equal and non-discriminatory application of requirements.
- **Reduce partisan control of elections.** Important election administration positions should only be filled by nonpartisan professionals. Regular training and exchanges with elections administrators from other jurisdictions can increase officials' commitment to the professional administration of the democratic process itself, as opposed to party loyalty.
- **Strengthen enforcement.** The federal and state criminal penalties for election fraud are significant and serve as a powerful deterrent against fraud. All states should ensure adequate funding and authority for offices responsible for detecting and prosecuting fraud. In addition, all states should track allegations of election fraud, as well as the outcomes of criminal investigations, and make this data available to the public.
- **Establish election day registration (EDR).** EDR usually requires voter identification and authorization in person before a trained election worker, which reduces the opportunity for registration error or fraud.

I. Election Fraud in the United States

An Overview

Since the 2000 election, a historic effort has been underway to strengthen voting systems across the 50 U.S. states and to address obstacles to broader electoral participation. At both the federal and state level, however, efforts to move forward a reform agenda have frequently been complicated by heated debates over issues of election fraud and the integrity of voting systems. In Congress, disagreement over voter identification provisions in federal election reform legislation resulted in an acrimonious legislative process that delayed passage of the Help America Vote Act. Similarly emotional debates over I.D. provisions have occurred in the states, and these debates are likely to heat up as state governments begin work to implement the new federal election law.

The 2002 election further underscored the salience of the issue in U.S. electoral politics. With control of the U.S. Senate hanging on the outcome of at least eight Senate races that were too close to call, the integrity of all ballots was viewed as a matter of grave importance. In the wake of the election, fraudulent registrations and absentee balloting were alleged to have occurred in a hotly contested Senate race in South Dakota¹ and elsewhere. Allegations of voter intimidation were made in Arkansas and other states. Meanwhile, the specter of fraud played a major role in the defeat of ballot initiatives in California and Colorado that would have enacted election day registration into law, with opponents of the initiatives arguing that election day registration would increase the potential for fraud.²

Debates over election fraud are not new. They have been a staple of discussions about elections and democracy in the United States for more than a century. But in recent years, issues of fraud and voting integrity have increasingly come to the forefront of public policy discussions over the health of America's democracy. Even before the 2000 election, consistently low voter turnout rates and obstacles to participation motivated various efforts to increase voter registration and turnout—efforts that in turn raised questions about voting integrity. Critics of reforms—such as the institution of mail-in voting in Oregon, the loosening of guidelines for absentee ballot use, and, most notably, the National Voter Registration Act of 1993 (the “motor voter” act)—have charged that

While the issue of fraud is raised continually in discussions of election reform, to date there have been no major studies of election fraud in the United States.

these reforms increase the chances of voter fraud. Other frequently proposed reforms, such as election day registration, have been criticized on the same grounds.

As federal and state officials consider future reform efforts, as well as the merits of existing reforms, and begin implementing the new Help America Vote Act, there is an acute need for better information and analysis about election fraud issues. While the issue of fraud is raised continually in discussions of election reform, to date *there have been no major studies of election fraud in the United States*. Too often in this area, hearsay and anecdotal information are put forth as fact in important public policy debates. Many key questions about fraud remain unanswered, including: How often does election fraud occur? How serious a problem is fraud compared with other problems with the election process, such as those that occurred in Florida in the 2000 election? What kinds of voting methods are most vulnerable to corruption? What administrative, technological, and legal steps can be taken to reduce the chances of election fraud while also expanding opportunities to register and vote? This report seeks to provide some initial answers to these and other vital questions.

What Is Fraud and Why Does It Matter?

Elections are the mechanisms by which people choose their representatives. Given that the integrity of this process is central to American democracy, there can be no compromise on the need for fair elections determined without the taint of fraud—whether on the part of voters, political parties, election administrators, or others.

A general definition of election fraud is the corruption of the process of casting and counting votes. Fraud may involve wrongdoing by either individual voters or, as is more often the case, by organized groups such as campaigns or political parties. This report focuses on fraud as it has traditionally been defined, and specifically on two common forms of fraud:

Individual Fraud. Voting in America is a two-stage process. In nearly all states, an eligible citizen who wants to vote must first register using his or her permanent home address. After successfully completing a voter registration application, the voter goes to the polls—or, in Oregon, receives voting materials through the mail—and casts his or her ballot. Voters may violate laws governing the registration process by misrepresenting themselves as eligible when they are not, or submit-

ting registration applications for fictitious people, dead people, or real people who can be ineligible or eligible to vote and who may or may not know of or consent to the fraud. Second, voters may commit fraud at the point of voting. A voter may vote multiple times using the name or names of another voter. In the case of a vote cast using the name of a real person, that person may or may not be eligible to vote and may or may not consent to the fraud. Voters consenting to the appropriation of their vote by another may do so because they do not plan to vote, have little interest in voting, or receive some kind of material benefit—a practice called vote buying.

Organized Fraud. Fraud is easier for organized groups to commit than it is for individual voters because such groups have resources and/or direct access to election machinery. In all but the most extraordinary of cases—for instance, when an election victory depends on a handful of votes—fraud must be committed through a conspiracy to have an impact on the outcome of an election. Existing systems for registration and voting provide considerable opportunity for organized fraud. Such fraud can take several forms. First, political parties, campaign organizations, or other groups can perpetrate organized fraud through filling out fraudulent absentee or mail-in ballots. Second, local election administrators or poll workers can commit clear-cut fraud by not counting or destroying ballots, allowing votes that should have been barred, and tampering with ballots. Third, interested groups can organize large-scale vote buying—for example, providing incentives for otherwise uninterested voters to go to the polls and vote in a certain way—or coordinate efforts to help large numbers of voters vote more than once.

Beyond these traditional conceptions of fraud, many people are concerned about official efforts to corrupt the election process or erect barriers to participation. For example, election officials can deliberately corrupt the election process by manipulating registration databases to remove the names of people likely to vote in a certain way so that these people are unable to cast ballots when they arrive at polling places. Corruption of this kind was widely alleged to have taken place in Florida and other states during the 2000 election. Deliberate disenfranchisement of voters may also occur because of other kinds of official misconduct: turning away voters already in line when polls close; intimidating or misinforming voters when they arrive the polls; producing misleading or poorly designed ballots; failing to provide bilingual

voting materials, as required by law; failing to upgrade or repair antiquated voting systems in specific election districts; and by other means.

Overall, the disenfranchisement of voters through antiquated voting systems, errors, mismanagement of registration bases, and intimidation or harassment is a far bigger problem today than traditional forms of election fraud. The problems in Florida in 2000, which determined the outcome of a presidential election, are dramatic evidence of this



point. These problems have been analyzed and highlighted in a number of studies and reports over the past two years.³ Civil rights advocates have been particularly active in challenging official forms of election malfeasance as violating various provisions of the Voting Rights Act. This report does not focus on these issues. Rather, it looks exclusively at election fraud as the problem has commonly been discussed over the past century.

Research Methodology

The administration of elections for all public offices in the United States, from county dogcatcher to the U.S. presidency, is controlled by state and local election officials. This makes election procedures radically different from state to state and, in many places, from county to county. Given this diffused reality, it is difficult to assess the overall integrity of U.S. election systems. While no other aspect of American politics has received as much scrutiny over the last fifty years as the behavior of the American electorate, the one area in this vast field of inquiry that has received very little attention by

scholars is election fraud. Remarkably, there are no definitive academic studies of election fraud in the contemporary period, nor are there studies of fraud by government agencies concerned with the administration of elections in this country.

The difficulty of gathering data on fraud explains much of this vacuum in analysis. Like many of the rules governing American elections, the rules dealing with election fraud and the state and local agencies assigned the responsibility of handling fraud claims vary widely from state to state and, in some cases, from locality to locality. In many states the secretary of state is the chief elections officer, and his or her office is the state office primarily responsible for maintaining election records and receiving complaints of fraud. In other states, complaints of election fraud are first received and investigated by the state attorney general. In still other states, neither the secretary of state nor the attorney general maintains voting and elections records or handles any matters related to fraud at all. Instead, those responsibilities are assigned to a state board of elections or other elections agency. Since so few fraud claims evidence criminal intent, law enforcement agencies are only occasionally involved in prosecuting cases. Finally, a number of states, especially those lacking a centralized voter registration or elections management system, allocate the responsibility for receiving and investigating complaints of election fraud to local or county boards of elections or district attorneys, with little to no responsibility or accountability vested in any state agency.

While the analysis of this report is limited by the lack of comprehensive and accessible statistical data on election fraud, the authors were able to develop an in-depth analysis of election fraud in the United States today by drawing on a wide range of sources.

- First, we conducted an analysis of the incidence of election fraud from 1992 to 2002 in 12 states that collectively represent about half of the electorate and are drawn from all of the major regions of the country. These states include: Alabama, California, Florida, Georgia, Illinois, Minnesota, Mississippi, New York, Oregon, Pennsylvania, Texas, and Wisconsin. For each of these states, we conducted Lexis-Nexis searches of news databases, as well as the statutory and case law for evidence of a record of prosecution of voter fraud. We also contacted selected state officials, including attorneys general and secretaries of state.

Overall, the disenfranchisement of voters through errors, antiquated voting systems, and mismanagement of registration databases is a far bigger problem today than traditional forms of election fraud.

- Second, we conducted a complete Nexis search on voter fraud throughout the United States since the 2000 election, supplemented by searches related to several high-profile cases of election fraud that occurred before 2000. The search produced close to 2,000 references, each of which was thoroughly examined.
- Third, we surveyed the academic literature, a wide variety of government documents, congressional testimony and research reports, law journal articles, and other sources on election reform from professional, research, and reform organizations.
- Fourth, we analyzed in considerable depth some of the highest-profile cases of real or alleged fraud in the United States over the past decade, including notable cases in Missouri, California, and Florida.
- Fifth, we conducted an extensive analysis of fraud issues that surround particular voting methods or reforms, such as the NVRA, election day registration, and absentee balloting. Drawing on state and federal reports, as well as news and legal databases, we evaluated the charges often made about fraud and these reforms.
- Finally, we examined “best practices” in the states aimed at balancing fraud prevention with increased opportunities for voting.

A Framework for Understanding Fraud

While heated debates over election fraud have been going on for more than a century, the circumstances that surround voting and elections have changed dramatically over time and continue to evolve rapidly today. Elections remain as contested as ever, but the conditions conducive to election fraud have steadily declined. This trend is likely to continue in the foreseeable future. Three factors account for this change: declining political parties and machines, strengthened election administration, and improved voting technology. While some level of fraud, as traditionally defined, is likely to exist within any electoral system, current trends suggest that it is more possible than ever to further open

the process and facilitate voting without bringing about greater fraud. Exaggerated fears of fraud should not stand as an obstacle to reforms aimed at expanding participation.

Declining Political Parties. Historically, local political parties have played an important role in perpetrating election fraud. During the late 19th century and well into the 20th century, a key motive for fraud was the immense local patronage benefits afforded to winning parties. Under these conditions, parties, patronage, and fraud were intertwined. Election fraud was perpetrated by partisans acting together to steal elections. Local party organizations competed for voters and controlled votes through patronage. When elections were fully controlled by local party organizations, ballots were easily destroyed, miscounted, or falsely multiplied, and voters could be strongly influenced by bosses or local elites to vote in specific ways. Typically, cases of election fraud involved organized efforts by partisan election officials, party leaders, and politicians rather than by the voters themselves.⁴ Today, local party organizations are relatively weak to nonexistent, in part because their access to patronage has all but disappeared. They no longer control lucrative franchises, run police and fire departments, set utility rates, or build large-scale public works. However, in many states key election officials are openly partisan and may also play an active role in partisan political campaigns, a conflict of interest that increases the potential for fraud.

Strengthened Election Administration. At the same time that political parties have weakened, modern election administration has become more sophisticated and fraud has become more difficult. The reforms put in place in the late 19th century and early 20th century required voters to register in advance of elections and election authorities to keep registration records. While some of these reforms reduced the opportunities for fraud, they also had a negative impact on democratic participation, making voting especially more difficult for poor and working-class people.⁵ The NVRA, as well as the advent of election day registration in six states, has helped to reduce the obstacles to voting that accompanied voter registration requirements. In the wake of the 2000 election, considerable attention has been focused on ways to improve election administration to strengthen the integrity of the election process; a number of reform mea-

asures have already been passed in the states. Particular attention has been given to the need to create statewide computerization registration systems in all states, as now required by the Help America Vote Act. As further reforms are enacted, facilitated by new federal monies, election administration will continue to be strengthened as a bulwark against fraud. (See Section IV.)

Improved Voting Technology. Steadily improving voting technology has also served to reduce opportunities for election fraud, a trend that is likely to accelerate in the near future. Despite the many problems with voting systems that were spotlighted by the 2000 election, U.S. voting systems as a whole are substantially more reliable and ensure higher levels of voting integrity than was the case even a few decades ago. Since the 2000 election, a number of states have already moved to implement major technology upgrades in voting technology. Additional upgrades will certainly occur as federal funds for such improvements flow to the states as a result of the Help America Vote Act.

Fewer Trade-Offs: Easier Balloting, Secure Balloting. Some level of fraud has always been seen as inevitable and acceptable in the U.S. electoral system. In historical terms, there is less and less opportunity to commit fraud today in ways likely to decide elections. This makes it more possible than ever to facilitate voting without trading off the goal of secure elections. As this report shows, steps taken in the past decade to open the process have not resulted in increased fraud.

Election Fraud Today

Based on the research and analysis for this report, we offer several conclusions about election fraud in America today:

- Election fraud appears to be very rare in the 12 states examined. Legal and news records turned up little evidence of significant fraud in these states or any indication that fraud is more than a minor problem. Interviews with state officials further confirmed this impression. An authoritative study undertaken in the largest U.S. state, California, by CalTech professor R. Michael Alvarez found little incidence of fraud during the period 1994–2001.⁶

- Notable election reforms of the past decade—such as the NVRA, more permissive absentee balloting rules, all mail-in voting in Oregon, and the enactment of election day registration in three new states—do not appear to have resulted in any significant increase in voter fraud. (See Section III.)
- Analysis of several cases of election fraud that have received significant attention in recent years suggests that some of the most notable allegations of fraud have proved to be baseless. (See Appendix.) While the 1997 primary mayoral election in Miami, Florida, was the most egregious fraud case in recent history, there are other noted cases where charges of significant vote fraud have been disproved, such as the 1996 Dornan/Sanchez contest for the House of Representatives in Orange County, California. There are yet other cases, such as the 2000 election in St. Louis, Missouri, in which politicians have made great hay, but charges of widespread fraud have not been substantiated.

The low level of election fraud in the United States today does not preclude the need for continued vigilance to ensure the integrity of election systems. But it does suggest that reforms aimed at simplifying registration and voting can be implemented without risking a significant corrupting of elections by fraud. Even if only partly implemented, the many technological and administrative reforms recommended by national and state commissions since the 2000 election, as well as other best practices discussed in this report, can go a long way toward enhancing election integrity. (See Section IV.) These same reforms can facilitate programs, such as election day registration, that are intended to make voting easier.

II. Election Fraud and the Law

The opportunity to commit election fraud is constrained by a matrix of state and federal laws. Election fraud is a serious crime that can be prosecuted at the federal and state levels, where penalties carry fines, lengthy prison terms, and, in the case of illegal voting by non-citizens, deportation.⁷ However, the effectiveness of laws depends on their enforcement and implementation.

State Laws and Enforcement

The Constitution grants states broad jurisdiction over the elective process, though the authority of the states in these matters is not absolute.⁸ The Fifteenth, Nineteenth, and Twenty-sixth Amendments prohibit states from restricting the franchise based on race or color, gender, or minimum age (18 years) of the voter, respectively. The Supreme Court has found that Congress is within its constitutional authority to pass laws governing the timing of federal elections, voter registration, access to the ballot for the elderly and disabled, and, perhaps most important, in the area of prohibitions against racially discriminatory voting practices.⁹ However, within this framework, the states are granted wide powers to qualify voters and establish rules for conducting federal, state and local elections.

Within this framework for regulating the electoral process, the states have exhibited a full flowering of differences in the manner in which they administer elections. State election laws governing voting vary in their level of specificity, with many states granting localities considerable discretion in the way they run elections. For example, Oklahoma has standard election day procedures and a single voter registration and election management system, and it uses only one type of voting machine. In contrast, before a recent reform law was enacted, Pennsylvania's election law provided few statewide guidelines and near-autonomy to the state's 67 counties in the matter of election day procedures. Pennsylvania had 67 different election systems using a variety of voting machines.¹⁰

On election day in South Dakota, where the biggest story of alleged voter fraud in the 2002 election cycle took place, the statewide phone number set up by federal officials to report any voting irregularities received only one call.

Federalism, and the authority over election procedures granted to states, also explains why laws criminalizing fraud differ across the states. All states have laws governing election crime. However, because of the historically parochial manner in which states administer elections, there is wide variability in how they handle the problem of criminal election fraud. All states prohibit voting by noncitizens (although some localities permit such voting in local elections); most states have various restrictions that bar voting by individuals convicted of felonies,¹¹ as well those who have been ruled mentally incompetent by a court. Most states have prohibitions against falsifying voter registration information, voting more than once in an election, impersonating another voter, intimidating or coercing voters, and bribing voters or buying votes. Most of these crimes are classified as felonies and carry fines and prison sentences. In some states, a person convicted of voter fraud can permanently lose his or her right to vote.

State election laws allocate the responsibility for ensuring fair elections to various agencies and officials, and it is their responsibility to administer and monitor the electoral process to ensure that it is free of corruption. Local election and law enforcement officials also play a role in enforcing election laws, although the familiarity of these officials with the ins and outs of election laws and the lines of enforcement authority varies considerably within states. While it is incumbent upon government officials to bring criminal charges where appropriate, all states also empower private citizens and organizations to bring civil suits to contest election results.¹² Likewise, the NVRA provides a private right of action to any person aggrieved by a violation of the Act.¹³

Federal Laws and Enforcement

Despite state jurisdiction over election administration, there is a role for the federal government in prosecuting voter fraud when federal interests are at stake.

Historically, the federal role has extended to ensuring elections that are free of corruption and in eliminating discrimination against minority voters protected by the Voting Rights Act of 1965, as amended. The enforcement of the Voting Rights Act concerns civil offenses and is handled by

the Justice Department's Civil Division. Election-related crimes are handled by the Public Integrity Section of the Justice Department's Criminal Division. A manual for federal prosecutors of election crimes defines election fraud as "conduct that corrupts the process by which ballots are obtained, marked, or tabulated; the process by which election results are canvassed and certified; or the process by which voters are registered."¹⁴

Federal election law is an amalgamation of statutes. Some of them expressly apply to elections and voting, and others, such as statutes prohibiting mail fraud, have been used to prevent and punish voter fraud. Most federal statutes apply only to federal or mixed federal/state and local elections. In order for election crime to rise to the level of federal prosecution, "there must be some *substantive* irregularity in the voting act ... which has the potential to taint the election itself."¹⁵ The Supreme Court has found a constitutionally guaranteed right to vote and Congress has passed legislation to protect this most fundamental of all rights. There remains debate, however, over whether or not the Constitution guarantees a right to vote in purely state and local contests—here the judicial record is inconsistent. Federal prosecutors, therefore, avoid investigating fraud allegedly committed in these elections.

Federal election law can be divided into two categories: *anti-intimidation* laws and *anti-trafficking* laws. Anti-intimidation laws make it a felony to conspire to "injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States or because of his having exercised the same."¹⁶ They also provide for criminal punishment of anyone who deprives another of federally secured rights to vote. Anti-trafficking laws, on the other hand, restrict a citizen's right to vote by prohibiting the offering, making, soliciting, or receiving of payments in return for voting or withholding a vote. Penalties include a fine of up to \$10,000 and five years imprisonment. The Justice Department, as a matter of practice, does not prosecute voters whose only involvement in voter fraud is in compromising their votes, nor does it prosecute isolated instances of vote buying, because "isolated incidents do not implicate federal interests sufficiently" to warrant federal interference in what is traditionally a state

function. It appears that the majority of vote buying schemes that are prosecuted involve small amounts of money and occur in low-income neighborhoods.¹⁷

On October 1, 2002, U.S. Attorney General John Ashcroft announced the Voting Access and Integrity Initiative, aimed at enhancing the Department of Justice’s “ability to deter discrimination and election fraud, and ... to prosecute violators vigorously whenever and wherever these offenses



occur.”¹⁸ The initiative involved the creation of task forces of district election officers, assistant U.S. attorneys appointed by each of the U.S. Attorneys to serve in this new capacity for the 2002–2004 period, and FBI officials whose job it is was to coordinate “on-the-ground investigative and prosecutorial coordination” with state and local elections and law enforcement personnel to “deter and detect discrimination, prevent elec-

toral corruption, and bring violators to justice.”¹⁹ Federal monitoring of elections has been around since the Reconstruction period, but most often it has been directed toward protecting the voting rights of minority groups at the polls. What is significant about the Justice Department’s involvement in the recent midterm elections is the linking of voting rights with protection from corruption of the electoral process by voter fraud, reflecting a new view that voter fraud deserves the same level of scrutiny from federal law enforcement officials historically required to guard against racial discrimination in voting. During the month of October 2002, the district election officers opened 16 cases into allegations of voter fraud.²⁰ Federal officials do not comment on the status of open investigations, but it is of interest to note that on election day in South Dakota, where the biggest story of alleged voter fraud in the 2002 election cycle took place, the statewide phone number set up by federal officials to report any voting irregularities received only one call.²¹

III. The Impact of Election Reforms on Voting Integrity

Proposals for election reform aimed at broadening participation have historically generated widespread concerns about increased fraud. In this section, we analyze issues of fraud in relation to three major reforms: the National Voter Registration Act, voting by mail, and election day registration. Examining available evidence, including federal and state studies, we discuss how these reforms have affected opportunities to commit election fraud.

National Voter Registration Act of 1993

The NVRA, also known as the “motor voter” law, established national standards governing voter registration and voter roll purging. The law simplified voter registration by permitting mail-in registration; by increasing the locations where voters could register to include driver’s license offices, military recruiting offices, and welfare and other public agencies; and by requiring these agencies to send registration cards to county registrars. It also established safeguards for voters who move within their jurisdiction.

The NVRA has shifted some of the burden of expanding voter registration from voters to states and localities by requiring states and localities to comply with new voter list purging and reporting standards. As such, the act has presented challenges for keeping voter rolls up-to-date. Prior to the NVRA, states and localities established their own standards for purging voter files, and some removed voters from voting rolls for failure to vote. NVRA requires states to keep voter rolls up-to-date, but restricts their ability to purge voters, permitting purges only upon a voter’s request, death, felony conviction, mental incompetence, or upon relocation, provided the voter verifies the address change in writing.²²

Despite a slow start, the NVRA is proving very successful in meeting its purpose of increasing the number of eligible citizens who register to vote in federal elections. Registration rolls have grown nationally by nearly 30 percent since its passage. Project Vote recently estimated that NVRA is responsible for more than 70 million new voter

In their responses to the most recent FEC inquiries about the NVRA, no states raised the issue of voter fraud among their implementation problems.

registrations.²³ Along with this increase in access to the franchise, however, has come the argument that greater access inevitably leads to more voter fraud. For example, Senator Christopher S. “Kit” Bond (R-Mo.) charged in a *Washington Post* opinion piece that the NVRA “not only caused sloppy voter rolls, it actually facilitated organized vote fraud” in the 2000 election in Missouri.²⁴ John Samples, the director of the Center for Responsive Government at the conservative Cato Institute, recently testified before the Senate Rules and Administration Committee that the NVRA has encouraged lax registration requirements (through the use of mail-in registration forms) that “have left the voter rolls in a shambles in many states,” breeding mistrust in the electoral process and “foment[ing] ‘the appearance of corruption,’ that has, fairly or not, done real damage to American government.” Because the NVRA “has made it difficult if not impossible to maintain clean registration rolls,” Samples said, the NVRA deserves the blame for part of the decline in trust in government observed by political scientists over the past four decades.²⁵ *The Wall Street Journal* wrote no fewer than four editorials in 2001 claiming voter fraud is out of control and lambasting the NVRA.²⁶

One way that the NVRA has increased access to voter registration has been by increasing the number of physical sites where citizens may submit voter registration forms to include motor vehicle agencies and state agencies administering services to the indigent, elderly, and disabled. The NVRA also requires state officials at these sites to inform clients about voter registration opportunities. People who visit motor vehicle agencies, welfare offices, and the like more than once therefore have the opportunity to register to vote multiple times. Moreover, multiple registrations can occur if a registrant submits updated information using a new application form. Local election officials must spend time and resources verifying new registration applications for duplication. In fact, a recent GAO report on election administration found that 99 percent of voting jurisdictions nationwide checked for multiple registrations.²⁷ On the other hand, other election officials told the GAO they supported the motor vehicle authorities’ policy of encouraging citizens to reapply if they had any reason to believe they might not be registered.

Critics of the NVRA’s restrictions on list purges (and the costs now associated with purging) point to the considerable amount of “deadwood,” or ineligible voters, on voting rolls. Deadwood is presumed to be fodder for voter fraud—names of voters no longer living in a jurisdiction, dead, or otherwise ineligible to vote but available for identity theft by those who would commit fraud by voting in their name. Indeed, as the states have come into compliance with the NVRA’s list maintenance and anti-purging requirements, the number of “inactive” registrants has significantly increased, from 1.7 million in 1994 to more than 18 million in 2000, or 11 percent of the total number of registered voters.²⁸

The NVRA permits the maintenance of inactive lists, or lists of voters who have failed to respond to an address verification notice sent by the voter registrar confirming a change of address. Inactive lists represent the churning of voter records that results from combining a voter registration system tied to territorially based eligibility criteria with high voter mobility.²⁹ Voters do not stay on inactive lists indefinitely; they may be deleted from inactive lists after failing to vote in two successive federal elections. In fact, many of the names of inactive voters on the current rolls will be deleted from the lists after the 2002 election.³⁰ “Inactive” voters, therefore, may be left on such lists for as little as two and a half years before they are purged entirely from the rolls. Contrary to popular opinion, this represents a *decrease* in the length of time a voter can remain inactive before being deleted entirely from the rolls in about half of the 40 states that utilized the purge for failure to vote prior to the enactment of the NVRA.³¹ Moreover, the new requirements permit deletions from the rolls in eight states that did not purge for nonvoting before implementing the NVRA.³² In the 1999–2000 cycle, five of those states purged 1,888,795 names from their new inactive lists—names that could have remained on state and local voter registries prior to 1993.³³ They removed an additional 719,761 voters from their active lists. In sum, the NVRA is responsible for significantly tightening up, not loosening, list maintenance requirements for deadwood in many states.

Another problem with the argument that an increase in the number of inactive registered voters opens the door to voter fraud is a misunderstanding of how states and localities manage those lists on election day. Only about half the states covered by the NVRA even allow inactive voters to vote on election day. When inactive voters are permitted to vote, it is

usually by affidavit or through the use of some form of provisional ballot subject to further verification of such voters' qualifications, which by no means guarantees a provisional vote will be counted. A number of high profile cases of voter fraud involving the manipulation of "deadwood" voter registration records, mostly through absentee ballot fraud, have given critics' arguments some weight. But mismanagement of voter registration lists involving the erroneous removal of voters from active lists used at the polls is a more significant problem. It emerged in the 2000 presidential election and was compounded by the failure of election officials to provide opportunities for those voters to vote, as mandated by the NVRA's fail-safe provisions.³⁴ (Under the new federal election law, all states must provide voters with the opportunity to cast provisional ballots.)

In its most recent report to Congress on the impact of the NVRA on election administration in federal elections, the Federal Elections Commission noted an increasing effort by the states to maintain accurate voter registration lists. While the NVRA permits states latitude in designing list maintenance programs that reflect local conditions and needs, most of the 12 states reporting improvements in list maintenance managed these improvements through upgraded statewide computer information systems. Improvements also came about through enhanced networking between localities supervising the registration process and state agencies generating records related to voter list management—for example, death and criminal conviction records. A number of states are leading the way in the use of computer technology to clean the voter registration lists. Oklahoma now requires voters to provide the last four digits of their social security number to help identify duplicate registrations, and North Carolina has introduced a barcode-scanning technology that automatically assigns voter status based on returned mail.

A number of states initially resisted the implementation of the NVRA by challenging the legislation's constitution-



ality and raising concerns about voter fraud. None of the federal courts hearing the challenges found the evidence of fraud convincing or the concerns legitimate.³⁵ Today, states reporting problems in maintaining accurate voter registration lists complain mostly about the high cost of complying with mailings under state implementation of the NVRA. In their responses to the most recent FEC inquiries about the NVRA, no states raised the issue of voter fraud among their implementation problems.

Properly implemented and adequately funded, the NVRA helps guard against the possibility of voter fraud. The NVRA requires the states to clean their voter registration rolls by deleting voters who have moved out of the jurisdiction or have died. It requires voters to sign their names attesting to their eligibility to vote under penalty of perjury, and deportation for noncitizens. The NVRA does not prohibit states from requiring mail-in registrants to vote in person the first time they vote, nor does it prohibit states from checking individuals' identification prior to registration, as some critics of the NVRA have alleged.³⁶ Finally, the NVRA strengthens enforcement provisions against fraud.³⁷

Voting By Mail

Mail-in voting is proving to be an increasingly popular method of voting in the United States. As a proportion of total votes cast, the use of mail-in or absentee ballots doubled between 1970 and 1990, and then doubled again over the last decade, so that fully 14 percent of all ballots cast nationwide in 2000 were cast by absentee ballot.³⁸ This represents an increase of approximately 4.2 million absentee votes cast over the previous presidential election. This increase in mail-in voting has led to concerns about the opportunities that exist for election fraud under such arrangements. Significant fraud in the 1997 Miami mayoral race—perpetrated using absentee ballots—helped to amplify these concerns.

All states and the District of Columbia permit mail-in absentee voting but differ on the rules that qualify registered voters to vote absentee.³⁹ With the exception of Maine and Wisconsin, all of the states in the midwestern, southern, and eastern half of the country require voters to provide a reason or excuse for why they cannot vote in person on election day. All the rest of the states, save Texas, Utah, and South Dakota, allow for no-excuse absentee voting. Where,

As a proportion of total votes cast, the use of mail-in or absentee ballots doubled between 1970 and 1990, and then doubled again over the last decade.

when, and how registered voters apply for absentee ballots differ across the states, with the eastern and southern states generally more restrictive in their rules.

The states also differ widely in the manner in which they process absentee ballot applications, such as in deadlines for filing applications. And they differ in the level of assistance provided by election officials to absentee applicants. Differences also exist across states in the manner in which incomplete, illegible or confusing applications are reviewed and handled. Some states aggressively pursue clarification in order to qualify the application, and others fail even to notify applicants when there are problems with their forms. A number of states, such as Oklahoma and Texas, require that absentee ballots only be returned by mail; others, such as New York, allow the voter to return the ballot in person. Still other states, such as California, Michigan, and Illinois, allow a family member to return another's absentee ballot on election day or, in California's case, during the week before the election. Variations in state policies continue to carry over to the manner in which ballots are counted once election officials receive them. One-third of the states, for example, require notarization or witnessing of voter signatures on absentee ballots; others do not. Cut-off dates and times for submitting absentee ballots differ, as does the time frame for counting such ballots and the designation of local officials doing the counting.⁴⁰

The GAO's survey of election officials found that while most states and jurisdictions have laws and procedures for addressing the potential for fraud in mail-in absentee voting, some officials remain concerned that fraud still can be committed. They worry about someone other than the qualified voter voting in his or her place, multiple voting by an absentee voter casting a ballot by mail and in person, and intimidation of an absentee voter casting his or her ballot at home, without the supervision of election officials. Overall, the absentee mail-in ballot process is the feature most vulnerable to voter fraud within the decentralized, patchwork U.S. electoral system, at least in theory. This is not to say that there is a lot of evidence of absentee ballot fraud but rather that the potential for fraud is greatest in this area because of a lack of uniformly strong security measures in place in all states to prevent fraud. For example, according to the GAO survey, only two-thirds (64 percent) of voting jurisdictions check absentee ballot applications against their records to

determine whether applicants have previously applied for a mail-in ballot for that election.⁴¹ Nearly half (45 percent) of all jurisdictions do not verify a voter's signature on absentee ballots against signatures provided on voter registration forms. Seven states require that absentee ballots be notarized or signed in the presence of two witnesses,⁴² and 38 states require no third-party witnessing at all.

Election Day Registration

Most states require voters to register as early as one month before an election in which they wish to participate. However, one state, North Dakota, has no voter registration at all, and another six states allow voters to register on election day: Idaho, Maine, Minnesota, New Hampshire, Wisconsin, and Wyoming. Each of the six states that use EDR experience significantly higher voter turnout than the national mean—10 percent higher on average. Political scientists who have studied EDR assert that it has been a key factor in creating higher turnout rates in these states, and they also estimate that nationwide implementation of EDR would increase participation in presidential elections by 8.5 million voters.⁴⁵ As reformers press to implement EDR in a wider variety of states, they face strong opposition because of the perceived potential for fraud. However, according to election officials in the states with EDR, as well as other available evidence, these concerns appear to be largely unfounded.⁴⁶

The GAO's postelection survey of local election officials found that some officials in states without EDR worried that the elimination of the time between voter registration cut-off deadlines and election day would introduce fraud because officials would not be able to verify an applicant's eligibility quickly enough. Indeed, EDR shifts the burden of the two-stage registration and voting process toward local election officials and away from voters. But all of the states that practice EDR have adopted administrative procedures that work; they all require citizens to verify their identification and residence and have a variety of methods for preventing fraud. Acceptable I.D. differs among the states, ranging from driver's licenses and passports to leases and utility bills.

Some EDR states require picture identification, while others do not. In Maine, election day registrants must either show proof of identity and residence or cast a challenged

ballot, which would be investigated in the case of a close election. Officials in most EDR states see active, ongoing involvement from administrators as a prerequisite to fraud-free elections. In Minnesota, for example, officials verify the residence of each new registrant with a nonforwardable postcard mailing, and after elections the counties record and validate all new registrations within thirty days.⁴⁸ In both Minnesota and Wisconsin, election officials distinguish voter fraud from erroneous registration, mistakes that can result from inattentive poll workers, or unintentional registration at the wrong polling place on the part of the applicant. Those

who do register erroneously are sent a warning card informing them of the penalties they face if they repeat their mistake.⁴⁹

As a deterrent to fraud, election officials in EDR states also publicize the stiff penalties that accompany a fraud conviction. In Maine, knowingly attempting to vote more than once for the same election is a felony punishable by fines of up to \$5,000 and up to five years of imprisonment. Knowingly registering at more than one voting place without revealing the prior registration address is a felony punishable by fines of up to \$2,000 and up to one year of imprisonment. The state provides each municipality with

Oregon and All-Mail Balloting

Oregon has been experimenting with voting by mail (VBM) for 20 years and in 2000 became the first state in the nation to conduct a presidential election entirely by mail. Available evidence indicates that voter fraud in Oregon is negligible, suggesting that with proper safeguards and ample time for voters to become accustomed to voting by mail, this method of casting ballots can increase participation while ensuring the integrity of the electoral process.

Fraud charges and fraud detection in Oregon begin at the local level with the clerks of Oregon's 36 county boards of elections. Oregon maintains a vigorous signature-matching process for qualifying mail-in ballots. Approximately two and a half weeks before election day, local registrars mail ballots, and instructions for returning them, to all registered voters in their jurisdictions. Ballots that are undeliverable are returned to the county elections office by the post office. Voters mark their ballots and place them in "secrecy" envelopes that are then sealed in return envelopes the voter signs. Ballots must be returned by mail to county election offices or delivered by 8 p.m. on election day to special secure drop boxes established by the county registrars. Teams of election workers verify each signature against computerized records of registered voters and pass to the county election clerk any ballots whose signatures do not match the files. Clerks review the problem ballots and take a number of actions to resolve the problem. If a signature is missing, the ballot is not counted. If a signature does not match the signature on file for the voter, the clerk may try to contact the voter to have him or her come into the office to re-sign the ballot in the presence of an election official. A signature for a voter who does not appear on the registration list is investigated by the clerk, who attempts to contact the voter, or, if the voter's county can be determined, the clerk forwards the ballot to the appropriate county. If the clerk determines that a voter has voted more than once, the voter is contacted, and if fraud is suspected the case is forwarded to the secretary of state's office, which then forwards cases to the attorney general for prosecution. A review of records maintained by the secretary of state's office shows that over the past 10 years 1,001 cases of multiple voting and 1,056 cases of signature-matching problems have been referred to that office for investigation, out of tens of millions of votes cast. Of the combined 2,057 cases, only 15 have been referred to the Oregon attorney general for possible prosecution.⁴³ Eight of the 15 cases are currently pending investigation; one person was acquitted; and the remaining six people were found guilty of voter fraud, contaminating approximately a dozen ballots.

Elections officials in Oregon believe that VBM and the way it has been implemented over the years in Oregon helps prevent fraud better than most procedures used in polling place elections. Oregon's rigorous signature-matching procedures are key to the state's success with VBM. Overall, the Oregon secretary of state's office argues that given the frequency of elections in Oregon, which is a referendum and initiative state, the state has the cleanest registration lists in the country. Because voters receive three or four unforwardable ballots a year, they are forced to keep their registration current and the county boards of elections are forced to clean the rolls.⁴⁴

Despite the lack of evidence that EDR increases the potential for fraud, fears of this kind helped to defeat EDR ballot initiatives in California and Colorado during the 2002 election.

“voting penalty posters” that must be posted in each voting place and each voter registration place. In Minnesota, where penalties are similarly high, the state’s registration law requires county attorneys to give immediate attention to fraud allegations.

In many ways, election day registration may reduce opportunities for fraud. Because EDR typically requires voter identification and authentication in person, it actually makes voter registration fraud more difficult than a voter registration system that only requires a signature on a mailed-in form (although this may change as the result of the new federal law). Also, most voter registrations in EDR states occur at polling places and thus come through the election system—as opposed to through agencies like the DMV that are mandated to offer registration. As a result, under EDR, voter registration is more tightly under the supervision of election officials.

Despite the lack of evidence that EDR increases the potential for fraud, fears of this kind helped to defeat EDR ballot initiatives in California and Colorado during the 2002 election. In both states, opponents of the initiatives argued that eliminating the waiting period for verifying voter eligibility would open up the voting process to ineligible people and fraud schemes. Elections officials in California worried that the state’s electoral administration was not technologically advanced enough to instantaneously check for duplicate registrations. In Colorado, EDR opponents warned that setting up the program would cost millions of dollars in new equipment and training, and worried that election judges, wary of lawsuits, would avoid vigorous questioning of the authenticity of voters’ identification documents. Opponents persuaded the electorate that making voting easier was not worth the potential price of making cheating easier.

EDR Under Fire in Wisconsin

The election day registration system in Wisconsin came under significant attack following the 2000 election, amid claims of fraud in Milwaukee. On closer inspection, these claims have turned out to be groundless. A student at Marquette University told ABC News that he had registered under his own name and voted four times on election day, and a student survey found that 174 students claimed to have voted more than once. In addition, a Democratic campaign operative allegedly offered cigarettes to homeless people in exchange for their votes.⁵⁰ Both allegations sparked investigations by the Milwaukee County Attorney’s Office. In the first case, the county attorney inspected the registration lists, voter lists, and ballots in the precincts in question. After intensive investigation, no cases of fraudulent voting were found at the precincts at Marquette University. Weeks after the story broke on ABC News, the student who reported the story recanted. He stated that he had invented the story to bring attention to the fact that voter fraud could occur, not that it had.⁵¹

The second case was more disturbing. A Democratic party activist from New York offered cigarettes to homeless people if they would vote. However, the case involved absentee ballots, not polling place registration.⁵² Apart from these cases, the Milwaukee County Attorney’s Office did find evidence of voter fraud involving election day registration in two cases in 2000. Both cases were individuals who were felons on parole and who voted even though they were not allowed to under state law. In neither case was the prosecution successful, because the parole boards failed to inform the individuals that they were not permitted to vote until the duration of their sentences had been served. According to the Milwaukee County and city election offices, the number of allegations of fraud in 2000 was unusual. The city and county of Milwaukee typically have one or two cases each election.⁵³ Nevertheless, opponents of EDR in the Wisconsin have aggressively trumpeted the 2000 allegations in an effort to repeal the EDR law. To date, these efforts have been unsuccessful.

IV. Key Election Administration Issues and Fraud

The 2000 election generated wide-ranging debates about how to strengthen the administrative, procedural, and technological infrastructure of elections. Issues of fraud have surfaced frequently in these debates. This section explores questions related to voter identification and fraud, as well issues of technical modernization and partisanship in election administration.

Fraud and Voter Identification

The issue of identification requirements for registration and voting have become a contentious issue at both the state and national level. Those who favor more restrictive I.D. requirements argue that they are necessary to prevent voter fraud. Opponents counter that such procedures create discriminatory and potentially unconstitutional obstacles to the right to vote. The new federal election law, signed in October 2002 by President Bush, requires all voters to provide their driver's license number or the last four digits of their social security number when registering. Voters who have neither will have a number assigned to them. It also requires first-time voters who registered by mail to attest to their identity when they arrive at the polls with a driver's license, utility bill, or other proof of residence, including a bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

The NVRA allows the states to conduct identity checks the first time a person votes if that person has registered by mail. It also allows states to require a person who has registered by mail to vote in person the first time they vote (eight states do). Until now, I.D. has generally not been a mandatory aspect of voting and registration in the states. Only 11 states presently require proof of identity to vote by law, and generally acceptable forms of I.D. differ widely, from driver's licenses to fishing licenses, leases, or utility bills.⁵⁴ The most common form of identification used at the polls is a signature: Thirty-eight states and the District of Columbia require voters to sign the poll book in order

Stiffer I.D. restrictions will likely disproportionately encumber low-income, disabled, and other minority group citizens as they seek to exercise their right to vote.

to vote.⁵⁵ Some states, for example, compare a voter's signature with one on file, others with the signature on a piece of identification supplied by the voter. The states have widely differing rules for identifying absentee voters and for voters who show up to vote without any identification; some states give local poll workers, or other voters, the authority to vouch for the identity of a voter who shows up to vote without the requisite identification. As with nearly all of the rules for administering elections in the states, rules governing voter identification take many forms and range from lenient to restrictive. However, bills calling for more restrictive I.D. requirements have recently been introduced in a number of states and are gaining ground.⁵⁶

There are potentially discriminatory consequences of requiring specific forms of identification to register and vote. For example, many low-income, elderly, disabled, urban, and out-of-state student voters do not have driver's licenses. As some judicial decisions have found, requiring such people to purchase another form of photo I.D. in order to vote could function as a poll tax—an unconstitutional abridgement of the right to vote. Proof of residency through other documents, such as utility bills or leases, is also potentially discriminatory, as racial and ethnic minorities who are disproportionately poor are less likely than whites to have them. (Indeed, many Americans live in domiciles as roommates, spouses, or relatives where their name is not on the lease or on utility bills.) Those who work in the service industry or perform domestic work and are paid in cash are less likely to have a government paycheck or other paycheck for proof of identity. And as advocates for the disabled point out, requiring photo identification makes it harder to vote absentee.⁵⁷

When first-time voters are required to vote in person, the disabled and wheelchair-bound are unduly burdened, as nearly 70 percent of the nation's polling sites are not wheelchair accessible. Finally, voting rights advocates are concerned that a mandatory I.D. requirement might result in voter discrimination and harassment. According to the Asian American Legal Defense and Education Fund, during a recent municipal election, one in six Asian Americans in New York City, where only a signature is required to vote,

were illegally asked for I.D. at the polls.⁵⁸ Stiffer I.D. restrictions will likely disproportionately encumber low-income, disabled, and other minority group citizens as they seek to exercise their right to vote.

Technical Modernization

Voter fraud is best prevented today by accurate record keeping on the part of election administrators. Accurate record keeping is greatly facilitated by computerization and centralization of voter lists. Unified voter databases, networked to state agencies providing voter registration services to eligible citizens so that new registration records can be instantly processed, can help keep voter lists clean by preventing duplicate registration and by keeping address information current. Voter databases can be also cross-checked with other relevant records, such as death records, criminal convictions, and postal address records, to verify voter eligibility and eliminate “deadwood.” In addition, technology is increasingly available that can electronically record and transmit signatures as part of voter registration records.

Currently, there is wide variation across states in the technological sophistication for maintaining voter registration records.⁵⁹ Ten states, Michigan being the largest, maintain unified databases that permit information sharing and records management between state and local agencies. Thirteen states maintain statewide lists compiled from local lists. Localities reserve responsibility for their own records, using the statewide list to check for duplicates. In some states localities can choose to use the statewide list as their own. Fourteen other states compile local lists but do not provide direct access to localities for verification of duplicate records. These states perform the checks for duplicate records and may also match their lists with other state records, and then notify localities of their findings. Finally, 13 states maintain no statewide voter registration records at all.

Beginning with its first mandated reports to Congress on the implementation of the NVRA in the mid-1990s, the FEC has recommended that states that have not yet done so develop and implement statewide computerized voter registration databases; computerize all local election regis-

tration offices; and link their statewide computerized system, where feasible, with the computerized systems of the collateral public agencies relevant to the NVRA (motor vehicle offices, public assistance offices, etc.).⁶⁰ The FEC's recommendation, repeated in each of its biannual reports to Congress, has not gone unheeded, but meager resources in the states for technological upgrades have served as a barrier to implementation.

It is not easy to generalize about the costs involved in bringing all states online.⁶¹ Costs vary across a wide range of circumstances, including the distribution of responsibility for administering elections between state and county governments, the state of the existing computer infrastructure in the relevant state and local agencies, the level of sophistication desired in a statewide voter registration system, and how fast a state wants its new system operational. The FEC estimates that costs to implement such systems over the past two decades have ranged from less than \$1 million to more than \$8 million. Michigan's database, the Qualified Voter File, a unified database considered one of the best systems in the country, cost the state \$7.6 million to develop and \$3 million for annual maintenance.⁶²

Help should be on the way. The new federal election reform law would provide roughly \$3.9 billion in federal funds for the upgrading of voting equipment and procedures and the training of poll workers. The law would require the states to implement interactive computerized statewide voter registration lists that are accessible to each state and local election official. However, while funds to implement reform had been authorized as of this writing, these funds had not yet been appropriated.

Partisanship in Election Administration

Partisan control of election administration has historically created greater potential for election fraud. Partisan control of local election administration is much less of a problem now than when fraud prevention measures were first introduced a century ago, but it nevertheless has the potential to compromise elections. In very decentralized election systems, as in Florida, it can be even more difficult to monitor

administrative arrangements and keep partisanship out of the process. Yet even in more centralized systems, effective oversight can be difficult and there is considerable latitude for discretionary actions by local board officials and the influence of dominant politicians.

The 2000 election in Florida vividly showed the perils of such partisanship in a close race. In particular, major questions were raised about the fairness and propriety of local election officials in Seminole and Martin Counties, where elections officials gave Republican Party employees special opportunities to add information to incomplete absentee ballot forms. Questions were also raised about the partisan ties of Secretary of State Katherine Harris, who was closely connected to the Bush presidential campaign and who made critical decisions about purging Florida voter lists in ways that disadvantaged Democrats. In addition, the image of partisan local election officials presiding over hand vote recounts in Palm Beach and elsewhere during the 2000 election further underscored the problematic nature of partisanship in elections.

In almost every state, final authority over election systems rests with state government—generally in the secretary of state's office. How those officials are chosen has important effects on the level of partisanship in elections. Thirty-six secretaries of state are elected statewide in partisan elections. In Alaska, Hawaii, and Utah, the lieutenant governor serves as the secretary of state. In Texas, the secretary of state is appointed by the governor without legislative approval. The legislatures of Maine, New Hampshire, and Tennessee elect the secretary of state. In other ways, election officials at the county and state level are dependent on dominant politicians and parties.⁶³

V. Best Practices in the States

As government officials and reformers grapple with the challenge of maximally expanding registration and voting opportunities—while constraining opportunities for fraud—they can learn from procedures and infrastructure already in place in various states aimed at successfully achieving this balance.

Managing Voter Registration Records

The best available means of keeping accurate, continually updated records of voter registration are through statewide, unified registration systems, where the state and all localities share the same database. As a result of the new federal election law, such systems will be required of all states. Statewide coordination has a number of advantages over locally controlled databases. By integrating all local lists, duplicates are easier to identify and remove. States can more easily coordinate records with other state-held records, such as driver's licenses. Ten states currently employ unified systems. They are Alaska, Delaware, Hawaii, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, South Carolina, and Virginia. Unified databases are not enough, however, to facilitate accurate registration and voting. States are much better served by systems designed to link together election agencies with those agencies relevant to NVRA provisions, so that new applications are processed and recorded without delay. Ideally, poll workers should have laptops so that they can resolve registration problems that arise on election day. Currently, only ten states have statewide registration systems that allow voter information to be automatically transferred online to a central statewide database and updated immediately in “real time.” They are Alabama, Alaska, Delaware, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Oklahoma, and South Carolina. Of these, the systems in Kentucky and Michigan are generally seen as among the best.

- **Kentucky:** From local terminals, county election officials access a statewide database located in the statehouse, and state election officials regularly update the database by comparing voter lists with lists of those deemed ineligible for reasons of death, mental

The best available means of keeping accurate, continually updated records of voter registration are through statewide, unified registration systems, where the state and all localities share the same database.

database by comparing voter lists with lists of those deemed ineligible for reasons of death, mental incompetence, felony conviction, relocation, or voter inactivity. Local election officials can update records and receive confirmation from state officials within a day. In the near future, they will be able to access the database at the precincts on election day via the Internet.

- **Michigan** : Michigan's Qualified Voter System is also an exemplary structure for accurate and efficient records management. Michigan's motor vehicle agencies are linked electronically to the electronic voter list, so new registrations are transmitted there directly and automatically, reducing the chance of losing registrations. The state matches its registration list against the U.S. Postal Service National Change of Address records, death records, and felony records.

Voter Identification Requirements

In recent months, the issue of voter identification has been the subject of much legislative scrutiny, thanks to the I.D. requirements mandated by the new federal election reform law, the Help America Vote Act (HAVA). HAVA imposes I.D. requirements on first-time voters who register by mail. Many fear that the new requirement will depress voter participation, particularly among low-income voters, people of color, voters with disabilities, young voters, senior citizens, and others who are less likely to possess the necessary documents. Given these concerns, states should look to reduce the burden on voters by adopting a broad and flexible approach to identity and residence verification. The following states permit the use of a variety of I.D.s that voters are more likely to have.

- **Alaska** : Voters must present an I.D. at the polls, including a registration card, a driver's license, a birth certificate, a passport, a hunting or fishing license, or others prescribed by regulation. *The voter I.D. requirement is waived if an election official corroborates a voter's identity.*
- **Connecticut** : Voters must present an I.D. at the polls, including a social security card or other preprinted identification that includes name and either address, signature, or photograph. *Voters may sign an affirmation instead of presenting I.D.*
- **Georgia** : Voters must present an I.D. at the polls, including a driver's license, a government-issued I.D., an employee or student I.D. card with photo, a weapons' license, a pilot's license, a military I.D., a birth certificate, a social security card, court records showing adoption, name, or sex change, or naturalization documents. If the voter does not have I.D., he or she can sign an affidavit.
- **Virginia** : Voters must present a Virginia voter card, a driver's license, a social security card, a federal, state, or local government-issued I.D., or a photo I.D. issued by an employer in the course of regular business. Voters without I.D.s can sign a statement under oath. Voters who registered by mail are required to vote in person the first time they vote.

Nonpartisan or Bipartisan Election Administration

Reducing partisanship in election administration is an important step toward ensuring the integrity of elections. While partisanship in election administration is the norm in the majority of states, it varies in intensity. Some states have devised different systems for choosing state election officers in ways that are either nonpartisan, or at least bipartisan. Among them are:

- **Illinois** : The Illinois State Board of Elections has eight bipartisan members, four appointed by the governor and four selected by the governor from a list of nominees submitted by the highest-ranking official of the opposite political party. Members serve staggered, four-year terms. The board provides a uniform manual of instructions for election judges; certifies ballots for all federal, state, and multi-county offices; and serves as the electoral board for objections to petitions for federal, state, and multi-county offices and statewide referenda.

- **Kentucky:** The State Board of Elections has six members, three from each of the two major parties, appointed for a four-year term by the governor. The secretary of state is chairman of the board and therefore the chief election official in the state. The board supervises voter registration, purgation of voters and the administration of election laws; supervises the county boards of election; prescribes voter registration forms; and furnishes county clerks with master lists of registered voters before each election.
- **North Carolina:** The State Board of Elections oversees administration of elections. Its five members are appointed by the governor, but its composition is bipartisan. The board issues and enforces rules and regulations binding on local officials; has power to remove local officials for fraud, neglect, or incompetence; prescribes form and content of ballots and other forms used in elections; investigates possible election irregularities; appoints members to county boards; approves all voting machines before use; and tabulates election returns, certifies the results, and sends the results to the secretary of state.

VI. Policy Recommendations

The guardians of America’s election systems have two equally solemn responsibilities: on the one hand, to realize the promise of democracy and make voting as accessible as possible, and on the other hand, to ensure that elections are carried out with the utmost integrity and are not susceptible to malfeasant manipulation. This report suggests that election officials are already doing a good job of protecting against fraud in the system, as it had traditionally been defined. Yet while the incidence of fraud appears to be very low and to have little impact on election outcomes, many barriers to voting endure, and too much disenfranchisement occurs within an election system that is outdated, prone to error, and too partisan. Below, we build on the previous section on best practices and offer four core recommendations to help guarantee safe elections that are as open as possible.

- **Upgrade Technology in the States.** Computerized voter registration records and state-of-the art voting technology are critical components of election systems that both facilitate participation and reduce the potential for fraud. The new federal election law, which mandates the creation of statewide computerized registration systems and also aims to provide states with money to upgrade voting machines, will be an important step forward if it is fully funded and effectively implemented. It is especially important that new state-of-the-art registration systems allow for interagency networking (for prompt and proper transmission of registration information under NVRA) and local poll access to systems (through laptops or other means). We also endorse the CalTech/MIT Voting Technology Project recommendation for the establishment of a National Elections Research Lab that would continue to foster the development of better voting equipment and voting systems, so that as technological advances take place they can be harnessed to help provide systems that are increasingly secure and accessible.
- **I.D. Requirements That Do Not Burden Voters.** The new federal election law places undue burdens on voters to prove their identity at the polls. We recommend modifying the law in certain respects and following several guidelines: (1) expanding the list of

At the very least, states and counties should strive to remove ambiguity and conflicts of interest from all aspects of election laws, from registration to postelection procedures.

acceptable identifying documents; (2) allowing state or local officials discretion to incorporate or expand forms of identification currently in use; (3) stipulating that all provisions should be uniformly applied; and (4) enforcing a voter's bill of rights that outlines acceptable forms of I.D.

- **Reduce Partisanship in Election Administration.** We recommend that state legislatures explore ways to make election administration free of partisan control. At the very least, states and counties should strive to remove ambiguity and conflicts of interest from all aspects of election laws, from registration to postelection procedures. The National Association of Counties (NACo) and the National Association of County Recorders, Election Officials, and Clerks (NACRC) have recommended professionalization as a way to curtail partisanship.⁶⁴ Regular training and exchanges with elections administrators from other jurisdictions may increase officials' commitment to the integrity of the democratic process itself, as opposed to party loyalty.
- **Strengthen Enforcement.** The federal and state criminal penalties for election fraud are significant and should serve as a powerful deterrent against fraud. However, this will not be the case if laws are poorly enforced, or enforced unevenly. All states should ensure adequate funding and authority for offices responsible for detecting and prosecuting fraud. In addition, all states should track allegations of election fraud, as well as the outcomes of criminal investigations, and make this data available to the public.
- **Establish Election Day Registration.** As some elections experts have pointed out, EDR may allow better forms of fraud prevention than other systems.⁶⁵ Under NVRA, election officials have lost some measure of control over registration. Most registrations now come through departments of motor vehicles, through registration drives, and through the mail. EDR requires voter identification and authorization in person before a trained election worker, which should reduce the opportunity for registration error or fraud.

Appendix

Major Recent Cases of Alleged Election Fraud

A. The 1997 Primary Mayoral Election, Miami, Florida

Perhaps the best-known contemporary case of uncontroverted absentee ballot fraud is the disputed 1997 primary mayoral election in Miami, Florida.⁶⁶ Running for reelection as mayor, Joe Carollo received 51.4 percent of the ballots cast at the polls, while his opponent, former mayor Xavier Suarez, received 61.5 percent of the absentee ballots, giving Suarez a slim lead (155 votes) over Carollo in total balloting. Because neither candidate received more than 50 percent of the vote, a run-off election was held, and Suarez narrowly won both the precinct and absentee ballots.⁶⁷

Immediately after the November 4 election, Carollo challenged the results, claiming fraud in the absentee ballot vote that swung the election to Suarez, thus denying Carollo the majority support he received at the polls and forcing him into a run-off. A week after the election the Florida Department of Law Enforcement arrested two Suarez supporters for buying absentee ballots and falsely witnessing absentee ballots. The day after he lost the run-off election to Suarez, Carollo petitioned the Circuit Court for the Eleventh Judicial Circuit of Florida to overturn the results of the November 4 election on the grounds of voter fraud.

The trial was held in February 1998. For two and a half weeks, the trial court heard evidence and read depositions from 87 witnesses and examined 195 exhibits.⁶⁸ Its March 3 decision noted “a pattern of fraudulent, intentional and criminal conduct” in the extensive abuse of absentee ballot laws.⁶⁹ An expert documents examiner testified that 225 absentee ballots cast had forged signatures; there was evidence of 14 stolen ballots and 140 improperly witnessed ballots. Another 480 ballots were procured or witnessed by 29 “ballot brokers,” 27 of whom invoked their Fifth Amendment privilege against self-incrimination instead of testifying at trial. One such ballot broker was 92-year-old Alberto Russi, a campaign volunteer for Humberto Hernandez, a Suarez ally on the five-member City Commission. Within days of the November 4 election, Russi was arrested and charged with three counts of election fraud. Police traced Russi to the absentee ballot of a dead man whose ballot he witnessed. When police searched

In its zeal to address the embarrassing behavior of politicians in Miami, the Republican-controlled legislature passed a law that paved the way for one of the more underreported scandals of the 2000 election in Florida.

Russi's home they seized 75 absentee ballots already filled out and intended for the November 13 run-off, many of which were addressed to Russi's home in the names of other voters. A separate grand jury, convened to investigate the fraud allegations and make recommendations for improvements in the absentee ballot process, found that absentee ballots were stolen from mailboxes, that "unscrupulous individuals" had secured ballots for people under the guise of "helping the voter," and that voters had been coerced into voting for particular candidates in return for past favors done for them.⁷⁰

At the center of what the trial court subsequently found to be "a massive, well-conceived and well-orchestrated absentee ballot voter fraud scheme" were a large number of absentee ballots—nearly 70 percent of the total—cast from Little Havana. Little Havana voters reinstalled Commissioner Hernandez, the embattled Suarez ally who won reelection to the City Commission by a large majority after being removed from office by the governor following a 23-count indictment for bank fraud and money laundering.⁷¹ An expert in statistical analysis testified at trial that the large number of absentee ballots from Little Havana were a statistical "outlier," the Little Havana absentee ballot rate an "aberrant case" so unlikely that it was "literally off the [statistical probability] charts."

The trial judge, Thomas S. Wilson Jr., concluded that "the evidence shows a pattern of fraudulent, intentional and criminal conduct that resulted in such an extensive abuse of the absentee ballot laws that it can fairly be said that the intent of these laws was totally frustrated.... This scheme to defraud, literally and figuratively stole the ballot from the hands of every honest voter in the city of Miami."⁷² Judge Wilson overturned the results of the November 4 election and ordered a new election, but his remedy was overturned on appeal. The appellate court affirmed the finding of fraud but voided the remedy of a new election and remanded the case to the lower court with instructions to enter a final judgment that voided all of the absentee ballots, determining the outcome of the election by the machine total alone. This decision took victory out of Xavier Suarez's hands and gave it to Miami's new mayor, Joe Carollo.

The 1997 Miami mayor's race presents one of the most egregious cases of election fraud in recent memory. News coverage of the fraud scheme and trial was extensive and national and local leaders and residents loudly bemoaned the further tarnishing of the city's image as one steeped in political corruption. The state legislature acted quickly to pass a \$4 million election law reform package to root out voter fraud. But the law did much more than that. In its zeal to address the embarrassing behavior of politicians in Miami, the Republican-controlled legislature passed a law that paved the way for one of the more underreported scandals of the 2000 election in Florida: the massive disenfranchisement of Florida voters—most of them African American—whose names erroneously appeared on felony lists.⁷³

In May 1998 the legislature added Section 98.0975 to Title IX, Chapter 98 of Florida's statutes. Section 98.0975 required the Division of Elections in the secretary of state's office to contract with a private company to compare the central voter file with databases of persons deceased, those with felony convictions, and those adjudicated mentally incompetent and to provide lists of matching names to the division. The division was required to provide the information to the county supervisors of elections who were to undertake their own verification process on local voter registration databases. Florida was the only state in the United States to require its local election officials to verify their voter rolls using data processed by a private firm.⁷⁴

B. The 1996 Sanchez/Dornan Contest for the U.S. House of Representatives, Orange County, California

Orange County, California, is the fourth largest county in the United States, with 2.8 million people, more than one-quarter of them Latino. The 46th Congressional district is nestled in the heart of Orange County and includes centers of Latino concentration, Santa Ana, the county seat, and most of Garden Grove and Anaheim, giving the 46th district a population that is nearly two-thirds Latino. Vast

growth and demographic change, along with careful redistricting by Democrats in California's state legislature, have facilitated political change in Orange County. Orange County was once a Republican stronghold, a core constituency for the Republican party in presidential elections because it could swing California to the party. As late as 1988, voters in the 46th district gave 62 percent of their votes to George Bush. By 2000, however, a 24 percent Republican margin in presidential elections had been replaced by a 12 percent Democratic margin when Al Gore won the 46th with 54



percent, to 42 percent for George W. Bush. The advancing ability of new immigrant and Latino voters to define Orange County politics and the transformation in party dominance toward the Democrats set the stage for an explosive case of alleged voter fraud in 1996.

The contested election between the nine-term Republican incumbent Robert K. Dornan and a little-known businesswoman named Loretta Sanchez involved a blizzard of allegations of registration fraud, noncitizen and illegal immigrant voting, double voting, voting from nonresidential addresses, illegal inducements to register and vote, voter intimidation, ballot box tampering and absentee ballot fraud, all under the canopy of a bitter and protracted partisan battle that quickly bled into national politics.

One day after the November 5, 1996, election, Dornan led Sanchez by 233 votes, but 12,000 absentee and provisional ballots had yet to be counted. A week later, when

about 3,000 ballots were still left to tally, the Associated Press called the election for Sanchez, who had moved into the lead with a 929-vote margin. As the count proceeded, Dornan repeatedly raised the issue of “noncitizen” voter fraud and vowed to take his reelection fight to the floor of the House of Representatives if he lost. He added that his Republican colleagues were looking for a case to use in challenging the recently implemented National Voter Registration Act, signaling the likely entry of national political forces into the fray.⁷⁵ Dornan specifically charged that a well-known Latino rights group and the Democratic Party signed up illegal voters in a drive he argued may have led to “the first case in history where a congressional election was decided by noncitizens.”⁷⁶ His lawyer later called the case “what we think is the single largest example of voter fraud in a federal election in the last 50 years, and, yes, maybe in this century.”⁷⁷

On November 22, 1996, the Orange County Registrar of Voters certified Loretta Sanchez the winner by 984 votes,⁷⁸ and a 14-month battle to deny Sanchez a seat in the House was joined. State electoral and law enforcement agencies were the first to open investigations into the alleged election irregularities. Then, on December 26, 1996, Dornan filed a three-page Notice of Electoral Contest in the House of Representatives requesting an investigation of the election. This was within keeping of his prerogative and the constitutional authority of the House under Article 1, Section 5, Clause 1, which provides that each House of Congress shall be the judge of the “elections, returns and qualifications” of its members. Under the rules of the FCEA, the contest is first heard by the Committee on House Oversight, which conducts its own investigation, and then by the whole House, which disposes of the contest, by resolution or majority vote. In the 105th Congress, the eight-member committee was chaired by Rep. William M. Thomas, a Republican from Bakersfield, California, and dominated 5-to-3 by Republican members. Thomas created a three-person task force comprised of Rep. Vernon Ehlers (R-Mich.) and Rep. Robert Ney (R-Ohio), and, later, Rep. Steny Hoyer (D-Md.) to conduct the investigation and recommend a

The Dornan-Sanchez electoral dispute fits squarely in what political scientists Benjamin Ginsberg and Martin Shefter call “politics by other means.”

course action to the full committee. Along with the Orange County D.A. and secretary of state investigations, the House committee’s investigation took a year to complete and produced, in the end, a disputed finding of fraud that was too insubstantial to convince the Republican dominated House to upset or reverse Sanchez’s victory.⁷⁹ On February 12, 1998, the House voted 378-33 to dismiss Dornan’s contest.

The Dornan-Sanchez electoral dispute fits squarely in what political scientists Benjamin Ginsberg and Martin Shefter call “politics by other means.” Politics by other means involve the use of legal strategies and the courts, revelation, prosecution and investigation, and the media to win.⁸⁰ The fraud allegations and subsequent 14-month investigations by state, county, and federal government agencies cost American taxpayers well over \$1.4 million.⁸¹ And in the end, very little voter fraud was convincingly substantiated. On April 29, 1998, California’s secretary of state announced that the people identified by the task force as illegal, noncitizen voters in the 46th congressional district election of 1996 would not be prosecuted for voter fraud, the secretary deciding that they had registered in error and not from criminal intent.⁸²

C. The 2000 Election, St. Louis, Missouri

Like most big cities, St. Louis has had its share of election fraud.⁸³ In the wake of the 2000 election, allegations of voter fraud in St. Louis were raised that included illegal registration; voting by deceased people, felons, and people whose addresses appear to be vacant lots; multiple voting; and unqualified election judges permitting unqualified voters to cast illegal ballots. All the facts are not yet in, but it appears that claims of a vast conspiracy on the part of the Democrats to undertake “a major criminal enterprise designed to defraud voters” are strongly exaggerated.⁸⁴

The St. Louis case has gained national notoriety beyond what the available evidence of voter fraud would suggest, because the partisan conflict between a senior Missouri Republican senator and a newly elected St. Louis Democratic representative underlying it has erupted in congressional hearings and other public venues, giving the story a wider national audience than it would have had otherwise. As such, the

contemporary St. Louis case is a classic case of the conflict between forces promoting expanded access to the franchise and those that would contain them.

African-American leaders became concerned that the removal of more than 30,000 names from the registration rolls to an “inactive” list in St. Louis during the summer and fall before the election would create problems at the polls on election day. State Senator William Lacy Clay Jr., a candidate for a seat in the U.S. House of Representatives, gave a speech the day before the election in which he warned that if legal voters were prohibited from voting at the polls because of inaccurate registration records, lawsuits would be brought to keep the polls open past their legal closing time of 7 p.m.⁸⁵ In fact, that is exactly what happened. Late afternoon on election day, Lacy Clay’s campaign, the Gore-Lieberman campaign, and the Missouri State Democratic Committee filed suit in St. Louis City Circuit Court to keep the polls open until 10 p.m. A sympathetic judge issued an order to extend voting hours, but the Missouri Court of Appeals overruled her. The polls in St. Louis shut down at 7:45 p.m., with only an estimated 100 votes cast after the official 7 p.m. poll closing time.

As expected, the Democrats did very well in St. Louis, a heavily Democratic city, but they also did well statewide, electing a Democrat to the U.S. Senate and as governor. Within two days of the election, U.S. Senator Bond called for a federal investigation of voting in St. Louis, hinting at a conspiracy behind the Democrats’ efforts to extend polling place hours. “What I saw and heard on Tuesday night is an outrage,” he said, adding that the St. Louis Election Board and the Democratic Party should be investigated for “orchestrat[ing] a concerted scheme to deny all Missouri voters a valid count by keeping the polls open.”⁸⁶

Postelection investigations by the newly elected Republican secretary of state, Matt Blunt, and the *St. Louis Post-Dispatch* suggest a marginal amount of voter fraud may have been committed in 2000. But most of the initial charges about criminal conspiracies and the defrauding of Missouri voters have been shown to be overblown. For example, the newly elected Republican circuit attorney, Jennifer Joyce, convened a St. Louis grand jury to investigate fraudulent voter registration cards delivered to the city board of elections on the last day of the voter regis-

tration period; three months later, the grand jury disbanded without issuing any indictments, though the case presumably is being investigated now by a federal grand jury looking into all the fraud issues. According to press reports, a third of the more than 3,000 cards under suspicion were clearly fraudulent—they appeared to be completed in the same handwriting and included at least three deceased aldermen, the deceased mother of a sitting alderman, a former deputy mayor, and a dog named Ritzy Mekler.⁸⁷ A number of these registrations, and then, upon further research, hundreds more, listed addresses that the board said were vacant lots. Bond and others jumped on this information to further fuel their fraud charges. The secretary of state's probe significantly reduced the number of vacant lot addresses to 79 voters, and subsequent investigations a year later by reporters at the *Post-Dispatch* discovered that “dozens of St. Louis voters are being wrongly accused of casting ballots from fraudulent addresses” in the 2000 election. The *Post-Dispatch* surveyed 1,000 supposedly vacant lots and found that 704 of them had buildings on them, some of them more than 50 years old.⁸⁸ Errors in the city's property records and methods for classifying vacant a multi-parcel address if only one of the parcels at the address is vacant account for the mistakes in the voter records. With no indictments in fraudulent voter registration and the problem of vacant lot addresses solved, Bond and Blunt focused on court orders permitting 1,233 people to vote. The court orders were issued by St. Louis City and St. Louis County election judges for reasons Blunt argued do not conform to Missouri law.

Most of the court orders appeared to be granted to people who acknowledged that they had failed to register by the October 11 deadline, although judges interviewed by the *St. Louis Post-Dispatch* said that they believed their court orders complied with state laws. St. Louis County judge Robert S. Cohen said that election officials first screened voters who believed they were eligible to vote but who were not on voter registration lists; voters then had to wait in long lines to have their cases reviewed by an election judge.⁸⁹ At this time, the alleged voter fraud scandal in St. Louis looks more like a case of managerial ineptitude and underfunding, and poor implementation of NVRA on the part of St. Louis and Missouri election officials.⁹⁰

Notes

1. Juliet Eilperin, "Voter Registrations Are Probed; In S.D., Irregularities Cloud Democrats' Outreach to Indians," *The Washington Post*, October 24, 2002: A9.
2. Kevin Fagan and Mark Simon, "Election-Day Registration Loses; Opponents Said Prop. 52 Would Have Opened Door to Fraud," *San Francisco Chronicle*, November 6, 2002: A5.
3. See for example: *Voting: What Is, What Could Be*, Caltech/MIT Voting Technology Project, July 2001; Democratic Investigative Staff, House Judiciary Committee, *How to Make a Million Votes Disappear: Electoral Sleight of Hand in the 2000 Presidential Election* (U.S. Congress, House Committee on the Judiciary, August 20, 2001).
4. Dayna Cunningham, "Who Are to Be Electors? A Reflection on the History of Voter Registration in the U.S.," *Yale Law and Policy Review* 9(2) (1991): 383.
5. *Ibid.*, 384, citing Joseph P. Harris, *Election Administration in the United States* (Washington, D.C.: The Brookings Institution, 1934); Frances Fox Piven and Richard A. Cloward, *Why Americans Don't Vote and Why Politicians Want It That Way* (Boston: Beacon Press, 2000): 25–6, 91–2.
6. R. Michael Alvarez, "How Widespread is Voting Fraud," Unpublished paper, September 2002. The paper analyzes data provided by the California Secretary of State's Election Fraud Investigation Unit.
7. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208), perhaps the most radical reform of U.S. immigration laws ever, makes it much easier to deport otherwise lawful noncitizens for illegal voting in federal elections (see Title II).
8. U.S. General Accounting Office, *Elections: The Scope of Congressional Authority in Election Administration*, Report to the Congress (March 2001), GAO-01-470.
9. *Ibid.*, 4–7.
10. *Ibid.*, 11.
11. Elizabeth Simson, *Justice Denied: How Felony Disenfranchisement Laws Undermine American Democracy*, Americans for Democratic Action Education Fund, March 2002.
12. One critic of the NVRA has suggested in recent testimony before the Senate Committee on Governmental Affairs that the lack of an evidentiary record of voter fraud prosecutions should not be taken as indicative of a lack of voter fraud. This assumes that only the states can pursue fraud claims in court, which is not the case. See the testimony of Deborah Phillips, founder and chair of the Voting Integrity Project, who asserts without evidence that "Prosecutors do not like election fraud cases because they take precious resources from strained budgets needed for more serious crimes." U.S. Congress, Senate Committee on Governmental Affairs, *Hearing on Election Administration Reform*, 107th Cong., 2nd sess. (May 3, 2001).
13. Section 11(b). See below for a discussion of the NVRA and fraud.
14. United States Department of Justice, Criminal Division, Public Integrity Section, *Federal Prosecution of Election Offenses*, 21.
15. *Ibid.*, 22 (underlined in original).
16. 18 U.S.C., Section 241 (1988); see also Richard Craswell, "Comments: Federal Prosecution for Local Vote Fraud Under Section 241 of the Federal Criminal Code," *University of Chicago Law Review* 43 (1976), 542–572.
17. See *United States v. Daugherty*, 952 F.2d 969, 971 (8th Cir. 1991); *United States v. Saenz*, 747 F.2d 930, 935 (5th Cir. 1984); *United States v. Canales*, 744 F.2d 413, 416 (5th Cir. 1984).
18. Prepared Remarks of Attorney General John Ashcroft, Voting Integrity Symposium, U.S. Department of Justice, Washington, D.C., October 8, 2002 (<http://www.usdoj.gov:80/ag/speeches/2002/100802ballotintegrity.htm>).
19. *Ibid.*

20. William Walker, "Deeply Divided America Heads to the Polls," *Toronto Star*, November 5, 2002: A1.
21. Chet Brokaw, "Voting Claims Still Under Investigation," *Yankton Press and Dakotan On the Web*, December 7, 2002 (http://www.yankton.net/stories/120702/new_20021207027.shtml).
22. U.S. Congress, Committee on House Administration, *National Voter Registration Act of 1993*, 103rd Cong. 1st sess., H. Rept. 103-9 (February 2, 1993): 27. Officials in those states were concerned that the multiple registration sites required by the law would result in duplicate registrations, and that the costs of maintaining the quality of voter rolls would be prohibitive. At least six states sued to block implementation of the law. The states included California, Illinois, Louisiana, Michigan, South Carolina, and Virginia. See Jonathan E. Davis, "Comment: The National Voter Registration Act of 1993: Debunking States' Rights Resistance and the Pretense of Voter Fraud," *Temple Political and Civil Rights Law Review* 6 (Fall 1996-Spring 1997), 117, n20.
23. U.S. Congress, Senate Committee on Governmental Affairs, *Hearing on Federal Election Practices and Procedures, Part I*, 107th Cong., 2nd sess. (May 3, 2001) (testimony of Ralph O. Neas).
24. Christopher S. "Kit" Bond, "'Motor Voter' Out of Control," *Washington Post* (June 27, 2001): A25. This case is discussed below. According to Deborah M. Phillips of the Voting Integrity Project, a national organization concerned about voter fraud, and a critic of NVRA, "the National Voter Registration Act has tied the hands of election directors to protect the rights of legitimate voters from the dilution of vote fraud." U.S. Congress, Senate Committee on Rules and Administration, *Hearing on Election Reform*, 107th Cong., 2nd sess. (March 14, 2001) (testimony of Deborah M. Phillips).
25. U.S. Congress, Senate Committee on Rules and Administration, *Hearing on Election Reform* (testimony of John Samples). At the same hearing, Todd F. Gaziano, Senior Fellow in Legal Studies and director of the Center for Legal and Judicial Studies at the Heritage Foundation, testified that "Regardless of the intent of the Motor Voter law, it has helped create the most inaccurate voting rolls in our history. Citizens are registered in multiple jurisdictions at the same time, and very few states have effective procedures to ensure that those registered even are citizens...you can almost guarantee that illegal voting may provide the margin of victory in a close contest."
26. See *The Wall Street Journal*, "Blind To Voter Fraud" (March 2, 2001): 10; "The Voter Fraud Iceberg" (March 12, 2001): 22; "Manufacturing Votes" (May 8, 2001): 26; and "Too Easy To Steal" (December 11, 2001): 18.
27. U.S. General Accounting Office, *Elections: Perspectives on Activities and Challenges Across the Nation*, Report to Congressional Requesters (October 2001), GAO-02-3: 75.
28. Federal Elections Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1999-2000*, 22 and Table 1.
29. According to the U.S. Census Bureau, nearly one in five Americans of voting age moves annually. See Jason Schachter, "Geographical Mobility: Population Characteristics, March 1999 to March 2000," Current Population Reports, U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau (May 2001).
30. Federal Elections Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1999-2000*: 22.
31. Steve Barber *et al.*, "The Purging of Empowerment: Voter Purge Laws and the Voting Rights Act," *Harvard Civil Rights-Civil Liberties Law Review* 23 (1988): 499 and Appendix A. The other states purging for failure to vote did so on an accelerated schedule, purging registered voters after two years of inactivity or for failure to vote in a single election.
32. Those states are Alabama, Connecticut, Kentucky, Maine, Massachusetts, Missouri, Nebraska, and Texas.
33. Federal Elections Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1999-2000*, Table 3. Kentucky, Maine, and Nebraska have yet to delete any names from their inactive lists.
34. These provisions apply to voters assigned to inactive lists for failure to respond to notices asking for address confirmation, and are meant to secure the right of these voters to vote as long as they are eligible. While NVRA does not specifically require states to provide provisional ballots to voters disputing their denial to vote, the House Report on the Act recommended "it would be appropriate, and in compliance with the requirements of this Act, to require that such a person vote by some form of provisional ballot." See U.S. Congress, Committee on House Administration, *National Voter Registration Act of 1993*, 103rd Cong. 1st sess., H. Rept. 103-9 (February 2, 1993): Section 8. Moreover, a number of analyses of the 2000 elections have concluded that reforms should seek to expand the use of provisional balloting given the documented level of error in list management contributing to an estimated 3 million eligible voters being denied their right to vote. These numbers are drawn from the U.S. Census Bureau Current Population Survey's estimate that 7.4 percent of the 40 million nonvoters in 2000 did not vote due to registration problems.

35. See *ACORN v. Miller*, 129 F.3d 833 (6th Cir. 1997); *ACORN v. Edgar*, 56 F.3d 791 (7th Cir. 1995); *Voting Rights Coalition v. Wilson*, 60 F.3d 1411 (9th Cir. 1995); *Condon v. Reno*, 913 F. Supp. 946 (D.S.C. 1995); and Jonathan E. Davis, “The National Voter Registration Act of 1993: Debunking States’ Rights Resistance and the Pretense of Voter Fraud,” *Temple Political & Civil Rights Law Review* 6 (1997): n20 at 119, citing Human Serve and ACORN, “Legal Obstructions to the Implementation of the National Voter Registration Act Including Constitutional Challenges: An Update,” (September 1995) at 2–8.
36. U.S. Congress, Senate Committee on Governmental Affairs, *Hearing on Federal Election Practices and Procedures, Part 2*, 107th Cong., 2nd sess., (May 9, 2001) (testimony of Hans A. von Spakovsky).
37. U.S. General Accounting Office, *Elections: Perspectives on Activities and Challenges Across the Nation: 22*.
38. *Ibid*; see also, J. Eric Oliver, “The Effects of Eligibility Restrictions and Party Activity on Absentee Voting and Overall Turnout,” *American Journal of Political Science* 40(2) (May 1996): 498–513.
39. Thirty-nine states and the District of Columbia also permit in-person absentee or early voting.
40. Poll workers are given the responsibility of counting ballots in Alabama; in Florida, New Jersey, Oklahoma, and Maryland, county election boards count absentee ballots; an array of local judges are designated to count absentee ballots in Colorado, Minnesota, Ohio, and Vermont; finally, special absentee ballot committees or boards are set up to count ballots in North Dakota, Montana, Nevada, and Texas.
41. U.S. General Accounting Office, *Elections: Perspectives on Activities and Challenges Across the Nation: 129*.
42. Upon investigation it turned out that the vast majority of the remaining cases were cases of voter error. The secretary of state’s Office sends letters to voters committing mistakes admonishing them of the rules. (E-mail correspondence to the author from Norma Buckno of the Oregon Secretary of State’s Office, dated February 14, 2002. Data were compiled by Ms. Buckno.)
43. Phone interview by author with John Lindback, Elections Division, Oregon Secretary of State’s Office (February 21, 2002).
44. Those states are Alaska, Alabama, Louisiana, Missouri, North Carolina, Oklahoma, and Rhode Island. An election for chief judge of the Alabama Supreme Court was recently overturned on a technical violation of the law after an 11-month court battle. A number of absentee ballots larger than the margin of victory for the presumed winner were thrown out by a federal court because they were unwitnessed. See, Lori A. Tarle, “Comment: Statutory Interpretation and the Alabama Absentee Ballot Controversy,” *Cumberland Law Review* 26 (1995-1996): 197+.
45. Mark J. Fenster, “The Impact of Allowing Day of Registration Voting on Turnout in U.S. Elections from 1960 to 1992,” *American Politics Quarterly*, 22(1): 84; Benjamin Highton, “Easy Registration and Voter Turnout,” *Journal of Politics*, 59: 565–75; Craig Leonard Brians and Bernard Grofman, “Election Day Registration’s Effect on U.S. Voter Turnout,” *Social Science Quarterly* 82(1): 171–183.
46. National Conference of State Legislatures, *Voting in America: Final Report of the NCSL Elections Reform Task Force* (July 2001), <http://www.ncsl.org/programs/press/2001/electref0801.htm>.
47. U.S. General Accounting Office, *Elections: Perspectives on Activities and Challenges Across the Nation: 71*.
48. Prepared text by Joan Growe for the panel “Election Day Registration in Practice,” *Symposium on Election Day Registration*, Brennan Center for Justice, New York City, November 30, 2001.
49. R. Michael Alvarez and Stephen Ansolabehere, *Expanding the Vote: Election Day Registration in California*, Dēmos, March 2002, 22.
50. Andrew Nieland, “In Milwaukee Activists Use New Tactics to Help Boost Voter Registration, Turnout,” *The Wall Street Journal Interactive Edition*, December 18, 2000, <http://interactive.wsj.com/archive/retrieve.cgi?id=SB977098086874819675.djm>. Nieland offers the following observation about EDR and fraud by Milwaukee Mayor John Norquist: “To rig any significant number of ballots would just be an unimaginable pain in the butt.”
51. A series of articles in the *Milwaukee Journal Sentinel* covered the case. See David Doege, “No Evidence Found of Multiple Voting: McCann concludes students misled Marquette newspaper,” <http://www.jsonline.com/news/metro/dec00/vote21122000a.asp>.
52. “Cigarette case involves 15 to 25,” *Milwaukee Journal Sentinel On Line*, November 14, 2000. <http://www.jsonline.com/news/metro/nov00/smokes15111400a.asp>.

53. Interview with Mike Mahoney, assistant attorney, Milwaukee County, February 6, 2002.
54. The states are Alaska, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Missouri, South Carolina, Texas, and Virginia. See the Constitution Project, *Election Reform Briefing: Voter Identification* (April, 2002); and U.S. General Accounting Office, *Elections: Perspectives on Activities and Challenges Across the Nation*: 188–90.
55. U.S. General Accounting Office, *Elections: Perspectives on Activities and Challenges Across the Nation*: 189.
56. “Spotlight: Voter Identification Requirements,” *Democracy Dispatches*, Number 15 (February 15, 2002), Dēmos.
57. American Association of People With Disabilities, “Kill the Senate Election Reform Bill,” <http://www.aapd-dc.org/docs/votekill.html>.
58. “Groups Protest Senate Bill for Voter ID Checks; Say Will Make Many New Yorkers ‘Second Class Voters’” News release, the Citywide Coalition for Voter Participation, (April 3, 2002).
59. The Constitution Project, *Election Reform Briefing: Statewide Voter Registration Databases*, March 2002. See also: Demos, *An Overdue Reform: The Need for Statewide Computerized Voter Registration Systems*, February 2002.
60. Federal Election Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1995-1996, A Report to the 105th Congress*, 39–41.
61. Federal Election Commission, *Developing a Statewide Voter Registration Database: Procedures, Alternatives, and General Models*, Autumn 1997: 9.
62. The Constitution Project, *Election Reform Briefing: Statewide Voter Registration Databases*: 2.
63. Ronald Hayduk, “The Weight of History: Electoral Reform in the Progressive Era and Today,” in Ronald Hayduk and Kevin Mattson, *Democracy’s Moment: Reforming the American Political System for the 21st Century* (Lanham, MD: Rowman and Littlefield, 2002): 40–41.
64. Report and Recommendations to Improve the American Elections System, NACO and NACRAC, May 20, 2001. <http://www.naco.org/programs/infotech/elections/election.pdf>.
65. Alvarez and Ansolabehere, *Expanding the Vote: Election Day Registration in California*: 14–16.
66. The City of Miami is not to be confused with Miami-Dade County government. Approximately 365,000 people live in the City of Miami, one of 30 municipal jurisdictions within Miami-Dade County where consolidated government represents the larger “Miami” community and performs most of the functions local government.
67. Suarez received 23,598 votes or 53.2 percent to Carollo’s 20,739 votes (46.8 percent). See “Former Mayor Wins an Upset in Miami Ballot,” *The New York Times* (November 14, 1997): A30.
68. William T. McCauley, “Florida Absentee Voter Fraud: Fashioning an Appropriate Judicial Remedy,” *University of Miami Law Review* 54 (2000): 627.
69. *In re Matter of Protest of Election Returns and Absentee Ballots in the November 4, 1997, Elections for the City of Miami, Dade County, Fla., No. 97-25596 CA 09 (Fla.. Dade County Ct. March 4, 1998)*.
70. “‘Outright Fraud’ Found in Miami Mayoral Elections,” *The Washington Post* (February 3, 1998): A4.
71. Hernandez was eventually convicted of attempting to cover-up the election fraud scheme and sentenced to one year in jail. Governor Chiles again removed him from office.
72. Mike Clary, “Miami Without Mayor as Judge Voids Election: Voting: ‘Massive ... Fraud’ in Absentee Forms Cited; New Balloting to Take Place Within 60 Days,” *Los Angeles Times* (March 5, 1998): A11; Donald P. Baker, “New Mayoral Election is Ordered for Miami; ‘Fraud and Abuse’ Prevalent, Judge Says,” *The Washington Post* (March 5, 1998): A2.
73. Florida is one of only seven states that permanently disenfranchises persons convicted of felony crimes. Its felony disenfranchisement laws are the harshest in the country, with about one third of all disenfranchised ex-felons in the U.S. reside in Florida. Human Rights Watch and the Sentencing Project, *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States* (1998), <http://www.hrw.org/reports98/vote>.
74. Greg Palast, *The Best Democracy Money Can Buy* (Sterling, Virginia: Pluto Press, 2002): 16.
75. Peter M. Warren, “Dornan Vows Appeal to House if Lead is Lost,” *Los Angeles Times*, Orange County Ed. (November 12, 1996): A1.
76. *Ibid.*
77. Dexter Filkins, Peter M. Warren, and Jean O. Pasco, “Dornan, Sanchez Square Off Before House Task Force,” *Los Angeles Times*, Orange County Edition (April 20, 1997): A1.

78. A recount requested by Dornan reduced the final margin by five votes.
79. See: U.S. Congress, House, Committee on House Oversight, Task Force for the Contested Election in the 46th Congressional District of California, *Dismissing the Election Contest Against Loretta Sanchez: Report of the Committee on House Oversight on H.R. 355, Together with Minority Views* (February 12, 1998), H. Rept. 105-416.
80. Benjamin Ginsberg and Martin Shefter, *Politics by Other Means: Politicians, Prosecutors and the Press from Watergate to Whitewater*, Revised and Updated Edition (New York: W.W. Norton & Company, 1999): 44.
81. Cost estimates are as follows: investigation by the House Oversight Committee (\$300,000); expenditures by the INS to conduct data analysis (\$500,000); reimbursement to Dornan for costs associated with his contest (\$320,000); reimbursement to Sanchez for her defense (\$250,000). These costs do not include the expenditures by the Orange County Registrar of Voters to conduct an internal review and assist the Committee in its investigation, the Orange County District Attorney's Office for its criminal investigation of Hermandad Mexicana Nacional, or the California Secretary of State's Office for its investigation of noncitizen voting in Orange County.
82. "California Won't Prosecute Noncitizen Voters," *The Washington Post* (March 1, 1998): A19.
83. Missouri, Office of the Secretary of State, *Mandate for Reform: Election Turmoil in St. Louis, November 7, 2000*, Report by Secretary of State Matt Blunt (July 24, 2001): 39–46.
84. Carolyn Tuft, "Bond Wants Federal Investigation of Problems at City Polls; He Accuses Democrats of 'Criminal Enterprise' in Keeping Polls Open Late; Democrats Criticize Election Board," *St. Louis Post-Dispatch* (November 10, 2000): A1.
85. Jo Mannies, "Vote Fraud Charges are Hogwash, Clay Says, But Bond Stands Firm," *St. Louis Post-Dispatch* (February 21, 2001): C2.
86. See Tuft. Bond's assumption of criminal intent behind the effort to clear out what all parties agree was a chaotic situation inside many St. Louis polling places, may have a personal dimension. Speaking of his successful run for governor in Missouri in 1972, Bond said, "They [St. Louis Democrats] tried the same stunt on me. This time was one too many"—referring to his belief that St. Louis Democrats intentionally kept the polls open until midnight in 1972 to prevent his election as the youngest governor in the state's history. See Mannies (February 11, 2001). One of the lawyers for the Democrats in 2000 was Douglas Dowd, the son of Ed Dowd Sr., the man Bond defeated in 1972.
87. Carolyn Tuft, "Grand Jury Looks at Voter Registration," *St. Louis Post-Dispatch* (February 14, 2001): A1; Stephanie Simon, "National Perspective: Politics: In St. Louis, Dead Are Causing Lively Debate With Their Votes," *Los Angeles Times* (February 28, 2001): Part A1, Page 5; Christopher S. "Kit" Bond, "'Motor Voter' Out of Control," *The Washington Post* (June 27, 2001): A25.
88. Jo Mannies and Jennifer LaFleur, "City Mislabeled Dozens as Voting From Vacant Lots; Property Records Appear to be in Error, Survey Finds; Just 14 Ballots Are Found Suspect," *St. Louis Post-Dispatch* (November 5, 2001): A1. Further investigation by the *Post-Dispatch* fully debunked the vacant lot claims. According to reporter Jo Mannies, "Basically, we checked every one of the 2,000-plus props [properties] listed as vacant lots with voters, and found virtually all had houses on them—had been misclassified by the assessor's office." (E-mail correspondence with the author, February 25, 2002.)
89. St. Louis County judge Robert S. Cohen said, "This process had taken them hours and hours. Some had babies with them; some had wheelchairs; some had taken off work. We were trying to accommodate people in a long line and get them in and out. We were erring on the side of allowing people to vote. Rejecting an American citizen at the poll who appears to have engaged in no fraud ... it's a difficult thing to turn that person away and say you cannot vote, you cannot participate in the democracy today." Jo Mannies, "Secretary of State Says Local Judges Erred in Election; 1,233 People Were Improperly Allowed to Vote, Report Says," *St. Louis Post-Dispatch* (July 25, 2001): A1.
90. In one of three recent reports on voting in St. Louis, Secretary of State Blunt called the communications between local polls and the St. Louis City Board of Elections on election day 2000 "grossly inadequate." One of his recommendations for improving election administration on election day was the providing of working cell phones to local poll workers and elections judges and the installation of more telephone lines at Board of Elections headquarters so that poll workers could more easily access the inactive voter files by calling in their inquiries. On election day 2000 in St. Louis, many cell phones at the local polls had no batteries and a new telephone system at the Board of Elections malfunctioned, preventing judges from checking whether voters were listed on the inactive file. Under such circumstances, Missouri voters must get a court order to vote, a partial explanation for why so many court orders were issued. Blunt's recommendations were heeded for the March 6, 2001, municipal primary election. See Missouri, Office of the Secretary of State, *Making Every Vote Count: A Report of Secretary of State Matt Blunt to the People of Missouri* (January 29, 2001).

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