

**Presentation to the
U. S. Election Assistance Commission
Washington, D.C.
February 8, 2007**

Summarizing a report on
Best Practices to Improve Voter Identification Requirements
Pursuant to the
HELP AMERICA VOTE ACT OF 2002
Public Law 107-252
Submitted on June 28, 2006

by

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Introduction

Thomas M. O'Neill:

Our report, submitted to the EAC last June, provided information on voter identification practices in the 2004 election. It made recommendations for best practices to evaluate future proposals for voter ID requirements. In particular, we recommended a concerted, systematic effort to collect and evaluate information on voter ID requirements and turnout from the states. This report was a companion to our report on Provisional Voting, submitted to the EAC in November 2005.

The research was conducted by the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at the Ohio State University under a contract with the EAC, dated May 24, 2005. Unfortunately, our colleagues from Moritz could not be with us today because of teaching obligations.

Our work included a review and legal analysis of state statutes, regulations and litigation concerning voter identification and provisional voting as well as a statistical analysis of the relationship of various requirements for voter identification to turnout in the 2004 election.

Voter ID requirements are just one set of election rules that may affect turnout. Social scientists have long studied how election rules affect participation in elections. The general view today is that the individual citizen chooses whether to vote by comparing costs and benefits. The benefits of voting are fairly stable --and hard to specify given the remote probability that any one vote will make a difference in an election. But whatever the benefit may be, as the costs of voting (for example, time,

hassle, acquisition of information) increase, the likelihood that a citizen will vote decreases.

We conducted our research before last year's election, when the debate over voter ID requirements was sharp and polarized. We took seriously our charge from the EAC, which was not to enter the national debate, but rather to explore if an empirical study could suggest how we might estimate the effects of different voter ID requirements on turnout. That analysis, of course, would be a sensible first step to assess tradeoffs between ballot security and ballot access and provide valuable information for all parties to the debate.

A voting system that requires voters to produce an identity document or documents may prevent the ineligible from voting. It may also prevent eligible voters from casting a ballot. If the ID requirement of a ballot protection system blocks ineligible voters from the polls at the cost of preventing eligible voters who lack the required forms of identification, the net integrity of the ballot may not have been improved.

A key part of our work was a statistical analysis to examine how turnout may vary under different voter identification requirements. We used this statistical study to develop a model to illuminate the relationships between voter ID requirements and turnout. The model's findings and limitations suggest avenues for further research and analysis that may assist the EAC and the states as they explore policies to balance the goals of ballot integrity and ballot access.

Tim Vercellotti led that phase of our research and will describe his methods and conclusions.

Results of Statistical Analysis

Tim Vercellotti:

Our research included an examination of variation in turnout based on voter ID requirements in the 50 states and the District of Columbia. We examined this question using aggregate data at the county level gathered from the U.S. Census and other sources, and individual-level data from the November 2004 Current Population Survey.

Drawing from the research conducted by the Moritz College of Law, we were able to classify the states into one of five voter ID categories. Voters either had to:

1. state their name,
2. sign their name,
3. match their signatures to those already on file,
4. provide a non-photo ID,
5. provide a photo ID.

But election laws in numerous states offer exceptions to these requirements if individuals lack the necessary form of identification, and laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). Thus it is also possible to categorize states based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity. The five categories for minimum requirements were:

1. stating one's name,

2. signing one's name,
3. matching one's signature to a signature on file,
4. providing a non-photo identification, or
5. swearing an affidavit.

Analysis of the aggregate data showed that the average turnout in states requiring photo identification as a maximum requirement was 58.1 percent compared to 64.2 percent in states that required voters to give their name as the maximum requirement. The differences were slightly smaller when we examined states in terms of their minimum requirements, with 60.1 percent of voters turning out in states that required an affidavit compared to 63 percent in states that required voters to give their name as the minimum requirement.

The analyses of aggregate data also included models that controlled for other factors that might influence turnout, such as whether a county was in a presidential battleground state, the length of time between the close of the registration period and Election Day, and the demographic composition of the county in terms of race and ethnicity, age, and household income. Controlling for those factors, the maximum requirements of providing a signature match or a non-photo identification showed a negative effect on voter turnout when compared to counties in states that only required voters to give their names. None of the voter identification requirements showed an effect on turnout, however, in the model that coded counties according to the states' minimum requirements.

Analyses of the individual-level data from the November 2004 Current Population Survey also indicated relationships between voter ID requirements and turnout. Controlling for contextual factors, such as whether a voter resided in a presidential battleground state, and demographic characteristics, such as a voter's gender, race, ethnicity,

age, and education, the data showed that registered voters in states that require photo identification as a maximum requirement were 2.9 percent less likely to say they had voted compared to registered voters in states that required voters to state their names. Examining states within the context of minimum identification requirements showed that registered voters in states requiring affidavits were four percent less likely to say they had voted compared to registered voters in states that required individuals to give their names at the polling place.

Breaking down the Current Population Survey sample by race and ethnicity also revealed interesting patterns. Photo identification and affidavit requirements were negatively associated with whether white registered voters said they voted compared to their counterparts in states requiring registered voters to give their names. But African-American, Hispanic, and Asian-American registered voters in states that required photo identification as the maximum requirement or an affidavit as the minimum requirement were no less likely to say they had voted than their racial or ethnic counterparts in states that simply required voters to give their names.

The most consistent difference emerged in states that required non-photo identification as a maximum or a minimum requirement. In five of six statistical models, African-American, Hispanic, and Asian-American registered voters in non-photo identification states were less likely to say they had voted in November 2004 than their racial or ethnic counterparts in states that required voters to state their names as a maximum or minimum identification requirement.

That the non-photo identification requirement was the most consistent in terms of statistical significance across the groups is intriguing given the intense debates surrounding photo identification requirements. This

observation does not answer the question as to why photo identification requirements did not have a more uniform effect across groups in 2004. Of course, photo identification was a maximum requirement in only five states, and each of those states accepted another type of identification as a minimum requirement. But the finding that photo identification requirements were associated with a lower probability that white registered voters said they had voted, and the absence of a similar relationship within other racial and ethnic groups, runs counter to concerns expressed by some in the debate over voter ID. This finding points up the need for further research in this area, perhaps with a view to comparing turnout rates over time before and after a photo identification requirement takes effect, to further isolate potential relationships between photo ID requirements and turnout.

In examining the link between voter identification requirements and turnout, there is still much to learn. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If these requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer this question. Knowing more about the “on the ground” experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements.

Conclusions from the Research

Thomas M. O'Neill:

The statistical analysis suggests that stricter voter ID requirements can be associated with lower turnout. It was not designed, however, to look at the other side of the balance equation: do tighter ID requirements reduce multiple voting or voting by ineligible voters? The scope of our research as defined by the EAC excluded assessing the dynamics and incidence of vote fraud.

We believe, however, that sound policy on voter ID should begin with an examination of the tradeoffs between ballot security and ballot access.

The existing evidence on the incidence of vote fraud, especially on the kind of vote fraud that could be reduced by requiring more rigorous voter identification, is not sufficient to evaluate those tradeoffs. The EAC's recent study¹ of election crimes found, for example, that there has never been a comprehensive, nationwide study of voting fraud and intimidation.

Without a better understanding of the incidence of vote fraud and its relationship to voter ID, for now best practice for the states may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility. Election law should provide the clarity and certainty needed to forestall destabilizing challenges to election outcomes. Absent a sound, empirical basis for striking a wise balance between voter ID and ballot access, legal challenges may increase, not just to the process but to electoral outcomes.

¹ U. S. Election Assistance Commission, *Election Crimes: An Initial Review and Recommendations for Future Study*, December 2006.

The analysis of litigation conducted by the Moritz College of Law for our research suggests that the courts will look more strictly at requirements that voters produce a photo ID in order to cast a regular ballot, than at non-photo ID laws. The courts have used a balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting Social Security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents.

To strike that balance requires a more precise understanding of how voter ID requirements affect turnout. A first step in that direction would be to encourage or require states to collect and report additional data, including:

- The reasons potential voters are required to cast a provisional ballot and
- The reasons for rejecting provisional ballots.

Seven recommendations for the EAC

1. Encourage or sponsor further research to clarify the connection between voter ID requirements and the number of potential voters able to cast a ballot that is counted.
2. Recommend as a best practice the publication of a "Voting Impact Statement" by states as they assess their voter ID requirements. The analysis will help focus the attention of the public and policy-makers on the tradeoff between ballot access and ballot security. A "Voter Impact Statement," to be drafted and offered for public review and comment before the adoption of new identity requirements, would estimate the number and demographics of:

Eligible, potential voters who may be kept from the polls or permitted to cast a provisional ballot by a stricter ID requirement; and

Assess the number of ineligible voters who will be prevented from voting by the stricter ID requirements.

The data collection and analysis recommended in this report would help make feasible an empirically-based assessment of the effects on voter participation of proposed identification requirements. That assessment could improve the quality of the debate on this polarizing topic.

3. Encourage or require the states to collect and report reliable, credible information on the relationship between ballot access and ballot security. A compilation by EAC of this information would provide a factual basis for the states to consider as they estimate the incidence of the kinds of vote fraud that more stringent ID requirements may prevent. The studies should include precinct-level data to provide the fine-grained analysis that can provide a solid foundation for policy.
4. Encourage or require states to sponsor surveys of voters to be conducted by local election officials. Such surveys would determine why those who cast a provisional ballot were found ineligible to cast a regular ballot and illuminate the frequency with which ID issues divert voters into the provisional ballot line. A consequence of increased reliance on provisional ballots can be longer lines at the polls and confusion, without necessarily a clear demonstration that the security of the ballot is correspondingly increased.
5. The connection between Voter ID requirements and provisional ballots is, of, course, close. Voters who lack required ID will likely vote provisionally, thus placing greater demands on a system that may be hard pressed to

meet those demands. Asking voters what they know about ID requirements would also provide useful context for evaluating the effect of those requirements on electoral participation.²

6. Recommend as a best practice that state election officials conduct spot checks on how the identification process actually works at polling places. These spot checks could provide information on how closely actual practice tracks statutory or regulatory requirements.
7. Encourage states to examine the time period allowed for voters who cast a provisional ballot because they lacked required ID to return with their identification. In 11 states, voters who had to cast a provisional ballot because they lacked the ID required for a regular ballot were permitted to return later with their ID. Their provision of this ID is the critical step in evaluating the ballots. The length of the period in which the voter may return with ID is important. In setting the time period for return, which now varies among the states from the same day to about two weeks, states should consider three factors: the convenience of the voter, the total time allowed to evaluate ballots, and the safe harbor provision in presidential elections.

A final thought

A voting system that requires voters to produce an ID may prevent the ineligible from voting. It may also prevent some eligible voters from casting a ballot. If the ID requirements block a few ineligible voters from the polls at the cost of preventing an equal or greater number of eligible voters who cannot obtain or have left at home the required forms of identification, the

² Arizona held its first election with its new, stricter ID requirements on March 14, 2006. In at least one county (Maricopa) election officials handed a survey to voters that asked if they knew about the voter identification law and if they did, how they found out about it.

integrity of the ballot may not have been improved; the harm may be as great as the benefit.

Ultimately, a normative evaluation of whether a state should adopt a stricter voter ID requirement (and what form that requirement should take) will weigh value judgments as well as available factual evidence. We did our work on the premise that increased understanding of the facts relating to the imposition of voter ID requirements, based on available data and statistical analysis of that data, can help inform the policy process.

We hope that premise is realistic, and we also hope that this research has helped the Commissioners and the interested public to clarify their thinking on this polarizing topic.

On behalf of the Eagleton – Moritz research team, we thank you for the opportunity to contribute to the national debate.