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

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION
OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS
FIRST SESSION

NOVEMBER 15, 2005

Serial No. 109–77

Printed for the use of the Committee on the Judiciary


U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001
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VOTING RIGHTS ACT: SECTIONS 6 AND 8—
THE FEDERAL EXAMINER AND OBSERVER
PROGRAM

TUESDAY, NOVEMBER 15, 2005

House of Representatives,
Subcommittee on the Constitution,
Committee on the Judiciary,
Washington, DC.

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

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

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

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

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

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

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

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

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

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

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

After almost a century of racial discrimination in voting and several unsuccessful attempts to curtail these pervasive practices, Congress enacted the Voting Rights Act back in 1965.
Among the many different tools provided by Congress is the intervention of Federal examiners and observers. This Federal oversight was deemed necessary as result of the failure on the part of covered jurisdictions to openly accept minority voters in the political process.

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

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

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

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

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

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

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

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

Mr. CONYERS. Thank you, Mr. Chairman.

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

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

Mr. CONYERS. And I'll yield.

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

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

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

Mr. CONYERS. Of course.

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

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

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

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

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

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

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

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

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

May I have an additional minute, sir?

Mr. CHABOT. Without objection, so ordered.

Mr. CONYERS. Thank you.

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

They finally—there was a consent decree.

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

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

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

In 2004, the Department coordinated and sent 1,463 Federal observers and 533 Department personnel to monitor 163 elections in 105 jurisdictions and 29 States.
So we’re here about something that is really fundamental to improving the voter process in America.

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

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

Mr. Chabot. The gentleman’s time has expired, and so ordered.

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

So, for the record, Mr. Conyers.

Mr. Conyers. Well, for the record—

Mr. Chabot. Yeah.

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

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

And so I thank the gentleman for that.

Mr. Conyers. Thank you, Mr. Chairman.

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

Mr. Scott of Virginia. Thank you, Mr. Chairman.

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield back.

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

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

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

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

Mr. CHABOT. That's correct.

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

Today's hearing turns to the last set of provisions scheduled to expire in 2007. Although much of the media coverage and public interest in the Voting Rights Act has been focused largely on section 5 and section 203, the Federal Examiner and Observer Program has historically played an integral role in ensuring that voting rights are actually shielded from Election Day abuses and the violation of those rights are properly documented.
While there is some question about the necessity of the Federal examiner provisions going forward, the role and continued need of well-trained Federal observers assigned to monitor elections in certified jurisdictions is absolutely critical.

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

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

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

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

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

Mr. CHABOT. Without objection, so ordered.

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

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

Mr. CHABOT. Without objection, also so ordered.

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

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

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

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

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

And I don’t think there’s really any controversy about it. Prior testimony has already established the incredible expense imposed
on bona fide victims of voting rights violations to assemble the necessary evidence to sustain their burden of proof in a private action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Mr. Chairman.

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

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

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

As Deputy Associate Director, Ms. Randa oversees the services and support provided to Federal agencies in staffing and human re-
sources, organizational and individual assessment, training and management assistance, and technology services.

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

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

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

We welcome you here this afternoon, Ms. Randa.

Our second witness will be Ms. Penny Pew.

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

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

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

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

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

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

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

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

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

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

A couple of other items I just need to mention is some of you have testified before; some of you may not be aware of this. We have what’s called a 5 minute rule. There are two sets of lights
there. They'll go for 5 minutes. For 4 minutes, they'll be green. When there's 1 minute left, it'll turn yellow, and red light will come on when your 5 minutes is up.

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

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

[Witnesses sworn.]

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

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

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

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

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

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

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

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

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

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

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

We schedule 1-day classroom sessions for observers to provide in-depth training on the overall process, on specific observer responsibilities, and on administrative issues.
We also provide refresher training during pre-briefing sessions on the day before the election. Whenever possible, we do role playing in the training to demonstrate to the observers the proper way of handling themselves at the polling sites.

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

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

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

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

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

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

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

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

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

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

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

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

[The prepared statement of Ms. Randa follows:]

**PREPARED STATEMENT OF NANCY RANDA**

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here this afternoon to discuss the Office of Personnel Management’s (OPM) role in carrying out sections 3, 6, 7, 8, 9, and 12 of the Voting Rights Act of 1965 (the Act).
Currently, implementation of the Voting Rights Act at OPM is managed by the Division for Human Resources Products and Services in the Center for Talent Services. This office works closely with the Department of Justice (the Department), specifically the Voting Section of the Civil Rights Division, to assign Voting Rights observers to locations designated by the Department. OPM's ultimate success with this program depends on its ability to recruit, train, deploy, and supervise observers of election-day procedures.

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

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

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

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

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

That is the bulk of what OPM does. The statute also calls on OPM to have an examiner for each jurisdiction where observers will be assigned. Originally, examiners prepared a Federally maintained list of voters who were denied the right to register by State and local officials in covered jurisdictions, and they received calls from citizens regarding election-day issues or incidents. This function, however, has changed over the years. No voters have been added to the Federally maintained list since 1983 as registration barriers have been eliminated. Moreover, since there have been no challenges to registration decisions in the past 30 years, there has been no need for hearing officers. Also, due to advances in technology, toll-free numbers
allow citizens to report incidents and information to examiners remotely, in real
time, and 24 hours a day during the election period.

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

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

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

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

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

Ms. Pew. Thank you, Mr. Chairman, Members of the Sub-
committee, for the opportunity to testify today for the reauthoriza-
tion of section 6 and section 8, as they relate to section 203 of the
Voting Rights Act.

As stated before, my name is Penny Pew, and I’ve been the Elec-
tions Director in Apache County since 2001.

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

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

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

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

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

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

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

I explain to those poll workers that the individuals have been in-
vited to help us do our duties. Observers are greeted by the inspec-
tor of the polling place in an attempt to put all parties at ease and
to assure the poll workers that the observers should not be viewed as hostile.

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

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

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

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

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

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

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

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

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

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

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

[The prepared statement of Ms. Pew follows:]

PREPARED STATEMENT OF PENNY L. PEW

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

My name is Penny L. Pew, and I am the elections director of Apache County in northeastern Arizona. I have had the pleasure of this position since June of 2001.
My primary focus has been on providing the minority and prospective voters, the necessary election materials to ensure that each vote cast is an informed vote. While this education began in 1982 as a mandate, we continue to provide services to our electors so that the rewarding changes that we have experienced will continue.

FEDERAL OBSERVER PROGRAM

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

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

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

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

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

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

VOTER OUTREACH AND EDUCATION

Advertisements

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

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

Language Training

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

The outreach workers use this glossary to translate ballot issues in a Tri-County forum to further ensure uniformity. This is imperative, as many precincts lie on
county lines where voters may see more than one county ballot, radio or newspaper ads or other informational materials.

**Translators/Poll workers**

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

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

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

**State and County Monitoring of Effectiveness**

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

**NEA (Navajo Election Administration)**

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

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

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

In closing, I can honestly say that the language program has been positive for our county in educating and promoting our most fundamental right . . . the power of our vote.”

**Outreach/Satellite Offices**

Apache County has two county district offices which are on Reservation Land; District I in Chinle houses a satellite office. District II in Ganado houses a second
office. Voters and residents of surrounding areas visit to check voter registration and to receive any election updates.

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

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

**Deputy Registrars**

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

**Collect Phone Calls**

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

**Voter Education**

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

**Voter Turnout**

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

**Political Protocol**

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

**Early Voting**

Ballot request forms are given to the Chapter Officials, County District offices on the Navajo Nation, State offices and the NEA. Outreach workers keep forms with them at all times while traveling and presenting throughout the county. These forms can also be accessed using the website [www.co.apache.az.us/recorder](http://www.co.apache.az.us/recorder). Early Voting drives are unique in Apache County. After specified advertisements in newspaper and on radio, a trailer which has been painted in a patriotic motif travels to scheduled locations throughout the rural areas. This trailer can be found many places such as on fence lines, shopping lots, trading posts, and post offices to name a few.
Election Day

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

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

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

CLOSING COMMENTS

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

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

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

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

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

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

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

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

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

The Federal examiners’ functions—most of them are outdated. The procedures are cumbersome and archaic, and I don’t think they
serve any real purpose anymore. And so my conclusion would be that they’re not needed anymore in the Voting Rights Act as it stands today.

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

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

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

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

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

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

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

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

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

[The prepared statement of Mr. Weinberg follows:]
Statement of
Barry H. Weinberg

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

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

November 15, 2005

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

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

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

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

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

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

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

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

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

The following is an overview of the federal examiner and federal observer provisions of the Voting Rights Act, my experience with them, and the reasons why I
have answered the questions as I have. This recitation is followed by a detailed explanation of the Voting Rights Act’s provisions for federal examiners and observers—Sections 6, 7 and 8 of the Voting Rights Act—and fact situations and federal court cases that demonstrate why the federal observer provisions are still needed.

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

I was a lawyer in the United States Justice Department’s Civil Rights Division from 1966 until my retirement in January 2000. Beginning in 1963 I was partly, and shortly thereafter, wholly in charge of the Justice Department’s responsibilities for the federal examiner and federal observer programs. But I began working in the Civil Rights Division as a law clerk in the summer of 1965, and I was there on August 6, 1965, when the Voting Rights Act became law. Shortly after the Act was passed I was assigned to accompany the many other employees of the Civil Rights Division who were working out of an office set up in the federal building in Selma, Alabama. Our primary job was to investigate the beatings suffered by people who earlier that year attempted to march from Selma to Montgomery, Alabama, to protest the disenfranchisement of African Americans in Alabama.

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

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

Under the structure of the Voting Rights Act, a federal examiner can be assigned to any site in the states and counties that are specially covered under the Act’s formulae in Section 4, after the county has been certified by the Attorney General of the United States (or in any county certified by court order). Of course, under the structure of the Voting Rights Act, the federal examiners do not technically register people to vote; they examine applicants as to their eligibility under state voter registration laws that are otherwise Constitutional, and then put those applicants who are found to be eligible on a list. The list is given to the local county voter registrar who is required by the Voting Rights Act to enter the eligible applicants’ names on the local voter registration rolls.
In the summer and fall of 1965 people were lined up day after day to take advantage of their first opportunity to register to vote. The federal examiners were Civil Service Commission investigators who had been pulled off of the routine jobs they had been doing and sent to sites in Alabama and other Southern states that had been designated by the U.S. Attorney General for federal listing. Besides listing voter applicants, the examiners were available to take complaints about listed people who had not been placed on the county voter registration rolls.

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

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

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

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

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

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

Federal observers are necessary, federal examiners are not necessary.

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

The facts supplied by federal observers to Civil Rights Division attorneys are crucial and irreplaceable in the enforcement of the Voting Rights Act. Most parts of the voting process are open to the public, and the evidence of Voting Rights Act violations that are involved in the voting process can be obtained by Justice Department lawyers through routine investigations. But most state laws limit access to polling places on election day, allowing only voters and polling place officials to remain in the polls (police are allowed too when called to deal with disturbances). Thus, unless an exception is made in these rules to allow federal investigators to get special access to the polls, the harassment of racial and minority language voters and other violations of the Voting Rights Act inside the polling places would go unseen and unchecked.
Federal observers have special access to polling places under the authority of the Voting Rights Act even where access to Justice Department attorneys is otherwise barred. Federal observers thus become the attorneys’ eyes and ears. The discriminatory treatment of racial and minority language voters witnessed by the federal observers, as discussed in detail below, runs the gamut from actions that make those voters feel uncomfortable by talking rudely to them, or ridiculing their need for assistance in casting their ballot, to actions that bar them from voting, such as failing to find their names on the lists of registered voters and refusing to allow them to vote on provisional ballots, or misdirecting them to other polling places.

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

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

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

However, the initial assignment of federal observers to a county today remains dependant on the certification of the county for the assignment of federal examiners even though federal examiners are largely unnecessary any more for listing voter applicants. There has been no federal listing of voters since the 1970s, apart from an isolated flurry of voter listing in Georgia in 1982 and another isolated flurry in Mississippi in 1983. Discriminatory actions against racial and language minority group members are not
caused by their status as federally registered voters. And examiners no longer receive complaints on election day with respect to federally listed voters. I do not recall any complaints that were received centering on mistreatment of federally listed voters over the last 20 years of my supervision of the federal observer and examiner programs, and few, if any such complaints before that. (Complaints about other matters are made to the examiner, but they routinely involve matters for which the federal observers have been assigned to the county, and are just as easily, and more effectively fielded by the federal observer captain in the county.) Moreover, the enforcement of the Voting Rights Act and the enactment of new easy voter registration laws, such as the National Voter Registration Act (the motor voter law), have made the possibility of future listings by federal examiners highly unlikely.

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

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

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

If such a new certification procedure would be instituted, the requirement that the United States Attorney General personally must sign the certification, as is now the case, would be unnecessary. This authority for executing a certification should be allowed to be delegated to the Assistant Attorney General for Civil Rights. To my recollection, the Attorney General has signed every certification that has been recommended by the Assistant Attorney General for Civil Rights. Nor would the Attorney General’s signature be needed any more to assure the importance of the certification if the only consequence
of a certification would be simply to allow federal observers to witness polling place procedures. The delegation to the Assistant Attorney General for Civil Rights of the responsibility for certifying a county for the presence of federal observers would be similar to the delegation of authority to the Assistant Attorney General to object to changes in voting practices and procedures under Section 5 of the Voting Rights Act.

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

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

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

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

The object of the observation by ODIHR is to report information for public consumption as quickly as possible. During election day the observers send their forms to ODIHR headquarters in the country’s capital at mid-morning, shortly after noon, and just before the polls close, the remaining forms are dropped off when the observers return from the vote count to their regional lodging sites throughout the country. This way, by the afternoon of election day OSCE/ODIHR knows how the election is going, whether there are serious problems, and if so, what they are and where they are. Then, on the morning after the election, OSCE issues its judgment on whether the election was conducted according to international standards or was marred by irregularities.
But OSCE is not a law enforcement organization, and its approach would not be appropriate to the job of the Justice Department. Some of the irregularities that the federal observers can witness are not dissimilar from the kind of procedural irregularities that are common to elections held in emerging democracies. The extra identification steps required of Arab Americans in Hamtramck, Michigan, and the harassment they encountered, described below, are an example. But the similarity of some situations to those addressed by international observer groups such as the OSCE does not argue for redesigning the federal observer program under the Voting Rights Act to resemble those organizations’ efforts.

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

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

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

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

South Carolina v. Katzenbach, supra at 328.

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

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1 These "tests or devices" were suspended in states and counties determined by a formula in Section 4 of the Voting Rights Act, 42 U.S.C. § 1970b, based on the use of literacy tests and other pre-application devices (such as having current voters vouch for your good moral character), and low voter turnout. Later, this provision was made permanent and nationwide, 42 U.S.C. § 1973a. Originally, states and counties covered under the formula in Section 4 of the Act could terminate their special coverage ("bail out") after five years by showing in a lawsuit before a three-judge court in the federal district court for the District of Columbia, that no test or device had been used to deprive anyone of the right to vote during that period. Since the Act itself suspended these tests or devices for only 5 years, it was thought that it would be realistic to ask for states and counties who complied with the suspension to bail out after the 5-year period. In 1970 the time period in Section 4 was extended to 10 years, and in 1973 it was extended to 17 years. In 1982 the approach was changed, and the special coverage under Section 4 will expire 25 years after August 6, 1984, the effective date of the 1982 Amendments, 42 U.S.C. § 1973(b)(6). In 1982 the bail-out provisions were amended substantially to allow individual counties within a fully covered state to bail out, and to set a number of specific qualifications that a jurisdiction needs to meet in order to bail out. 42 U.S.C. § 1973(b)(3)-(5).

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

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

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

42 U.S.C. § 1973c

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

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

3 There were 4,938 federal observers assigned to polling places in 5 states from 1966 through 1969, 7,334 federal observers were assigned to 9 states in the 1970s; 6,998 federal observers were assigned to 11 states in the 1980s; and 3,753 federal observers were assigned to 13 states in the 1990s. In 2000, 640 federal observers were assigned to 11 states. See, Appendix B.
Federal observers witnessed clear racial discrimination at the polls.

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

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

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

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

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

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3 The federal observers' reports are not public documents, so there are very few examples on the public record of the facts that the observers have witnessed. One such public document is the Plaintiff's Response to Interrogatories and Request for Production of Documents in United States v. Conecuh County, Alabama, supra. Some of the specific examples of the kind of discriminatory treatment that was afforded African American voters described in the text that follows are taken from the excerpts of the Conecuh County responses at Appendix C, while others are based on the author's first-hand knowledge.
voter in front of his or her neighbors. Some white poll workers went so far as to bring a magnifying glass to the polls, and give it to African American voters, challenging the voter to read using the magnifying glass in front of everyone present at the polling place. Illiterate white voters, on the other hand, were allowed assistance by a person of their choice without comment. White couples routinely were allowed to enter the voting booth together to mark their ballots.

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

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

6. Some voters were challenged before they signed their applications to vote. Other voters were challenged after they had signed their applications and their names had been announced. The challenged voters had dark skin and distinctly Arabic names, such as Mohamed, Ahmed, and Ali. The challengers did not appear to possess or consult any papers or lists to determine whom to challenge.

7. Once challenged, the city election inspectors required the challenged voters to swear that they were American citizens before permitting them to vote. Voters who were not challenged were not required to do so. The city election inspectors did not evaluate the propriety of merit of the challenges. Some dark-skinned voters produced their American passports to identify themselves to election officials. Nevertheless, these persons were challenged by CCBH, and the election inspectors required them to take a citizenship oath as a prerequisite to

6 After the Voting Rights Act enabled African Americans in the Deep South to register to vote, it became common for civil rights workers and local African American residents to drive the new voters to the polls and to give assistance to those who needed it. This was a natural outgrowth of the organizing required during the civil rights movement to achieve voter registration for black people. It provided transportation—many people did not have cars—and gave confidence and protection to these newly enfranchised voters at the polling places from which they had so recently been excluded by white poll workers and voters who did not vote there. This tradition of "limiting" voters to the polls and giving assistance to voters who need it continues today, especially in many rural areas.
voting. No white voters were challenged for citizenship. No white voters were required to take a citizenship oath prior to voting.

at p. 4.

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

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

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

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


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

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

7 The jurisdictions subject to the special provisions of the Voting Rights Act are listed in the Appendix to 28 U.S.C. Part 51.
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Countries in Arizona, New Mexico and Utah were certified for federal examiners, and federal observers were assigned to document the extent to which the English language was used in areas where many of the voters spoke Native American languages but understood English only marginally. Similarly, federal observers have been assigned to polling places in Spanish language areas of Arizona, Texas, New Jersey and New York City, and Chinese language areas of New York City, and San Francisco and Oakland, California. In all these areas minority language citizens were allowed to register to vote, but the use of the English language instead of the voters’ first language prevented them from understanding the voting instructions and the ballot. Polling place workers either were not able to speak the language of the voters, or if they could, were not trained to translate the documents and procedures into the language of the voters. By the 1990s federal observers were assigned to monitor discrimination against language minority group members in numbers equal to the federal observers assigned to monitor non-language racial discrimination.

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

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

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

* From 1990 through 2000, there were 2,449 federal observers assigned to elections in the states of the Deep South, very few of which involved discrimination against language minority group members; and there were 2,215 federal observers assigned to monitor elections in other areas of the country, most of which involved discrimination against language minority group members. See Appendix B.
in the polls books because the poll workers did not know that the voters’ family name traditionally was the second of three names they used. Some voters were denied the ballot because they identified their street name according to common Spanish usage rather than the formal English name. In Texas and Southern Arizona polling places Hispanic voters were admonished not to use Spanish when talking in the polling places and when giving assistance to voters who needed help when voting. Moreover, the citizenship of Hispanic voters was questioned at the polls, with voters being required to somehow provide on-the-spot evidence of their citizenship before being given a ballot; such evidence was not required of Anglo voters.


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

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

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

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

12 Anglo candidates compiled lists of Hispanic voters’ names for their poll workers to challenge at the polls on the ground that the voters were not citizens. United States citizenship is required by every state as a qualification to register to vote in state and federal elections. But in order to avoid discriminatory treatment of voters at the polls and disrupting the polling places with election-day challenges, persons who, before an election, have evidence that a registered voter is not a U.S. citizen should be required to present that information to the voter registrar, and to desist from interposing challenges at the polls to voters whose qualifications have been upheld by the register.
dictates of the consent decree, the officer asked for credentials. When the observer showed his credentials, the officer found them inadequate because they lacked a picture and detained the observer. The Officer told the observer, “I could arrest you for this.” Upon being alerted to the controversy, I asked investigators from the Passaic County Prosecutors Office and Deputy Chief of the Passaic County Police Department to intercede. When a Sergeant from the Passaic Police department responded at the scene and learned what had happened, he apologized to the federal observer and told him he thought some sensitivity training might be in order for the officer. Notably, this discriminatory behavior took place in a city where the Latino population is at 92%. Intolerance in the city is still existent and hiding under color of official right.


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

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

at p. 4

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

5. According to the 1990 Census, 57.8 percent of the Navajo voting age population and 18.1 percent of the Pueblo voting age population in Cibola County do not speak English well enough to participate effectively in English language elections. Thus, a significant proportion of the Native American population of Cibola County, and a significant majority of Navajos, cannot function in the electoral process except in the Navajo or Keresan languages.
6. The Navajo and Keres populations of Cibola County live in circumstances of significant isolation from the non-Native American population of the county. Cibola County is unusually large in physical terms, and covers a geographic area roughly the size of the State of Connecticut. Over four-fifths of the non-Native American population lives clustered within or near the adjacent incorporated communities of Grants and Milan, close to the county courthouse. The Acoma and Laguna population centers are between 25 and 50 miles away from Grants, the county seat, while the Ramah Chapter House is approximately 50 miles from Grants. The isolation of the Native American population of Cibola County burdens their access to the franchise.

8. Native American citizens living within Cibola County, suffer from a history of discrimination touching their right to register, to vote, and otherwise to participate in the political process. Until 1948, Native American citizens of New Mexico were not permitted to vote in state and local elections. Trujillo v. Garley, C.A. No. 1350 (D.N.M., August 11, 1948). In 1984, the court in Sanchez v. King, C.A. No. 82-0067-M (D.N.M. 1984) held that the New Mexico state legislative redistricting plan discriminated against Native Americans.

9. The level of political participation by Native American citizens of Cibola County is depressed. Voter registration rates in the predominantly Native American precincts have been less than half the rate in non-Native American precincts, and Native Americans are affected disproportionately by voter purge procedures. Although Native Americans comprise over 38 percent of the county population, fewer than eight percent of all absentee ballots have been from the predominantly Native American precincts. There is a need for election information in the Navajo and Keresan languages, and a need for publicity concerning all phases of the election process for voters in Ramah, Acoma and Laguna. The rate of participation by Native Americans on such issues is less than one third of the participation rate among non-Native Americans. There is a need for polling places staffed with trained translators conveniently situated for the Native American population.

at pages 5-7.

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

Native American polling place workers in reservation precincts faced a more difficult task than white poll workers in getting to the training session for poll workers that were held many miles away in county seats where most white people lived. At the training sessions Native American poll workers were given little or no instruction about how to translate ballots and propositions, and many of their attempts to do so on election day resulted in the most rudimentary references. For example, poll workers assisting voters at the polls would refer to the office of secretary of state as someone who works in
the state capitol, and bond levies for education were said simply to be increases in taxes. Many times the Native American poll workers found it so difficult to figure out how to explain items on the ballot they just instructed the voters to skip the offices or propositions. Moreover, Native American voters who had been purged from the voter rolls because they failed to respond to written notices they either did not receive or did not understand, were turned away from the polls with no explanation of why they were not able to vote, and were given no opportunity to re-register there.  

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

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

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

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

12 Voters were confused because they voted in tribal elections without problem, and were not told, for example, that under state law they had been purged from the county voter rolls because they did not vote with some particular frequency and in particular elections, such as every two or four years in general elections. To add to the confusion, in many areas the tribal elections and the state elections were held on different dates but at the same locations. Prior to the National Voter Registration Act, 42 U.S.C. § 1973gg et seq., voter registration in many counties in Indian country was conducted in the county seat far from reservation housing, until, in some instances, litigation required that deputy registrars be made available at reservation sites, and that voter purge procedures be modified to allow fair notice to Native American voters. United States v. State of Arizona, CIV 88-1989 PEN EE (D. Ariz., May 22, 1990), pgs. 6-11; First Amended Consent Decree, Jan. 3, 1994, pgs. 5-10.

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

14 Certification under Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973b(a), is for a particular term as defined by the court. Certification by the U.S. Attorney General under Section 6 of the Voting Rights Act, 42 U.S.C. § 1973c, is for an unlimited term. Jurisdictions certified under Section 6 can seek to have their certification terminated under Section 13 of the Voting Rights Act, 42 U.S.C. § 1973c. Appendix D is a list of the jurisdictions that have been certified for examiners by court order under Section 3(a) of the Act.
the pre-election surveys have remained relatively unchanged for determining where racially discriminatory actions (as contrasted with language-based difficulties) would occur in the polling places of the Deep South. This process is instructive on a broad level because it can be used, with variations, by states throughout the country to determine, prior to election day, where problems will occur on election day in polling places across the state.

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

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

Voting Section attorneys then travel to the counties where the facts from the two rounds of telephone calls indicate that the assignment of federal observers is needed because poll workers will make it difficult for black voters to cast their ballots for the candidates of their choice. The attorneys interview the county election officials, the county sheriff (or chief of police, if a city election is in issue), African American county residents, including people associated with community and civil rights organizations, and candidates. The attorneys relay their information and their recommendations as to whether federal observers should be assigned for the election, and, if so, number and placement of federal observers that will be needed on election day, to a Voting Section
supervisor who coordinates the survey. The polling places that are selected for the assignment of observers are (1) those at which the facts show that African American voters are likely to be victimized on election day, where (2) the county has no effective way to either know what is happening in the polls, or for responding to problems that occur at the polls, or both.

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

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

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

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

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

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

16 If a county for which federal observers is recommended has not been certified yet for federal examiners, a separate recommendation for certification of the county is made to the U.S. Attorney General and a certification form is prepared for the U.S. Attorney General’s signature. Also, because certifications are effective upon publication in the Federal Register, 42 U.S.C. § 1973bb(b), arrangements are made for publication as soon as possible after the U.S. Attorney General signs the certification. Similar arrangements are made by OPM which must publish in the Federal Register a location for any examiner’s office. 42 U.S.C. § 1973bb(a).
The observers are briefed by DOJ attorneys and the observer captain on the day before the election. The observers get to their assigned polling place one-half hour before the poll opens, and usually will remain until the last person leaves the poll. They have pre-printed forms on which to record the activity in the polls. Observers usually also attend the ballot count and record the number of votes received by each candidate.

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

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

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

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

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

21 Initial facts indicating possible violations of the Voting Rights Act most often come to DOJ through complaints by telephone, by mail, or in conversation with DOJ attorneys, poll workers and analysts in the performance of their routine duties.
the DOJ attorneys, is in accord with the dictates of Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f. The observers must not give instructions to poll workers, must not give help to voters, and must not share their observations, judgments or opinions with individuals in the polls. They are eyes and ears. They are paid witnesses.  

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

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

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

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

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

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

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22 It is of utmost importance that observers stick to their role at the polls, because they are able to be in the polling place only by the authority of Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f. States have laws about who can enter the polls. Usually those individuals include poll workers, voters, volunteers, peace officers when called, and candidates’ or political parties’ poll watchers. Others will be inside the polls in violation of law unless specifically authorized to be there by the appropriate local election official. Moreover, under Section 8 of the Voting Rights Act the federal observers are able to be in the polls only to perform the tasks noted above.
continues to be the failure of local election officials to appoint African Americans as polling place workers. The evidence of mistreatment that this discriminatory policy had on African American voters has provided a firm basis for court orders that required the defendants to take specific steps to recruit and hire African Americans to work in the polls. One good example of this result is the consent decree in United States v. Conecuh County, Alabama, supra, which required the defendant political party executive committees (responsible for nominating people to serve as poll workers) to “engage in affirmative recruitment efforts aimed at ensuring that the pool of persons from which nominations are made fully reflects the availability of all qualified persons in Conecuh County who are interested in serving as election officials, without regard to their race or color.” at pp. 3-4.

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

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

1. According to the 1990 Census, the total population in Johnson County is 34 percent black and the total voting age population is 29.2 percent black.

* * * * *

7. Of the one hundred thirty one individuals who were employed by Johnson County to serve as poll officials between 1988 and August 1992, eighteen (14%) were black. There were no black poll workers during this period at seven of the twelve polling places.

8. Only eight (12%) of the sixty-six poll officials employed by Johnson County for the July 21, 1992 primary election were black. There were no black poll workers at eight of the twelve polling places.

9. Of the one hundred and six poll officials employed by Johnson County for the November 3, 1992 general election, only sixteen (15%) were black. There were no black poll workers at six of the twelve polling places.

10. No black person has ever served as a managing poll officer or an assistant managing poll officer at any of the county’s polling places.

At pages 2-3.

Included in the Johnson County consent decree among the steps the defendant county commission and supervisor of election must take to have African Americans fairly represented among the polling place workers are, “sending written notices to local organizations comprised predominantly of black citizens ... to advise them that the county
intends to appoint black persons to serve as poll workers and poll managers;” and “contacting black candidates and members of the political parties...to ascertain the names, addresses and telephone numbers of black citizens who are qualified and available to serve as poll officers.” Id. at 6. In addition, the defendants must publicize in local newspapers, on radio, on television and on posters their policy of conducting elections free of racial discrimination. They also must train the poll workers on how to perform their duties in a racially nondiscriminatory manner, and, with specificity, on how to deal with voters who need assistance.

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

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

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

Even after the Voting Rights Act was amended in 1975 to require that areas designated under a formula must provide information and ballots in languages other than English, inadequate training of polling place workers continued to disadvantage minority language voters. The reports of federal observers gave the attorneys from the Department of Justice the information they needed to prove to county officials that violations of the Voting Rights Act had occurred, and to obtain consent decrees that set out specific steps that the counties would take to effectively provide and translate election information to Native American citizens.
Most of the consent decrees to cure discriminatory actions in Indian country under the language minority provisions of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, were lengthy and set out in detail the procedures that election officials had to follow for voter education, voter registration, translation and balloting.\textsuperscript{23} It is significant that the great majority of the provisions in the consent decrees focused on the counties’ administrative responsibilities, including hiring additional county personnel, to try to give Native American voters equivalent access to information about an election and voting procedures as white people got as a matter of course, since all information was provided in English and in areas near the county seats.

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

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


\textsuperscript{24} A letter of understanding was developed between DOI and San Juan County, New Mexico, which required the county to adopt a manual of procedures to comply with the language minority requirements of the Voting Rights Act. The manual would become final after review and concurrence by DOI. Changes in the procedures would become effective upon the concurrence of DOI. Letters of understanding have not been widely used by DOI in its Voting Rights Act enforcement. The letters have the advantage of getting a fast remedy and avoiding the uncertainties of litigation. The main disadvantage of using a letter of understanding is the inability to seek contempt of court sanctions if the county does not follow the steps in the letter or the county’s manual of procedures. If the actions that the county fails to take are significant, a legal action would need to be filed at that time, prolonging the time for obtaining a remedy.
An alternative approach was taken in a consent decree between DOJ and Bernalillo County, New Mexico, where the court order was accompanied by a manual of procedures to comply with the language minority requirements of the Voting Rights Act. United States v. Bernalillo County, New Mexico, CV-98-156 BB/LCS (D N M. Apr 27, 1998). The consent decree required that the county hire a native language coordinator who is bilingual in Navajo and English, and specifically noted that: "The primary responsibility of the [native language coordinator], a full-time employee of Bernalillo County, shall be to carry out the county’s Navajo language election procedures, publicity and assistance, including assisting the county to carry out the procedures in the manual ..." at p. 4. The consent decree also required the county to establish a travel, supply, and telephone call budget for the native language coordinator, and subjected the county to the preclearance provision in Section 3(c) of the Voting Rights Act, 42 U.S.C. § 1973a(c), which allows the county to make changes in the manual and for DOJ to review those changes to determine that they are nondiscriminatory before they can be implemented. This approach has the benefit of allowing the county to tailor its administrative procedures to its particular personnel and office situation, and of allowing practical changes to be made in the administrative procedures when necessary without having to request the three-judge court for an amendment to the court order.

Conclusion.

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

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

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

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

<table>
<thead>
<tr>
<th>State</th>
<th>Total People Listed</th>
<th>Non-white People Listed</th>
<th>White People Listed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>66,539</td>
<td>61,239</td>
<td>5,300</td>
</tr>
<tr>
<td>Georgia</td>
<td>3,557</td>
<td>3,541</td>
<td>16</td>
</tr>
<tr>
<td>Louisiana</td>
<td>26,978</td>
<td>25,136</td>
<td>1,842</td>
</tr>
<tr>
<td>Mississippi</td>
<td>70,448</td>
<td>67,685</td>
<td>2,763</td>
</tr>
<tr>
<td>South Carolina</td>
<td>4,654</td>
<td>4,638</td>
<td>16</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>172,176</td>
<td>162,239</td>
<td>9,937</td>
</tr>
</tbody>
</table>

26 People were listed in Autauga, Dallas, Elmore, Greene, Hale, Jefferson, Lowndes, Marengo, Montgomery, Perry, Sumter and Wilcox Counties.
27 People were listed in Butts, Lee, Screven and Terrell Counties.
28 People were listed in Bossier, Caddo, DeSoto, East Carroll, East Feliciana, Madison, Orleans.
30 People were listed in Claiborne and Dorchester Counties.
### APPENDIX B

**ASSIGNMENT OF FEDERAL OBSERVERS**  
**UNDER SECTION 8 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973f**  
**BY YEAR AND STATE, 1956 - 2000**

<table>
<thead>
<tr>
<th>Year</th>
<th>AL</th>
<th>GA</th>
<th>LA</th>
<th>MS</th>
<th>NC</th>
<th>SC</th>
<th>AZ</th>
<th>CA</th>
<th>IL</th>
<th>MI</th>
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<th>NV</th>
<th>NY</th>
<th>TX</th>
<th>UT</th>
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This information is extracted from the summary of federal observer activity by calendar year, United States, Department of Justice, Civil Rights Division, Voting Section. Southern states are listed first in this chart because federal observers were assigned only to Southern states for the first years shown.
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APPENDIX C

EXCERPTS FROM PLAINTIFF’S RESPONSE TO INERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS, United States v. Conecuh County,

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

P. 7.

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


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

Pp. 16-17.

Black voters at box 9-1 (Old Town) were told throughout the day of the October
12, 1982 special run-off election, that no more than two voters were allowed in
the polling place at one time. This restriction was imposed on 30-35 occasions. In no instance were white voters required to conform to this procedure, and the poll officials allowed a many as five white voters in the polling place at a time.

P. 21.

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

P. 24

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

P. 35

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

Pp. 36-37.

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

*   *   *   *   *

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

*   *   *   *   *

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

P. 40
APPENDIX D

JURISDICTIONS CERTIFIED FOR FEDERAL EXAMINERS UNDER SECTION 3(A) OF THE VOTING RIGHTS ACT AS OF 2000[^2]

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<td>San Juan County</td>
<td>December 31, 1998 order, effective until December 31, 2002 (originally certified by January 11, 1984 order)</td>
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[^2]: Information obtained from Jurisdictions Currently Eligible for Federal Observers as a Result of Orders Under Section 3(A) of the Voting Rights Act, United States Department of Justice, Civil Rights Division, Voting Section, October 22, 2001.
Mr. CHABOT. Okay. Thank you. The gentleman’s time has expired.

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

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

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

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

Ms. Randa?

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

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

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

Mr. CHABOT. Thank you. Mr. Weinberg?

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

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

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

As far as the certification, and you know I think observers are important. As far as how to get them into a county the first time, I do think a certification procedure is important. I think it assures
everyone that there is a need for this law enforcement function to go on.
But as it stands now, the Attorney General has to personally sign the certifications. I think that's unnecessary. I think that function could be delegated to the Assistant Attorney General, much the same way as the Assistant Attorney General has authority delegated to object to voting changes under section 5 of the act, and I think that it could go on as a provision on its own.
I think it should.
Mr. CHABOT. Thank you. And my second question, Mr. Weinberg and Ms. Randa, if you want to comment on it, you could as well. How does the Department of Justice determine whether Federal observers are necessary?
Mr. WEINBERG. There's sort of two tracks on that. And, you know, I must qualify everything I say by saying I haven't been at the Justice Department for almost 6 years. I don't know what's changed and what's not. I doubt that it has changed very much.
One track is where there's an investigation before the election that starts 6 weeks before an election, and is described in some detail in my extended remarks. It's an investigation. It starts out with telephone calls to local officials, to minorities who are knowledgeable in the area about election matters and devolves down to field investigation by attorneys who relay information up to a central person in the Voting Section of the Civil Rights Division, who then combines the information; is talking with OPM; puts together a memorandum setting out the facts for each site, and recommending how many observers are needed.
So it's a very intensive, a very detailed law enforcement investigation. That's how it usually works in Southern areas. Where the concern is with language minority provisions of the Voting Rights Act, it's a little bit different. There still is an investigation, but because the problems involved with violations of the Language Minority provisions of the Voting Rights Act usually are systemic and do not depend on any particular election contest in a city, county, or school district——
Mr. CHABOT. Do you do that before each election?
Mr. WEINBERG. Yes.
Mr. CHABOT. Okay. Thank you.
Mr. WEINBERG. In the specially covered areas.
Mr. CHABOT. Okay.
Mr. WEINBERG. Yes.
Mr. CHABOT. Thank you. You can continue.
Mr. WEINBERG. Because of the language violations of the Language Minority provisions usually are more systemic, an initial investigation is what's needed. Usually, these days, there's litigation that results and a court certifies the county. So you have everything you would have leading up to litigation, which is a lot of work and a very intensive effort.
After that, the first election, however, the observers could be assigned again and again without repeated investigations. It's the information really one gets out of the polling places for the language minority coverage that would recommend going or not going again to the next election.
Mr. CHABOT. Okay. Thank you very much. My time has expired, but, Ms. Randa, is there anything that you want to—

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

Mr. CHABOT. Okay. Thank you very much. My time has expired. The Ranking Member of the overall Committee, Mr. Conyers, is recognized for 5 minutes.

Mr. CONYERS. Thank you, Chairman Chabot.

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

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

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

Can you help put some of these things into context?

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

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

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

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

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

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

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

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

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

Given that a lot of them are non-Native American, and then poses a threat. We did have an incident in 2000 that prompted
quite a chaotic sense in about 17 of our precincts, and, for that rea-
son, we began a political protocol that is mandatory for our observ-
ers.

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

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

Mr. CHABOT. Ms. Randa?

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

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

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

The gentleman from Virginia, Mr. Scott, is recognized for 5 min-
utes.

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

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

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

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

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

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

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

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

Mr. WEINBERG. Yes.

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

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

Mr. SCOTT OF VIRGINIA. Now, how long does that certification
stay active?
Mr. W. EINBERG. Now, it stays active forever. A jurisdiction can petition under section 13 of the Voting Rights Act to stop the Federal examiner appointment. I don’t think anybody ever has.

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

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

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

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

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

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

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

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

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

Would the gentleman from Virginia yield to me?

Mr. SCOTT of VIRGINIA. Yes.

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

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

The certification procedure now is just about that. It’s—not a detailed certification.

Mr. CHABOT. Okay.

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

Mr. SCOTT of VIRGINIA. Well, Mr. Chairman.

Mr. CHABOT. I yield back.

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

Mr. W. EINBERG. They certify—now the certification is it’s necessary to enforce the 14th and 15th amendments.

Mr. CHABOT. If the gentleman would yield? Isn’t it also or 20 written complaints?
Mr. W EINBERG. Yes. There’s an alternative that if you get 20 written complaints. That, however, triggers the Attorney General’s consideration. And so it all devolves pretty much to the same point, which is we in the Justice Department had to figure out that there were violations of the law that were probable and usually were happening and persuade the Attorney General of that.

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

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

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

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

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

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

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

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

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

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

Mr. WEINBERG. Sure. I’d be happy to.

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

The link I was talking about is it was a specific link to newly federally registered voters, as it existed between 1965 and 1972 in the South. As the Voting Rights Act was constructed, the observers were to watch specifically to see if those particular voters were being hostilely treated in the polls. And the complaint structure of the Federal examiners was as to complaints as to the mistreatment of those newly enfranchised voters.
The passage of time has taken care of many of those situations. Certainly, some of those same areas are areas where Federal observers still would be assigned.

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

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

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

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

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

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

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

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

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

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

Mr. WATT. Thank you, Mr. Chairman.

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

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

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

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

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

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

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

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

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

Mr. WEINBERG. Yes. The law now talks about circumstances that appear to be reasonably attributed to violations of the 14th and 15th amendments.
All along, before a certification can be made and even now, before Federal observers are assigned, the Justice Department makes a determination that racial and language minority group members are facing circumstances in the polling place that would violate the Voting Rights Act. We get that information by conducting investigations, conducting interviews in the normal way one would investigate a possible violation of a Federal law.

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

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

Mr. WEINBERG. Right.

Mr. CHABOT. The gentleman’s——

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

Mr. CHABOT. Without objection, so ordered.

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

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

What’s done with those reports now?

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

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

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

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

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

The Chair, in light of the fact that this is the ninth hearing in this—one of our principal goals here is to establish a record
in light of the fact that this may well be before the Supreme Court some day.

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

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

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

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

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

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

The gentleman from Michigan is recognized for two additional minutes.

Mr. Conyers. Thank you, Mr. Chairman.

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

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

Mr. Conyers. Who would do it?

Mr. Weinberg. The Justice Department could do it.

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

Mr. Weinberg. No. No.

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

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

Mr. Conyers. Okay. Thank you, Mr. Chairman.

Mr. Chabot. Thank you very much, Mr. Conyers. That concludes this hearing, and I want to thank the witnesses again for their testimony. It has been very, very helpful.

If there's no further business to come before this Committee, we're adjourned. Thank you.
[Whereupon, at 2:03 p.m., the Subcommittee was adjourned.]
APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

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

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

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

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

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

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

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

\2/ Alabama (22 counties), Arizona (3), Georgia (29), Louisiana (12), Mississippi (50), New York (3), North Carolina (1), South Carolina (11) and Texas (17).
\3/ California (6), Illinois (1), Louisiana (1), Massachusetts (1), Michigan (1), New Jersey (1), New Mexico (2), New York (3), Pennsylvania (1), South Dakota (1), Texas (1), and Washington (1).
Department coordinated and sent 1,463 federal observers and 533 Department personnel to monitor 163 elections in 105 jurisdictions in 29 states.

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

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

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

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

Apache County

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

You may also access this information by logging on to our Website at www.co.apache.az.us
Any person violating any provision of this notice is guilty of a class 2 misdemeanor.

Protocol Guidelines:

Political Observer Protocol:
A.R.S. § 16-599

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

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

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

Political Appointment

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

Questions or Concerns

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

The Troubleshooter

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

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

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

Contact Us Direct

If for some reason, you are unable to contact that person, please call the Elections Department directly at (520)336-4402 or (928)337-7537 and ask for Margaret A. Coalert, Recorder or Penny L. Pew, Elections Director. We would ask that you not contact the Precinct Inspector.

Polling Place Etiquette

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

Please Don’t Touch the Ballots

While you are allowed by law to observe many processes or areas where ballots are being handled, you are not allowed to touch any ballot(s) or voting equipment.
Coming to a school
¡Pronto en una escuela!

Kids Voting! ¡Kids Voting!

- On Tuesday, Nov. 2, kids will vote for the first time in the United States!
- 400,000 kids will vote in 18 states!
- Kids will vote for the first time in a presidential election!
- Kids will vote for the first time in a U.S. Senate election!
- Kids will vote for the first time in a U.S. House election!
- Kids will vote for the first time in a state election!
- Kids will vote for the first time in a local election!

Memorable... "One Vote Counts!"
Recuerda...
¿Un voto Conta?"
APACHE COUNTY GENERAL ELECTION
TRAINING MANUAL

PENNY L. PEW
ELECTIONS DIRECTOR

MATTHEW NOBLE
OUTREACH COORDINATOR

VIRGIL ATTSON
OUTREACH TECHNICIAN

CERTIFICATE OF QUALIFICATION

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

[Signature]

(Pen Held Worker's Photo)

[Signature]

Maria L. Penix, Elections Director
MONDAY SET-UP MEETING

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

- Survey the area to make certain all duties are in working order.
- Double check with the facility PGMOR to make certain the phone line is accessible on Election Day for the transmitting of the results.
- Delve into the importance of staying at the polling place from 9:00 a.m. until the polling place paperwork is completed and results are transmitted.

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

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

MONDAY SET-UP MEETING - ENDING PROCEDURE

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

- Using the key located in the side pocket of the Accu-Vote unit, which all compartments on the Black Ballot Box to make sure they are empty. (Key with black keyguard)
- Using the small silver key, unlock the supply box and use the Inspector Checklist to make sure all supplies are there. If any supplies are missing, please call the Elections Director for assistance at the beginning meeting. Lock the supply box back up.
- Count all ballots. If any are marked, they DO NOT have to be re-opened, they are in packages of 50.

DO NOT CALL THE HOTLINE IF SUPPLIES Q'NTIES DO NOT MATCH
THE INSPECTOR CHECKLIST, THE CORRECT QUANTITIES, AND
USE THOSE FIGURES TO CLOSE OUT AFTER THE ELECTION

SETTING UP THE ACCU-VOTE

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

INSPECTIONS

CHECK YOUR BALLOTS

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

MAKE SURE YOU HAVE THE CORRECT BALLOTS, AND THAT YOU GET A GOOD COUNT OF THE BALLOTS THAT YOU BREATHE. YOU MAY HAVE MORE THAN ONE BALLOT REQUESTED TO ISSUE THE VOTER. MAKE SURE IT IS THE CORRECT BALLOT.
SET-UP BOOTHS

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

INSTRUCTION OF VOTING BOOTHS

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

EARLY (ABSENTEE) VOTERS

- Using the list of Early Voters, make an X in the box next to the voter's name on the Signature Register for each voter whose name appears on the list. Use a RED PEN. Leave the box for the other candidate.
- If the Early Voter's name does not appear alphabetically in the Signature Register in the list of active voters on the list of inactive voters, check the ADD-On list in the back of the manual.

POSTING SIGNS

- Post the WRITE-IN CANDIDATES SIGN found in the election supplies in PLAIN VIEW in the polling place. ONLY IF THERE ARE QUALIFIED WRITE-IN CANDIDATES.
- Post the list of authorized write-in candidates on the WRITE-IN CANDIDATES SIGN (if applicable).
- Post in PLAIN VIEW in the room where the ballots are cast:
  - 1 SAMPLE BALLOT (ON EACH BALLOT STICKER)
  - The sample ballots are in the Supply Box.
- 1 INSTRUCTIONS TO VOTING AND ELECTIONS OFFICERS SIGN (RIGHT TO VOTE A PROFESSIONAL BALLOT COMBO SEALS)
  - Post the NO SMOKING sign.
- Post the INSTRUCTIONS ON MARKING THE BALLOTS in each voting booth - ENGLISH and SPANISH (and the ballot seals, if applicable).
ELECTION DAY

The law requires members of the election board to be present at the polling place by 9:00 a.m. on Election Day.  A.R.S. § 38-886.01

BEFORE THE POLLS OPEN

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

2. Write the name of the precinct on the front of both poll lists.

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

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

$ once the board has been sworn in

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

FINAL COMPLETION OF THE POLLING PLACE SET-UP

1. Plug in the Acu-Vote. A new type 0 print. ALL RECOGTS ON THE VICE MUST BE ZERO. DO NOT TEAR OFF THE TOP! A new receipt must be attached to the Acu-Vote. The receipt must be a receipt serial.

2. While the type is jamming, check the arrangement of the polling place to ensure the voting booths and Acu-Vote are in place.

3. The poll does not put the three 75 foot limit signs in three different directions 75 feet from the Acu-Vote entrance to the polling place. ELIGIBLE SIGN MUST BE PLACED APPROPRIATELY TO ENFORCE EASY IDENTIFICATION OF VOTES

4. No person shall be allowed to remain inside the 75 foot limit within the polling place except for the purpose of voting and except for the election board and any officially appointed representatives. A.R.S. § 38-886.01

5. It is unlawful for any person to take a picture or record of any election in any public manner within 75 feet of the Acu-Vote entrance to the polling place. Obstructing any action or publication described for an agent or candidate or proposition is a violation. A.R.S. § 38-886.01

6. Petition circulators, campaign workers, candidates, the news media and any other person who is not voting may remain outside the 75 foot limit while the polls are open.

7. Place all handicapped parking signs near curb cuts so that the voters with disabilities have easy access to the curb cuts.
CLEARLY MARK THE PATH FROM THE HANDICAPPED PARKING TO THE POLLING PLACE.

USING THESE DIRECTIONS, PLACE A BRIEFCASE LISTED WITH DIRECTIONS ON THE DOORMAN TO HELP VISITORS FIND THEIR WAY INTO THE POLLING PLACE THROUGH THE ENTRANCE OR SEGMENTED ROOFS.

8. Open the package of each ballot style to begin the election. Set up the table with the signature blanks, poll lists and pens.

<table>
<thead>
<tr>
<th>TABLE #1</th>
</tr>
</thead>
<tbody>
<tr>
<td>BALLOTS</td>
</tr>
<tr>
<td>JUDGE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TABLE #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>POLLING STATION</td>
</tr>
<tr>
<td>JUDGE</td>
</tr>
</tbody>
</table>

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

10. Place all Provisional Envelope/Ballots and Early Ballots that are dropped off at the polling place during the day in the side slot of the black ballot box.

11. The Marshal announces the opening of the polls at 6:00 a.m. SHARP!
THE PUBLIC, MEDIA OR POLL WORKERS CANNOT BRING CAMERAS, VIDEO OR OTHER DEVICES INTO THE 10 FOOT LIMIT WHILE THE POLLS ARE OPEN AND VOTERS ARE IN THE POLLING PLACE (Pursuant to A.R.S.44-513)

***CHALLENGING A VOTER PROCEDURE***

Please call Hotline for assistance, immediately upon challenge.

The procedures for challenging voters are found in the Inspector's Ring on the back side of the Challenge List Form. Do not make any oral or written challenge in public. See A.R.S. 816.091 for rules determining the existence of a voter upon challenge.

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

A majority of the voting members of the election board determines the validity of a challenge. The 2 Judges, together with the Inspector, make up the voting members of the election board. The vote is posted on the front side of the Challenge List Form. All other actions are necessary. If a challenge is made, it is suggested the Inspector have the person challenged step aside and permit the other voter in line to continue to vote.

REMEMBER: CITIZENSHIP CANNOT BE CHALLENGED AT THE POLLS.

QUALIFIED ELECTORS DEFINED

Person who may vote are:

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

A list of INACTIVE ELECTORS for each precinct has been compiled and placed in the back of the Signature Register and the first page of the scroll book. The list of INACTIVE ELECTORS can be identified by the superscript letter "A" at the top of the page.

If it is determined that the elector has moved from the address that is listed on the Signature Register or is a Statement, he or she shall not be registered to vote. All registration is a prerequisite to voting. The poll worker will then mark the appropriate voting area for the elector's new precinct and direct the elector to the new polling place.

2. Those electors who surrender a County Registration and have moved from the address or the location of their names on the Signature Register. The elector's name is recorded in the Signature Register and they vote by the standard voting procedures. The names of those voters will be in the additional section after the last name listed in the active portion of the Signature Register.

3. Those electors who qualify to vote Provisionally. If an elector's name is NOT found in the Signature Register, either as Active or Inactive section, check the Address on the back of the Signature Register and then trust to cast a Provisional vote. **Check the address listing to see if they are in the same precinct as the actual precinct.**
4. Voters whose names were reported to the Inspector on the Early Ballot List, but who were not on the election board that they did not vote, will not vote or were unable to vote on their Early Ballot. Such voters will be allowed to vote by Provisional Ballot Procedure.

VOTING PROCEDURES

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

STANDARD VOTING PROCEDURE

Every election ballot sits on the Signature Roster or on a County Recorder’s Certificate on the ballot will be the following procedures:

1. The voter reports to the Election Official assigned to the Signature Roster and announces their full name and address. Be sure to check address as well, if the voter lives at a different address they will need to report to the Provisional Ballot (SPV)

2. The voter is listed on the INACTIVE LIST, that voter must re-register.

3. The voter is listed on the INACTIVE LIST, that voter must re-register.
SPOILED BALLOTS

1. If a voter makes a mistake on the ballot, it may be exchanged for another. No more than 3 ballots may be issued to one voter. There is a limit of 3 ballots per voter. The inspector or judge of the election must sign the ballot. If the voter wishes to exchange the ballot, the inspector or judge of the election must be present.

2. The word "SPOILED" must be signed in both places on the ballot. If the voter wishes to exchange the ballot, the inspector or judge of the election must be present. The voter must be present at the time of the exchange.

3. The spoiled ballot must be placed in the Official Envelope immediately. The voter must be present at the time of the exchange.

4. The exchange of ballots is subject to the discretion of the inspector or judge of the election. If the voter wishes to exchange the ballot, the inspector or judge of the election must be present. The voter must be present at the time of the exchange.

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

This voter may only vote once in the election.
UNVOTED BLANK BALLOT

If a voter has reserved an "unvoted" blank ballot into the AccuVote, the AccuVote will return the ballot. The message, "UNVOTED BLANK BALLOT" will print on the tape. The voter can do the following:

1. If the ballot was simply re-marked the voter can vote that ballot. The ballot can be given to the voter with instructions to return the voting booth to vote the ballot. During this time, other voters continue to insert their ballots into the AccuVote.

2. At the request of the voter, if the voter intentionally voted a blank ballot, the election official can press the "YES" button in the AccuVote to accept the ballot.

3. A voter cannot use this button, once out of the booth.

4. If the voter marks the BALLOT OUTSIDE THE OVAL, THE BALLOT MUST BE RE-MARKED CORRECTLY, STAYING WITHIN THE OVAL, AS SHOWN ON THE INSTRUCTIONS ON THE VOTING Booth.

MISREPRESENTED BALLOTS

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

1. A damaged ballot.
2. Reproduced ballot.
3. Voter marked ballot in the heading.
4. Incorrect ballot—ballot from another precinct.
5. Voter tears ballot from wrong AccuVote in a co-located polling place.

A misread ballot should be opened and a replacement ballot issued.

If the voter will receive a replacement ballot, the voter should drop the ballot in the box of the Black Ballot Box.

DO NOT USE THE "YES" TO OVERMARK. The AccuVote will not accept a misread ballot.

BE SURE TO INSTRUCT THE VOTER THAT THE UNMARKED BALLOT WILL BE TABBED AT ELECTION (FINAL LATER THAT NIGHT).

PROVISIONAL BALLOT (BALLOT TO BE VERIFIED) PROCEDURE

There are 4 different situations for issuing a Provisional Ballot (common ballot that is verified):

a. The voter’s name does not appear on the Signature Roster.

b. The voter has voted outside the precinct (Precinct Outside Ballot).

c. The voter has voted at least twice in the previous 2 years. (Voter Outside Ballot)

d. The voter has voted in a primary on a regular ballot and has not voted in the regular primary.

The Paperless Voting System will be able to record the voter as a Provisional Voter. The voter will be able to vote a Provisional Ballot in that jurisdiction's election.

1) VOTER’S NAME DOES NOT APPEAR IN SIGNATURE ROSTER

a. If the voter’s name is not on the regular (active) list of voters, the inactive list of voters or the AccuVote list, the voter should provide the Voter’s Receipt only from their registration form at either 111-60 or 111-70. (Call)

b. The election official shall fill in the voter’s address on the provisional ballot. Make sure the voter lives within the boundaries of the precinct.

c. The election official shall complete the Provisional Ballot form. Two signatures of the voter must sign the form.

d. If the voter has a voter ID card or voter’s receipt, slip it in the envelope of the provisional ballot. DO NOT ATTACH TO ENVELOPE.

e. Give the envelope to the voter and ask the voter to return it to the Signature storage.
1. On the PROFESSIONAL BALLOTS page at the back of the Signature Ballot, the
   election official enters the voter's name and other identifying data as those in
   the Signature Ballot. These data are assigned regional numbers beginning with
   A, B, C, etc.最后 is added to the Signature Ballot; OR if the
   voter's name is NOT on the Signature Ballot.
2. The voter signs the signature block next to their name. The election official
   puts the ballot in the Voter's Signature Block.
3. The Clerk fills out the Poll List. USE ONLY A BLACK PEN.
4. The Judge looks up the voter in the Primary Register and selects the proper
   ballot.
5. The Judge puts the ballot in a Secretary Folder and gives it to the voter.
6. The voter signs the voting booth and plants the ballot with the special black
   ballot marking pen. DO NOT USE FELT-PEN.
7. After voting the voter puts the ballot in the Provisional Envelope and seals
   and fills the envelope.

THE VOTER SHALL INSERT THE PROFESSIONAL BALLOT INTO THE SEAT NEXT TO
THE BLACK BALLOT BOX, DO NOT PUT INTO ANY VOTE.

2) VOTER HAS MOVED WITHIN THEIR VOTING PRECINCT
a. If the voter's name is on the Signature Ballot, but the voter has moved,
   b. Verify the location of the new residence address on the precinct map
   c. The election official shall find the voter's address on the precinct map. Make
      sure the voter lives within the boundaries of this voting precinct.
   d. The election official shall complete the Provisional Form. Two election officials
      and the voter must sign the form.
   e. Attach the form to the mailing envelope provided. Give the envelope to the voter
      and ask the voter to return to the Signature Ballot.
   f. The voter signs the signature block next to the voter's name. The election official
      marks the Poll List (ask the Voter Register Number); DO NOT ADD THE
      VOTER'S NAME TO THE REGISTER. IT IS ALREADY THERE!
   g. The Clerk fills out the Poll List using a black ball-point pen.
   h. The Judge looks up the voter in the Primary Register and selects the proper
   i. The Judge puts the ballot in a Secretary Folder and gives it to the voter.
   j. The voter signs the voting booth and plants the ballot with the special black
   ballot marking pen.

3) THE VOTER HAS MOVED TO A NEW VOTING PRECINCT
a. If the voter's name is on the Signature Ballot, but the voter has moved to a
   different address located in another voting precinct, direct the voter to the
   precinct map.
   b. The election official, in cooperation with the voter, will locate the voter's new
      residence address on the Precinct Map.
   c. The election official shall look up the address of the polling place on the Alpha
      Key and direct the voter to go to the new polling place to vote a Provisional
      Ballot.

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

4) THE VOTER REQUESTS AN ALTERNATE BALLOT
a. These voters will be provided the Signature Ballot with a RED "X" in the box next to
   their name.
   b. The election official shall complete the Provisional Ballot Form. Two election
      officials and the voter must sign the form.
   c. Attach the form to the mailing envelope provided. Give the envelope to the voter
      and ask the voter to return to the Signature Ballot.
   d. The voter signs the signature block next to the voter's name. The election official
      marks the Poll List (ask the Voter Register Number); DO NOT ADD THE
      VOTER'S NAME TO THE REGISTER. IT IS ALREADY THERE!
   e. The Clerk fills out the Poll List using a black ball-point pen.
   f. The Judge looks up the voter in the Primary Register and selects the proper
   g. The Judge puts the ballot in a Secretary Folder and gives it to the voter.
   h. The voter signs the voting booth and plants the ballot with the special black
   ballot marking pen.
COMMON COURTESY AND GUIDELINES FOR VOTERS WITH SPECIAL NEEDS

- Be considerate of the extra time it might take for a person who is disabled or elderly to get things done.
- Speak directly to the person who has a disability rather than to a companion who may come along.
- Speak slowly, clearly, and directly to a person with a hearing problem, point out what you want, and repeat if necessary.
- Before putting someone in a wheelchair, ask if they may do so and how you should proceed.
- Grant a person who is visually impaired by bringing the person to where you are.
- Be aware that signs which assist people with disabilities should be adapted into the polling place. These signs are highly important and need special care.
- Remember that all voters deserve courteous attention in exercising their rights as citizens to vote.

USE FLAT SURFACE TO ENSURE THE WAY TO THE DISABILITY VOTING ENTRANCE INTO THE POLLING PLACE

ASSISTANCE TO VOTERS

- Any voter may, at their option, be accompanied and assisted by a person of their choice or shall be assisted by 2 election officials (§ 197.7). If the election official assist the voter, they shall distinctly state to the voter the names of all candidates for each office or the written description of the ballot measures and shall ask the voter how they wish to vote on each measure.
- The election official shall then mark the ballot indicating the voter's choice.

- Notify the election officials who assist you with your vote are allowed to influence your vote by recommending or suggesting any candidate or political party for any office.

VOTERS WITH DISABILITIES (CURBSIDE VOTING)

The Americans with Disabilities Act of 1990 established guidelines for the accessibility of facilities to the disabled community. Where accessibility for voters with disabilities is not available, the Secretary of State shall establish a curbside voting procedure

For purposes determined to be less accessible, it is necessary to provide assistance to voters to vote. The principal assistance that is necessary is to ensure that the voter's registration is recorded in the voter's file, so that the voter's name is included in the list of voters. The section is not intended to establish a curbside voting procedure for the voter's name to be revised in the list of voters. This is a curbside voting available in the polling place.

1. The disabled voter should obtain an accommodation by notifying the election official of the need for assistance. The election official shall provide the accommodation requested by the voter. The election official shall provide the accommodation requested by the voter.

2. The election official shall provide the voter with an official ballot. The ballot shall be marked and the voter's name shall be included in the list of voters.

3. The election official shall provide the voter with the election information found in the Voter's Guide or the ballot. The election information shall be provided to the voter in the language of the voter's choice.

4. The election official shall provide the voter with the election information found in the Voter's Guide or the ballot. The election information shall be provided to the voter in the language of the voter's choice.
Closing the Rolls

The closing of the polls may be announced by the Reliable at 1 hour, 10 minutes, or 1 minute before, and at the moment of closing, which is 7:00 p.m. All ballot voters on the list at 7:00 p.m. will be allowed to vote.

After the last person has voted, anyone can observe the closing of the poll. Pictures can be taken as long as there are no noise-ups. The public cannot observe with the closing process.

After this process has started:

- Open the door in the top of the AccuVote with the gold key. While percenting the "YES" and "NO" ballots, leave the yellow order card. This official and the election and a noise-up tape will print.
- Print 2 copies of the noise-up tape, the Inspector and the Judge sign the bottom of the tape.
- While the noise-up tape is printing, remove the ballots from the AccuVote box.

Using the Ballot Box, begin to sort the various ballots and complete the Ballot Report (found in the back).

All of the voted ballots, including the Provisional and Early ballots are placed in the Black Ballot Box and returned with the Blue Seal (Do not seal until all items on the Ballot Box Checklist are inside the bag).

Only the items listed on the official and unofficial envelope checklist should go inside the bag.

- Put the official seal on the official envelope only.
- Put all opened ballots in a box. They are seen in a separate box, if not they go into the Blue Seal Box.
- All other supplies should be returned to the Blue Seal Box and sealed.
- Unlock the front door of the Black Ballot Box holding the AccuVote machine.
- Plug in the phone card to the back of the AccuVote in preparation for the retransmission of the results.

- Turn off the lights. Turn off the air and heating and lock the door before you leave the polling place.

Take the phone to the designated transportation location. Plug it in.

The message on the digital reader will ask if you want to transmit results. Press "YES". It will sound like an Internet connection.

It should not connect.

When the results are sent, you may turn off the AccuVote.

The AccuVote and Black Ballot Box will be transferred to the St. Jude District Office by the Troubleshooter.

All other equipment will be picked up by another truck.

Place the equipment with all items in the back of the Black Box. Vote the bag. Do not put them in the unofficial or official envelope.

- Make sure that everyone has signed the Ballot Box report.
- Leave the polling place in better condition than you found it. Remove all trash and labels.
- Turn off the lights. Turn off the air and heating and lock the door before you leave the polling place.

Time to go home!
NAVAJO LANGUAGE
ELECTION TERMINOLOGY

Copyright December 2003
Revised and Amended
until further notice.

By: Apache County,
Arizona
STATE SENATOR
Nitzaa Hahoodzo Arefii Hooghanji Naaft’amii

STATE REPRESENTATIVE
Nitzaa Hahoodzo Ayeei Hooghanji Naaft’amii

SECRETARY OF STATE
Nitzaa Hahoodzo Naaft’amii Nita’nii Nitzaa’i

STATE TREASURER
Nitzaa Hahoodzo Naaft’amii Ñe’d’e’ Ñea’ Yaa’i

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION (AZ)
Nitzaa Hahoodzo Da’i’ Binatu’i

STATE BOARD OF EDUCATION (NM)
Nitzaa Hahoodzo Da’i’ Binatu’i A Dah Nita’nii

STATE MINE INSPECTOR
Nitzaa Hahoodzo Nitsa’i Yik’ Dëez’ Ti’ii

C. COUNTY OFFICIALS
Athes’i Nitzaa Hahoodzo Naaft’amii Danillini’i

COUNTY OFFICES
Athes’i Nitzaa Hahoodzo Da’nifies’ Biit Naha’i

CONSTABLE
Siloa’i

COUNTY ASSESSOR
Athes’i Nitzaa Hahoodzo Ñe’d’e’ Neikaa’i

COUNTY ATTORNEY
Athes’i Nitzaa Hahoodzo Agha’dilu’i Nitsa’a’i

COUNTY BOARD OF SUPERVISORS (AZ)
COUNTY COMMISSIONER (NM, UT)
Athes’i Nitzaa Hahoodzo Naaft’amii A Dah Nita’nii
COUNTY CLERK OF THE SUPERIOR COURT
Áłtsʼísí Hahoodzojí Adeełí Aahwíinííjí Naaltsoos Aźóé’ Yisílilíigíí

COUNTY JUSTICE OF THE PEACE (AZ)
MAGISTRATE COURT JUDGE (NM)
Áłtsʼísí Hahoodzojí Ayeelí Aahwíinííjí Níhwii’ahíi

COUNTY RECORDER (AZ)
COUNTY CLERK (NM)
Áłtsʼísí Hahoodzojí Naalíízíi Níalthsoos Da’ílníí Yisílilíigíí

COUNTY SCHOOL SUPERINTENDENT
Áłtsʼísí Hahoodzojí Daʼílzzí Binaatʼá’í

COUNTY SHERIFF
Áłtsʼísí Hahoodzojí Siłáako Binaatʼá’í

COUNTY SUPERIOR COURT JUDGE
Áłtsísí Hahoodzojí Adeełí Aahwíinííjí Níhwii’ahíi

COUNTY TREASURER
Áłtsʼísí Hahoodzojí Naalíízíi Índótałíí Béesó Yisílilíigíí

DISTRICT JUDGE (NM)
Áłtsísí Hahoodzojí Aahwíinííjí Bil Hahoodzojí Níhwii’ahíi

FIRE DISTRICT BOARD MEMBERS
Ko’ Yinnitsíí Bil Hahhoodzojí Á Dzhí Níhlataabíígíí

PRECINCT COMMITTEEMEN
Pńíiíí Shíldíígíí Nítsásógo Nahatsíí A’llá Eéez Dabéé’ Yá Náazhlííí

SCHOOL GOVERNING BOARD
Ošíí Binaat’á’í Á Dabéé’ Yá Náazhlííí

D. NAVAJO NATION GOVERNMENT
Dínte Bil Wíłááhdooón
NAVajo Nation offiCials
Diné Bínánte’áí Dañilínigíí

NAVajo Nation oFFiCes
Diné Bídá’íhíshjí

NAVajo Nation PresiDent
Diné Bínánte’áí Alqájjí Dáshidáhígíí

NAVajo Nation Vice President
Diné Bínánte’áí Áké’égó’ó Dáshidáhígíí

NAVajo Nation Speaker of the Council
Béésh Bą́ghé Dáshíł’ah Yá’ Dáhmáñsháhígíí

NAVajo Nation Council
Béésh Bą́ghé Dáhsúaa’níí

NAVajo Nation Council Delegate
Béésh Bą́ghé Dáhsúaa’níí

chaPter officials
Táá’nieezníí

chaPter OffiCes
Táá’nieezníí Bil Oo’óshíshjí

chaPter President
Táá’nieezníí Alqájjí Dáshidáhígíí

chaPter Vice President
Táá’nieezníí Aké’égó’ó Dáshidáhígíí

chaPter Secretary
Táá’nieezníí Bil Naadíssoos Ilíhíí

chaPter Grazing Member
1. Díbé Bínánte’áí
2. Díbé Bínánte’áí

4 Updated 12/05/83
CHAPTER LOCAL SCHOOL BOARD MEMBER
Olba Binamu'ti

CHAPTER LAND BOARD
K'eyah Binamu'ñi

FARM BOARD
D'ul'ak' Binamu'ñi

APPOINTED OFFICIALS
Na'chanii Bik'ho'dini'il'i

APPOINTEE
Naamsh Biniyé Bik'ho'dini'il'i

BUREAU OF INDIAN AFFAIRS (B.I.A)
Wa'shindoona Búcúji Yishtahí Bú Oonishjì

B.I.A OFFICES
Wa'shindoona Bú Dar'isťahjì

B.I.A OFFICIALS
Wa'shindoona A'llají Naazinii Bú Dar'isťahjì

B.I.A AREA DIRECTOR
Búcúji Yishtahí Bú Oonishjì Na'chanii T'háájí

B.I.A AGENCY SUPERINTENDENT
Wa'shindoona Na'chanii'hchin Yá Dál'ónišgí

B.I.A BRANCH OF LAND MANAGEMENT
Wa'shindoona K'eyah B'oonishjì

B.I.A BRANCH OF ROADS
Wa'shindoona Atím B'oonishjì

B.I.A BRANCH OF EDUCATION
Wa'shindoona Br'ól'ha B'oonishjì

Updated 12/01/03
CHAPTER HOUSE
1. Tłʼah Naazhii Bighan
2. Biʼ Ahzh Naʼadleehi

COMMUNITY HEALTH REPRESENTATIVE
Atsʼiis Baaʼahiyááʼji Hootaaggháálı

COMMUNITY SERVICE COORDINATOR
Tłʼah Naazhii Yʼii Hoołʼee Sidáahááli

ELECTED OFFICIALS
Naʼtłʼaanii Biʼ Aatsʼítsíilíí

NAVAJO RESERVATION (NAVAJO NATION)
Díné Bééłyií

OFF-RESERVATION
1. Díné Biłééyah Dóó Tłʼóójígo
2. Tłʼóójí

STAFF / WORKERS
Daʼáhí Bóóyááhíí

SUPERVISOR
Biʼ Daʼáhííííí

E. ABSENTEE
Biłéé Beliyáátłʼíd

ABSENTEE VOTING IN PERSON (NM)
Tlʼáahó Yah Ajiłáágo Biłéébi Nałtsosii Beči Idaʼjiinningíí

ABSENT UNIFORMED SERVICES VOTER
Sitilóóci Anidaʼísiííí

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COUNTRY
Álta’i’l Isi Hahuoozoo

Updated 12/03/03
CANDIDATE
1. Naas’aaniii Adoodlee’go Yiliwoligi
2. Naas’aaniii Yiniyi’ Ádee’hadoordrígii

CANDIDATE FILING DEADLINE
Naas’aani Adoodlee’go Naahsoos Nehem’i’l Akhîh’ Áă’nhééh

CANDIDATE OPEN FILING DATE
Naas’aani Adoodlee’go Biniyé Naashiuoc Nehe’nuh’ B’a Aŋ’i’ni’i

CANDIDATES
Naas’aani Adoodlee’go Deliije’hi’

CANDIDATES CAMPAIGN COMMITTEE
Naas’aani Adoodlee’go Deliije’hi’ Yá Dah Naahasztani’hi’

CANVASS
Ada’iisnii’i’ Ilijgo Áłyaa

CENSUS NUMBER
1. Béésh Náatbáa’i
2. Béésh Táa’í

CENTRAL COUNTING BOARD (AZ)
COUNTING JUDGE (UT)
CANYASSING BOARD (NM)
Piis’hi’ Wolts’i’ Yá Dah Nidiinbii’hi’

CERTIFICATE (S)
Honee’zhii’go Naahsooc Bee Ëé’bóoshi’i’

CERTIFICATE FOR VOTING
Naahsooc Binaa’í Tóadzii’i’

CHALLENGE
Baa Saaf Hizlí’í’

CITY OR TOWN DISTRICT
Kindáahjí’i’ Biihóo’í’
CITIZENS
Tiligo Këyahi Bi’ Këéééddhojë‘linii

CIVIL RIGHTS HAVE BEEN RESTORED
Lah Hodit’éhebi Obónihi. Ideéf’iglé Han Nídeéf’jì

CIVIL RIGHTS
Lah Hodit’éhebi Obónihi. Ësée?ë’iglé

CLOSING OF POLLS
Pii’iit Añi’jì Añi’ähóééh

CODE
Bee Hëz’anii Bee Éshozinii

COERCION OF EMPLOYEES
Nashinhi Bëllëkhëéh

COERCION OF VOTERS
Ants’wë’ii Bëllëkad

COMMISSION
Bi Sëllañíi

COMMITTEE
Bëllënhënhíí

COMMUNITY COLLEGE DISTRICT GOVERNING BOARD (NM)
Bëllënhgo Wëldëhgo Ob’a’ Bi’ Hëhoodzhoojì Nàats’lanii Á Dálándinibhë’ëgë

CONGRESS
Wëddihííndoon Adeeł Di’ë Ayéèl Hoo’ghanjì Nàats’lanii Dënhëhií

CONGRESSMEN / WOMEN
Wëddihííndoon Adeeł Di’ë Ayéèl Hoo’ghanjì Nàats’lanii

CONGRESSIONAL DISTRICT
Wëddihííndoon Adeeł Di’ë Ayéèl Hoo’ghanjì Nàats’lanii Bi’ Hëhoodzhoo

Updated 12/95/03
CONSECUTIVELY
Tía Añe'ee Hón'ís'go Áhoonii

CONSENT DECREES
Bödoohlígo Bee Añaa'eeni

CONSOLIDATED PRECINCTS
Añiñee'Húni Bil Hadahwíísdo Añiñee Yídho

CONSPIRACY
1. Tía Náhoon'íneé Binaahn'á
2. Tía Náhoon'íneé Náhá'á

CONSTITUTION
Bee Hazi'ááníi Nitsaali Bíndííla'

CONTEMPT
Doo Akefhsíí

CONTEST OF ELECTION
Biiríilíté Baa Saad Hazíí'

CONTRIBUTION
Béésoo Bee Lìlyreeed

CONVENTIONS
1. Dámito'íítíí Dáa Nítsagóo Baa Àlah Alee.
2. Dámito'íítíí Dáa Nítsagóo Bee Añiñee'áliísísí

CONVICTED
Hák'íí Níhoon'íí

CONVICTS
1. Añalee Hótsaagóó Bì Níhoon'íí
2. Añalee Hótsaagóó Bì Nidahwíísíí

COUNTY DEMOCRAT PARTY CHAIRPERSON
Áts'ííhl Hahoodzo'ó Dzaméez Bee Dah Ooldah Áša'lí Dàh Sidáhíígíí

Updated 12/05/03
COUNTY GOVERNMENT
Átš'íist Hahoodzo Bi Wáshíminoon

COUNTY REGISTRAR
Átš'íist Hahoodzo Ana'ílúwii Naalsees Yihzi Bée hada'ëhítigu

COUNTY REPUBLICAN PARTY CHAIRPERSON
Átš'íist Hahoodzojii Chįįjxve'hollikii Bée Dáh Oólzah Ašájsii Dáh Síldźhígii

COUNTY VOTER LIST (8)
1. Átš'íist Hahoodzo Ana'ílúwii Naalsees Yihzi Bée Síńjiiği
2. Átš'íist Hahoodzo Ana'ílúwii Dabíhhii Naalsees Bée Síńjiiği

COURT OF APPEAL (AZ)
TRIAL COURT (NM)
Ádéesi Aańdibwiniği

CURB SIDE VOTING
Bííhji Anáhóó'wii Tłóodi Bé'ą́ąd

DATA PROCESSING BOARD
Naalsees Bée Éédałóozíiní Xahínddeeh Yáá Dáh Nódíndžhíği

DATE
Yoołkágíłí

DATE OF BIRTH
1. Hóoshzíí Dą́įį́jgónée
2. Hóoshzííjigoté

DAY
Á

DEMOCRAT PARTY
Dzaantééz Nahta'ízí Bée Dáh Oólzah

DISCRIMINATE
1. Nééhdi Kololóó'zíin
2. Doo Hol Oóta' Da

Updated 12/05/03
DISTRICT
Bil Hahooodzo

DOCUMENTS
Naaltsos Dall'ingi

DOMICILE
Ani'cTa'i

DOUBLE VOTING
Naakidi Ani'ilah

DUPLICATED BALLOT
Naaltsos Bee Doo'tahii Yichogo Biitse'ahgi Le' Ha'a dlu'dah

DUTIES AND POWERS
Na'antchii Ohózhii

EARLY BALLOT
Piithili Bitsedi Naaltsos Bee Iníshá'í

EARLY BOARD (AZ/NM)
1. Piithili Bitsedi Piithili Yå Dlohoo'bijihii
2. Piithili Bitsedi Piithili Yå Dlahihókánanii

EARLY VOTING
Piithili Bitsedi Be'fáad

EARLY VOTING SITES
Bitsedi Piithili Bil Nidahooot'ahgi

ELECTION
Piithili

ELECTION CERTIFICATION
Piithili Bim'nihitin

ELECTION CODE
Piithili Bi Beecha'áani
ELECTIONEERING

ELECTION OFFENSES

ELECTION RECORDS

ELECTION SUPPLIES

ELECTOR

EMBLEM

EMERGENCY PAPER BALLOTS

ENFORCEMENT POWERS

ENUMERATION DISTRICTS

ERROR

EXPENDITURE STATEMENT

FAIL SAFE

Updated 12/05/03
GOVERNMENT
Wàshëndoon Síi

GREEN PARTY
Aheèti'ëgo Nahtà' Bee Dab Ooldahji

GROSS RECEIPT TAXES
Na'ëndëgi nałëgá Ahtëdëg

GUBERNATORIAL
Niłsa Haëndoo Bë Dab Ahtëdëg

HANDICAPPED ACCESSIBILITY
Biłë Anshëdëg'ë Bë Yah'ëdëg'ë

HANDICAPPED VOTER
1. An'ë'ë'ë Bëlë Anshëdëg'ë
2. Añ'ëtë'ë'ë Bële Nahëndëg'ë

H.A.V.A.
Wàshëndoon Këelë'h'ëlini E'et'ëndjë Bee Àkà E'nyeëd Beehaz'ënëni

HEARING
Nëkë Yëë' Bë Hoo'ë

IDENTIFICATION CARD
Nałëndëg'ë Bee Hëndëg'ëninë

ILLITERATE VOTER
An'ë'ë'ë'ë Doo Òñë'ëg'ë

IMPACT AID REVENUE BOND
Wàshëndoondéh'ë Beeë Dëna'ëndëg'ëgë Bëdëdëg'ë Bee Nëndëhëndëg'ë
Hëndëg'ë Beeë Wökeëd
1. IMPACT AID FUND
   Wàshëndoondéh'ë Bëkëgë Viëndëhëndëg'ë Dë'ëhëndëg'ë Bë Bësë
   Nëndëhëndëg'ë
2. REVENUE BOND
   Bësë Nëndëhëndëg'ë Bee Bësë Wökeëd
IMPERSONATION
Na'adlo' Bee Nánállá' Dáné Bii'Z'ólín

IMPOUNDING BALLOTS
Nahtsoos Aheemił'ś Yìltsood

INACTIVE LISTING
Anìdh'ya' Doo Hóóhó Béédałózhinigíí

INalienable Rights
Doo Átváólínígöó Jáadéertiigíí

INAUGURATION
1. Naa'tánii Ya Didíiniihgo
2. Naa'tánii Ya Dadíiniihgo
3. Yádíiniih

INDEPENDENT
A'gą́ą Haháał'í Be Daha'ínéél Doo Jáa'déetiigíí

INDEPENDENT CANDIDATE
Nánállá' Yee Ádóológo Naa'tánii Yi' Yìlwosíigíí

INDEPENDENT PARTY (IES)
Nánállá' Yee Ádóológo Doo Doolloshíigíí

INDICTMENT PERSON
Baa Hojoolááíí

INITIATIVE
Bee Ha'áaníí Dooleełgo Bohoozóó'

IN-LIEU OF
1. Bití'chegí éí
2. Doo'dago éí

INSANITY
Bíí' Bááh Daha'áaníí
INSPECTION
Haaklid

INSPECTION OF VOTING DEVICE
Bee Tlip'ahgiil Haaklid

INSTRUCTION
Bina'nilhin

INSTRUMENTS
Chwadawolliniitii

INTERACT
Ahit Ndagaliish

INTERFACE
Bee Ah'nildeeh

INTERNET
Beebi Lich'il Bee Eddooshingiil

INTERVENE
Ata'ajighdah

INTERVENTION
Akh'naa'dii

INTERVIEW
Naadhiid

INTIMIDATION OF VOTERS
Idaamidii biil Yeejiibohrin

INVESTIGATION
Naabkash

JOINT TECHNOLOGICAL DISTRICT (NAVIT, NATIVE, CAVIAT)
Da'ofa'go'o Albi'ji'i Nammish A'pap'ah'eelellHoo'oo'ah Bif
Haaboodzo

Updated 12/5/03
JOINT TECHNOLOGICAL BOARD
Alihii'ji' Naanish Bòhoo'ah Bi Hahoodzo Yá Dañinidinbijii

JUDICIAL PAMPHLETS
Nidawii'aahii Deiijehigii Naaltsoos Bikáá' Baa Hane'igi

JUDGE
Á Nihwi'isahii

JUDGES
Á Nidawii'aahii

JUDGES - COURT OF APPEALS
Á Nihoo's Baa Níhwii'isahii Nidawii'aahii

JUDGMENT
Bee Nihoo'isahii

JUDICIAL
Aadawii'is[' Bii Haa'ajii

JUDICIAL DISTRICT
Aadawii'is[' Bi Hahoodzo

JURISDICTION
Óhólnih Bídértíi

JUROR
Áta Níwoddoo'áahii

JURY
Ánáhadoodoo'áahii

JUSTICE OF THE PEACE DISTRICT
Ayeii Níwii't'ah Bi Hahoodzo

KID’S VOTING
Akshíini l’il’aah Bii Néít’aahíiyii

Updated 12/05/03
LANGUAGE MINORITY
A'olgo Adil'le' Kéchha'tinii Bizaad

LAST DAY TO REQUEST EARLY BALLOT BY MAIL
Akkédl'i'nii Biteedi Naałtsoons Bee Ève'yadil'ii Aal'j Adoolnii'tgo
Wóoleed

LEGISLATIVE DISTRICT
Naał'sanii Bee Har'zaliiikii Aal'nii Bik Habaadzo

LEGISLATURE
Naał'sanii Bee Har'zaliiikii Èddoxii

LEYV
Bee Har'zaliiikii Binaaljii Nhádlá"dáh

LEYV OF TAXES
Bee Har'zaliiikii Binaaljii Èldoojii Nhádlá"dáh

LIBERTARIAN PARTY
Èddoxii Nhásh'i è Bee Dab'ookdah

LOGIC AND ACCURACY TEST
Èddoxii Bee Nháshii Haaaljii Wóole

MAJOR FRACTIONS
T'ásh'i Béesoo Bits'ego Œtt'ego Aal'nii Nháldáh Délojii T'ásh'i Béeb'go Wólé

MAJOR POLITICAL PARTY
Nimango Nhásh'i è Bee Dab' Do'ldéeh

MAILING ADDRESS
Naałtsoons Haaninhjëeëdhi

MAILING LABELS
Naałtsoons Haaninhjëeëdhi Dabka'jii

MARK SENSE BALLOT
Naałtsoons Aal'nii Bee Naałkaashigii

20 Updated 12/05/03
MAY
Bee Lą

MEASURES (Proposition)
Bee Hazləñi Dadoolooni

MEMBER OF THE MERCHANT MARINE
Dinå Təkkəłjį Binaamoo

MESSENGERS
Nisaaarlį

MILL LEVY (1/10 of 1 Cent)
Tədäkį Sindoo Neezmäkgoò Naa'màñdzool, Tədäkį Haadzo Bliñghago
Wòkoo

MINOR POLITICAL PARTY
Áltisifgo Naałatį Bee Dah Da'łløo

MONTH
Yrrizliqeq

MOTOR VOTER DRIVER LICENSE VOTER REGISTRATION
Tədäkįjį Bii'ệt Naahšəq Doo Naałatįjį Bii'ię Maała'dline

M.O.U.
1. Nsaałja Soo Bii'ję Añfii'etteqino
2. Nsaałja Soo Bii'ię Añfii'et Yii'diiqeq

MUNICIPAL COURT JUDGE
Kın Dahanazzhjàa'jį Niižiit'aaheeq

MUNICIPAL ELECTIONS
Ttjiqo'jį Kindaanaazzhjàa'jį Biiwáñshindaooqño Naałatįjį

NAME
Yiiži
NAVAJO NATION GOVERNMENT
Diné Biwáhhoodoo

NAVAJO OUTREACH WORKERS
Tl'át Diné Füh'úléfjí Nidähshipíghí

NEW RESIDENCE
Lahgo Nidádíjí Pzháágo

NOMINATION
1. Hól'dé'é Él'yi'nii Biniyé Hal'chodiinií
2. Aki'chodiinii

NOMINATION PETITION
Á ló'yooó'nilgo Naahoons Yízhí Bee Álah'áhshipíghí

NON PARTISAN
Nahat'í Bee Dah Ooldah Baa Ádiníghí

OATH (S)
Yádí'dilshíhgo Ádeshíi'dízhí

OBSERVERS
Háدلší

OCCUPATION
Náámish

OPTICAL SCAN
Béesh Lích'ií Hamítsho Oltá'íghí

OFFICIAL RETURNS
Idá'áhíiní Altsó Ahsiní'éílth'í Hik'í'níl'ízhíí

OVERRIDE
BíižiDooodázhgo Wókeed

OVERSEAS VOTER
Tóweesáahiií' Atááhíí

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Updated 12/05/03
OVER VOTED
Bilégo O’oor’ah

PARTY PREFERENCE
Nahatii Bee Ajílahi

PENALTY
Náyééh

PERCENTAGE
T'ááh'í Béenso Bee Oózá'go Ahóódaaadzo
100% Tááh'í Béenso Blighaahgo
75% Hástí Yááá Blighaahgo
50% Díí Yááá, Doodaan’ Ahuí’doó Blighaahgo
25% Náakí Yááá Blighaahgo
100 Tááh’kaah Néesúdíí

PERMANENT FUNDS
Náalsó Béenso Chodso’ilgo Síinilgíí

PERSON AUTHORIZED TO ADMINISTER OATHS.
Ya’dí’oolnihgo Básh Níiityvííghií

PETITIONS
Naatssoot Yíizhi Bee Álháwónííghií

PLACE OF BIRTH
Hóódzííghií

POLITICAL COMMITTEE
Nahatii Bee Dah Oooblah Bé Bitsíínañííghií

POLITICAL PARTY
Nahatii Bee Dahooláa

POLL WATCHER (NM)
Tiitíilha Ha’atsidi

POLLING PLACE
Tiitíilla Bíí Haz’ánííí

Updated 12/30/03
POLLING PLACE AGREEMENT
I’diyoo’nhigii Bee Ahz’ooneel’tj

POLL LIST
Adhyi’ilii Bizhi’ Naaltsos Ba’kai’ A’daulne’iiggii

POLL WORKERS TRAINING
I’i’nii’jii N’i’ddahaa’niihigii Nantii’n

POST ELECTION
Tiist’ii Doo B’kii’jii

POSTED
Bee D’ah Astsooz

POSTING
Bee D’ah Ahhs’oos

POLL WORKERS (AZ)
POLL OFFICIALS (NM,UT)
I’i’nii’jii N’i’ddahaa’niihigii

POLL INSPECTORS (AZ)
PRESIDING JUDGE (NM,UT)
I’i’nii’jii B’ok’o’nhigii

POLL JUDGES
Naaltsos Bee I’i’nii’jii Ya’u’bahshii’iiggii

POLL CLERK
Naaltsos Bee I’i’nii’jii Hadojidle’iiggii

POLL MARSHAL
I’i’nii’jii Silkooshkii’n

POLL MONITOR
I’i’nii’jii Dine Ya’umahshii’dah doo Ch’e’enk’aa’niihigii Haasid’tj

Updated 12/24/03
POLL INTERPRETER (S)
1. ti'dii'gi Ata' Halné'é
2. ti'dii'gi Ata' Dabahnéré

PRECINCT
li'ilii'li Bil Hahoodezo

PRECINCT BOARD
li'ilii'li Y'da Dah Nахáatánigii

MEMORY CARD
li'ilii'li Bil Hahoodezojji Béeish Lich'lii Bee Bii'lii Nii'niiłgi'

PRECINCT REGISTER
Ani'daa'nii'li Naatsoo Yizhi Bee Si'liñgii

PRECINCT VOTER LIST
Ani'daa'nii'li Naatsoo Yizhi Bee Si'liñgii

PREMIUM POLL WORKERS TRAINING
1. li'dii'jii Nii'doonish Binaa'y Naatsoo Bee fahórujii Yidoobijji Binaxhin
2. li'ilii'li Bina'a'ani'ii Binaa'y Naatsoo Dabahnítsoos Bina'nihin

PRESIDENTIAL ELECTORS
Wááshindoone Atáa' Dab dín'ee daallii Y'sááída'ii'niiłgi'

PRESIDENTIAL PREFERENCE ELECTION
Wááshindoone Atáa' Dabahnítsoos Yiniyé Baa Hodríllogo Nábáadwéñgii
Bikéé N'i'dóo'lah Binaayé li'ilii'li

PRIMARY ELECTION
Báshí Héntidéé Binaayé Pi'íui'l

PROBATE JUDGE
Acha'íi'íi Baa' Atáa' Jooodzhojji Ata'nii Dabahnítsoo Nuwwii'átááll

PROCLAMATION
Ahódóonáïii Bee Nihoor'áá
PROPOSED
1. Dooleelgo Wìiweed
2. Dooleel Ha'ni

PROPOSED INCREASE
La' Binëëoodee Ho'ti

PROPOSITION
Bee Hazëhëni Ñëdënhëni

PROVISIONAL BALLOT ENVELOPE
Ilijo Dasteñ Tootañ Bëiheññëgnëi

PUBLICATION
Naathsoos Bee Hazëldëe'

PUBLICITY PAMPHLETS
Wi'ñilëñ Naathsoos Bee Ñëdëhiññëgnëi

PUBLIC SCHOOL
Nitsaa Hanoodzo Bi'olta'

PURGE
Wi'ñilëñ Yëzë Ho'hëdëzoëh

QUALIFIED ELECTOR
Ilijo Ñëdëñëi

REAPPORTIONMENT
Nëezëñëa Ninëshëgnë Dënt Ñëdëwiññëh Bikëëgëgo Nañëhëñëi Añëñëgëgo Nëhëñëñël

RECALL DECISION
Bee Hazëhëñë Bëëë Ho'dëëñiñ'ëñ Bi'nuñëñ Wi'ñiilëñ

RECALL ELECTION
Bëñëñ Hëloññëgo Añëñëñëi

RECORDERS CERTIFICATE
Naathsoos Ilijo Binëñëi Pi'dëñëñëgnëi

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STATE ELECTION OFFICER
Nitsaa Hahoodzoji Fiirufi Yá Dan Sidákii Gill

STATE GOVERNMENT
Nitsaa Hahoodzo Biwáshindooon

STATE LEGISLATORS
Nitsaa Hahoodzo Adei Döö Ayel Hooghanji Naar'ananii Danlínii Gill

STATE REPUBLICAN PARTY CHAIRMAN
Nitsaa Hahoodzoji Chijh Yee Adilhni Naha'ee Bee Dahooldah Yá Danlánii Gill

STATISTICAL DATA
Adhíinì Gill Btáshungoo Nultooos Bee Sílíngii Gill

STUB
Nultooos Bee Fiirfiili Bídooxýigii Gill

SUCCEEDING
Yáa Níis

SUPERIOR COURT
Adii. Aashwiinì Gill

SUPERVISORIAL DISTRICTS (AZ)
COMMISSION DISTRICTS (NM)
Álte'si Hahoodzo Büi' Naar'ananii Bil Hadáshiisëzhoo

SUPREME COURT
Adádashi Nultooos Aashwiinì Gill Bil Hax'é

TALLY BOARD
Idíisëzhoo Wótshej Yá Dáshíimdibinì Gill

TAMPERING WITH VOTING MACHINES
Fiirfiili Choortúnil Bee Dáshoodhoog Noogiz

TERM
Ánitahjí Gill

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Updated 12/05/03
TERM OF OFFICE
Ànízêjji' Naa'lànii ìdà

THREATS
Ilye'  lãbólzìn

TIE VOTE
Fiisnil ìye' Aheelyaago  Táácdo  Honeezmáa  ìdà

TOUCH SCREEN
Bee' il' tiiğii Hahalkızego  Bil  Àds'a'díchiddiğii

TRANSLATE
Naváa  La'  Saad  Bee'  Ato'  Hànö

TRANSLATING
DíneKehji  Saad  Bee'  Binaunilùsh

TRANSLATION
Díne  Bizaad  Kehgo  Saad  Àndålñiì

TRANSLATOR
Naváa  Lahji'  Saad  Yee'  Háxda'díchiddiğii

TREASON
Hákéyay  Bi'  Bıchajâskaii  Bk'ji'  Niijö

UNIFORMED OVERSEAS VOTER
Tú  Wénanìdáeq  Síllañtsdoon  ìnizì'a't'ìgii

UNIFORMED SERVICES
Síllañtsdoon

UNITED STATES CAPITAL
Asháldiiin  Nítsa  Hahoodzo  Bi'  Wáánshindoon  Bil  Ház'ì

UNITED STATES DEPARTMENT OF JUSTICE
Wáánshindoondi  Nítsaago  Èdàde'ëjì'  BikaTadéesf'ì'go  Bil  Ház'ì'àjì
UNOFFICIAL RETURNS
1. Piis'nil T'at Yid'a'hendohisii Bia Haze'il
2. Piis'nil T'ahdoo Illego Bii'nez'i'izzii

VERIFICATION
1. Doa Lazaanagii Bii'nez'izigii
2. Bii'nez'izigii
3. Bee Ezhi'nez'izigii

VOLUNTEER
T'oo Aka'diilyeed

VOTER MAINTENANCE LIST
Naatsosiy Yizhi Bee Ak'ee'y'nilgo Bina'anzhigii

VOTE AGAINST
Bits'ajii Eet'aa'd

VOTE FOR
Beechii Eet'aa'd

VOTING MACHINE TECHNICIAN
Bee Pi'olligii Yinaazhii

VOTER DATA
Bii'dilyaaal Naatsosiy Bee Si'aa

VOTING DEVICE
Pi'olii Bee Bina'anzhigii

VOTERS FILE
Bii'dilyaaal Naatsosiy Bee Ak'ee' Sin'izigii

VOTER RECEPT
Naatsosiy Ahudlyaa Bee'dilyaa'izigii

VOTER REGISTRATION
Pi'olii Bini'tye A Hadi'diline

Updated 12/05/03
VOTER REGISTRATION DEADLINE
Firmiti Naltssoo Hadadhegiigu Aebuy Aabkooche

WEBSITE
‘Bëesh f Ich’ii Biiyii’ dàa Il Nuhezn’ ñ Baaahane’

WHITE HOUSE
Kudabellagii

WITHDRAWAL OF CANDIDATES
1. Ha i’dìyooxalag ñi Naltssoo Tìgii Háayilttoooz
2. Yñwolíigii Naltssoo Tìgii Háayilttoooz

WRITE IN CANDIDATE
Yñzhi Tëi Ádhëëjii Atahyñwolíigii

WRITE IN CANDIDATES
Yñzhi Tëi Ádhëëjii Añabcaljixchagii

WRIT OF MANDAMUS
Bee Haz’adunii Bizihoollagii Bee Ha Nhoom’ñ

YEAR
Yñabkalii

ZERO REPORT
I’ii’ un’ T’mëltseedi Biiyii’ I’ii’ un’ doo La’i’ooc’ahggo Naltssoo Bëxalii
Hayñyabkalii
COUNTRIES
Áti'í Hądahwį̀dzo

APACHE COUNTY
1. Tsezhin Deez'á Bil Hąhoođzo
2. Dziłghyį' Bee Wójįįga Hąhoođzo

CIBOLA COUNTY
Naatoosh Bil Hąhoođzo

MCKINLEY COUNTY
Na'ízhoozhí Bil Hąhoođzo

SANDOVAL COUNTY
Ma'ii Deeshgiizhi Bil Hąhoođzo

SAN JUAN COUNTY - NEW MEXICO
Kináá Bil Hąhoođzo

SAN JUAN COUNTY - UTAH
Dzólítą́pni Bil Hąhoođzo

BERNALILLO COUNTY
Be'eldii Dahsinil Bil Hąhoođzo

COCONINO COUNTY
Gółhniini Bil Hąhoođzo

NAVAJO COUNTY
1. Diné Bee Wójįįgo Hąhoođzo
2. Tlį Naas Kin Bil Hąhoođzo

SOCORRO COUNTY
1. T'isnás Síkáád Bil Hąhoođzo
2. Siñięd Bil Hąhoođzo

STATES
Nítsaa Hádahwį̀dzo

ARIZONA
Hoonsá Hąhoođzo

NEW MEXICO
Yooté Hąhoođzo

COLORADO
Dibé Nítsaa Hąhoođzo

UTAH
1. Sooleéh Hąhoođzo
2. Áštįįjí Bil'ooįįjí Hąhoođzo

Upááed 12/05/93
COUNTY SEATS
Áltsu'si Hadahwiídesno Biwáahhíndoeen Bíí Nahát'í

AZTEC, NEW MEXICO
Kiisteeł

FLAGSTAFF, ARIZONA
Kiishání

GALLUP, NEW MEXICO
Né'áníshoozhi

HOLBROOK, ARIZONA
Tils Yaa Kin

MONTICELLO, UTAH
Masdsííloó

ST. JOHNS, ARIZONA
Tsézhíin Deez'íí

DAYS OF THE WEEK
Tso'síd Ji Dáwóójíihí

SUNDAY
Damóó

MONDAY
Damóó Biiskiní

TUESDAY
Damóó Dóó Naakíjí

WEDNESDAY
Damóó Dóó Táajíí

THURSDAY
Damóó Doo Díjitii

FRIDAY
Ndáá'íííííííííííí

SATURDAY
Damóóyáázhí

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Updated 12/05/03
MONTHS
Nahidizid

JANUARY
Yas Nil't'ees

MARCH
Wóózhéj'síd

MAY
T'shtsoh

JULY
Ya'ishjáabtsob

SEPTEMBER
Bín'ánít'sésob

NOVEMBER
Nííchí'í'í'ává

FEBRUARY
Atá Biyáázh

APRIL
T'ááchíł

JUNE
Ya'ishjáahchilí

AUGUST
Bín'ánít'sesob

OCTOBER
Chéépéé

DECEMBER
Nííchítsóh

SEASONS
Ał'ąą Aálìhóotnį́į́ł

SPRING
Dąñ

SUMMER
Shį́

FALL
Aak'ee

WINTER
Háí

Updated 12/05/03
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Rock Point
Rock Springs
Rough Rock
Round Rock
San Juan
Sanotee
Sawmill
Shoepersprings
Shiprock
Shonto
Smith Lake
Standing Rock
Steamboat
St. Michaels
Sweatwater
Tachee / Blue Gap
Tecos Nos Pos
Tecoto
Thoreau
Tohajildee
Tohatchi
Tolani Lake
Tonalita
Torreon
Tossil / Wheatfields
Tsayatoh
Tselani / Cottonwood
Tube City
Twin Lakes
Two Grey Hills
Whippoorwill
Whitescove
Whitehorse Lake
Whiterock
Wide Reins
Window Rock
Teé Nitsaa Deeé’zhi
Teach’zhi
Teach’zhi
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Nyiižíłhahóó’é
Dibé Biito’
Naas’kantínéez
Síida’néí
Be’ak’ch Halgai
Te’ Fóhli
Hóyéé’ / Tsinna’eeél Dahiłíjí
Chí’hoołi
Tó Jíkii
Tééh’í
Tlís Náháá Bah
Nyéestín
Dibíyiízhi
Tóhajíížíí
Tólaacho’í
Tóhóóñi
Tóshołííión
Ya’náshílahí / Niiłéézhíí
Tódeééchí
Tsédaaw sóó
Teé Láájí / Teéhgal Deeé’zhi
Téénaadzíí
Tse naabadzoh
Bi’a Dahiłíto
Hoosííhóólító
Beæk’óó baa’goood
Lijílgísí Biito’
Teé Lizjí
Kin’ Nítsel
Teégháahí’díí / Teégháahí’díí

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Updated 12/09/03
ACKNOWLEDGEMENT

This glossary is a work in process. Its production is the result of the concerted efforts, deep concerns and devoted attention of many, many people. Unfortunately, at this point in time, a truly comprehensive or fully accurate acknowledgement is not possible. It is the hope that all involved with this vital and evolving effort appreciate the importance and magnitude of this document. The improvement of knowledge regarding the voting rights of Navajo language speaking citizens will provide a lasting and true acknowledgement to all who worked to make this glossary possible.

Finally, no acknowledgement for the work on this project would be just or complete without a special mention of the contributions of Mr. Harold Noble. His work on this project, spanning aspects from actual translation work to recruiting translators to coordinating the efforts of contributors, has been a driving force in bringing this document to its current high quality and wide acceptance. This would have been a much lesser document, but for his leadership and wisdom.
THANKS! Dah'skeki Ólta'jii Naanish At'ag'á'í'et Bócho'á sh Bii Hahoodzo Ā Dabédínibíihígíí

Doo La' Yiltwo dah

THANKS! Dah'skeki Ólta' Bisannt's'ii Á Dabédínibíihígíí
Naaki Naanhii/ Dah Asádaghíí

Doo La' Yiltwo dah

GOODLUCK, ARNOLD
TSOSIE, WOODY BENJAMIN

GOODLUCK, ARNOLD
TSOSIE, WOODY BENJAMIN

YAZZIE, MARGARET R.

THÉGHÁHOODZÁNI ÓLTA' BII HAHOODZOJII

TSÓGÁHOODZÁNI ÓLTA' BISANNT'S'II Á DABÉDÍNIBÍIHÍGÍÍ

NELSON, LORRAINE W.
ANDERSON, LARRY
DAVIS, VIRGIL L.
HARDY, JOYCE BROWER
WHITE, PAULETTA

THÉGHÁHOODZÁNI ÓLTA' BII HAHOODZOJII

NÁÁDÁÁDÁÁ:
Bia'l'í dóota'ii Thégahoodzani Ólta' Bii Hahoodzojii Ólta' Bisannt's'ii tli Tháá'ii miil níisãiidi dóó shííchí ásháídi miil átv'isii'ígíí ($3,500,000) bëno wíkaasígíí bësø ba'isídiitól'ádo Bësø Níiaazo Bësø N'doonish bia'í bësø wíkaasígíí bia'í 'ígíí bia'í bësø wíkaasígíí 'ígíí 'íyónát? Bësø N'doonish bia'í bësø wíkaasígíí Aoo dóota?___
Bësø N'doonish bia'í bësø wíkaasígíí Doo Daa dóota?___
SAMPLE BALLOT—OVERRIDE ELECTION

SPECIAL ELECTION
Window Rock Unified School District No. 8
Apache County, Arizona – May 17, 2005

The Governing Board and the Window Rock Unified School District #8 are requesting:

- Approval to exceed the 2005-06 Maintenance and Operations Budget in the amount of $1,473,237, an amount not to exceed 10% (ten percent) of the Revenue Control Limit for the year for which adopted and for six (6) subsequent years.

- Approval to exceed the 2005-06 Maintenance and Operations Budget for Kindergarten through Third Grade in the amount of 554,819, an amount not to exceed 5% (five percent) of the Revenue Control Limit for the year for which adopted and for six (6) subsequent years.

Any budget increase authorized by this election shall be entirely funded by this school district with revenues from other than levy of taxes on the taxable property within the school district for the year for which adopted, and for six (6) subsequent years and shall not be realigned from monies furnished by the state. In fiscal years 2011-2012 and 2012-2013 the amount of the proposed increase will be six and two-thirds percent and three and one-third percent, respectively, of the District's revenue control limit in each of such years, as provided in Section 15-481(P) of the Arizona Revised Statutes.

If the proposed budget is disapproved, the alternate budget shall be adopted by the school district governing board.

The total amount of the 2004-05 adopted budgets for Maintenance and Operations is $23,509,835, and for Kindergarten through Third Grade is $495,526.00. The total amount of the proposed budget for Maintenance and Operations is projected to be $25,525,492, and for Kindergarten through Third Grade is $514,819. The total amount of the alternate budget for Maintenance and Operations is $19,086,255, and for Kindergarten through Third Grade is $50.

Based on the estimated Secondary Total Net Assessed Value of $11,304,158, no owner-occupied residence (class 5) or business (class 3) will experience an increase in their tax bill.
A Message from the Apache County Elections Director:

As a result of Arizona voters passing Proposition 200, known as Identification at the Polls, it is now necessary to provide identification at the Polls the next time you cast your vote. This means that you will be required to present proper ID at the polling place. The information included on the identification must reasonably appear to be the same as the information on the signature sheet. The following types of identification will be accepted:

Acceptable forms of identification with photograph, name, and address of the elector

- Valid Arizona driver license
- Valid Arizona non-operating identification license
- Tribal enrollment card or other form of tribal identification
- Valid United States federal, state, or local government issued identification

An identification is "valid" unless it can be determined on its face that it has expired.

IT IS NOT MANDATORY TO OBTAIN A PHOTO ID. YOU MAY BRING ONE OF THE FOLLOWING FORMS OF ID:

Acceptable forms of identification without a photograph that bear the name and address of the elector (two required):

- Utility bill of the elector that is dated within ninety days of the date of the election. A utility bill may be for electric, gas, water, solid waste, sewer, telephone, cellular phone, or cable television
- Bank or credit union statement that is dated within ninety days of the date of the election
- Valid Arizona Vehicle Registration
- Indian census card
- Property tax statement of the elector's residence
- Tribal enrollment card or other form of tribal identification
- Vehicle insurance card
- Recorder's Certificate
- Valid United States federal, state, or local government issued identification, including a voter registration card issued by the county recorder

An identification is "valid" unless it can be determined on its face that it has expired.

IF YOU DO NOT HAVE THE PROPER ID, YOU WILL BE ABLE TO VOTE A PROVISIONAL BALLOT.
ALL VOTERS WILL RECEIVE A BALLOT WHEN GOING TO THE POLLING PLACE.

For questions call the Apache County Elections Director, Penny L. Pew at (800) 358-4508, ext. 7517 or (520) 227-7517 or send an email to appcoal@apache.az.us or www.co.apache.az.us
A Message from the Apache County Elections Director:

As a result of Arizona voters passing Proposition 200, known as Identification at the Polls, it is now necessary to provide identification at the Polls the next time you cast your vote. This means that you will be required to present proper ID at the polling place. The information included on the identification must reasonably appear to be the same as the information on the signature roster. The following types of identification will be accepted:

Acceptable forms of identification with photograph, name, and address of the elector:
- Valid Arizona driver license
- Valid Arizona non-operating identification license
- Tribal enrollment card or other form of tribal identification
- Valid United States federal, state, or local government issued identification

An identification is “valid” unless it can be determined on its face that it has expired.

IT IS NOT MANDATORY TO OBTAIN A PHOTO ID. YOU MAY BRING TWO OF THE FOLLOWING FORMS OF ID:

Acceptable forms of identification without a photograph that bear the name and address of the elector (also required):
- Utility bill of the elector that is dated within ninety days of the date of the election. A utility bill may be for electric, gas, water, solid waste, sewer, telephone, cellular phone, or cable television
- Bank or credit union statement that is dated within ninety days of the date of the election
- Valid Arizona Vehicle Registration
- Indian census card
- Property tax statement of the elector’s residence
- Tribal enrollment card or other form of tribal identification
- Vehicle insurance card
- Recorder’s Certificate
- Valid United States federal, state, or local government issued identification, including a voter registration card issued by the county recorder

An identification is “valid” unless it can be determined on its face that it has expired.

IF YOU DO NOT HAVE THE PROPER ID, YOU WILL BE ABLE TO VOTE A PROVISIONAL BALLOT.
ALL VOTERS WILL RECEIVE A BALLOT WHEN GOING TO THE POLLING PLACE.

For questions call the Apache County Elections Director, Penny L. Pew at (928) 335-4584, ext. 7357 or (928) 337-7357 or send an email to pennyp@co.apache.az.us or www.co.apache.az.us

POLL: OPEN 6AM – 7PM TUESDAY, NOV. 8, 2005
Un mensaje de la Dirección de Elecciones del Condado Apache:

Como consecuencia de la aprobación de la Proposición 200 por los votantes de Arizona, conocida como Identificación en los Centros Electorales, será necesario presentar un documento de identificación en los Centros Electorales a la siguiente vez que se presente para votar. En algunos casos, se podrá necesitar presentar una identificación adicional en el centro electoral. La información contenida en el documento de identificación debe ser reconocible y se requiere presentar aquel que aparezca en el registro de firmas. Los siguientes tipos de identificación se aceptarán:

- Licencia de manejo de Arizona válida
- Licencia de identidad de Arizona válida
- Tarjeta de identidad tribu u otro tipo de identificación tribal
- Identificación emitida por el gobierno de los Estados Unidos, federal, estado o local válida

Una forma de identificación es "válida" a menos que se determine que la información es no válida.

NO ES OBLIGATORIO OBSTENER IDENTIFICACIÓN CON UNA FOTOGRAFÍA SI SE PRESENTA UN COMO LA IDENTIFICACIÓN ANTERIOR.

Prueba de identidad válida con fotografía, nombre, y dirección personal del elector:

- Cuenta de empresa pública del elector con un fecha dentro de noventa días de la fecha de la elección. La cuenta de empresa pública puede ser de electricidad, gas, agua, servicios públicos, servicios de telefonía, teléfono celular, o televisión por cable.
- Estado de cuenta del banco o de cooperativa de crédito con un fecha dentro de noventa días de la fecha de la elección.
- Tarjeta de credito del elector
- Tarjeta de tarjeta de crédito del elector
- Identificación emitida por el gobierno de los Estados Unidos, federal, estado o local válida, incluyendo una tarjeta de votante inscrita emitida por la registradora del condado.

Una forma de identificación es "válida" a menos que se determine que la información es no válida.

SI NO PRESENTA IDENTIFICACIÓN ACEPTABLE, SE LE PERMITIRÁ VOTAR UNA BOLETA PROVISIONAL.

Al presentarse en el centro electoral, todos los votantes recibirán una boleta.

Si tiene preguntas, comuníquese con la Directora de Elecciones del Condado Apache, Pammy L. Prew al (928)353-4000, extensión 737 o (928) 337-7557 o envíe un correo electrónico a elecciones@apache.gov o www.co.apache.gov
What is the Presidential Preference Election?

When is the Presidential Preference Election?
A.R.S. § 16-241 (B)
Governor Napolitano issued a proclamation (order) that the 2004 Presidential Preference Election shall be held on February 3, 2004.

What Other Elections Will Appear On The Ballot In February?
A.R.S. § 16-241 (A)
No other election may appear on the same ballot as the Presidential Preference Election.

Will The Candidates Be Listed In Alphabetical Order?
A.R.S. § 16-245 (B)
The order of the names of certified candidates shall be determined by lots drawn at a public meeting called by the secretary of state for that purpose.

Rotation of candidate names is prohibited.

What Is The Presidential Preference Election?
A.R.S. § 16-243
All candidates for the office of President of the U.S. will appear on the ballot in February. There will be separate ballots for each recognized political party.
The candidate who receives the greatest number of votes in the Presidential Preference Election will represent the party at the national convention.

Will I Receive A Sample Ballot?
A.R.S. § 16-245 (D,E)
The officer in charge of elections shall mail one sample ballot to each party represented on the Presidential Preference Election ballot to each household that contains a registered voter of that political party.
The mailing face of each sample ballot shall be imprinted with the great seal of the State of Arizona with the words "official voting materials—presidential preference election."

Where Do I Go To Vote?
If you live on the Navajo Nation, you will vote where you usually vote in County and State elections.
If you live off-reservation, there will be consolidation of some polling places. Eagar & Round Valley will vote at the Round Valley Gymnasia, Springerville & Ft. Top will vote at the Apache County Road Yard, St. Johns & Conrado will vote at the County Annex. All other polling places will remain the same.
To vote in the Presidential Preference Election, you must be registered with
the Political Party for whom you are planning a
vote.

The deadline to register to vote in the Presidential Preference Election is Jan.

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<td>First Day Early Ballots will be mailed</td>
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<td>Early Voting Ends</td>
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For further questions, call (866) 361-6662 or (928) 337-7537
Or visit the website at:
www.co.apache.az.us

February 3, 2004
I requested some information from Kimmet Yazzie, Navajo Nation language contact, who wrote the following statement:

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

In closing, I can honestly say that the language program has been positive for our county in educating and promoting our most fundamental right...the power of our vote.

Penny L. Pew
Apache County Elections Director
APPENDIX TO THE STATEMENT OF BARRY WEINBERG: Problems in America’s Polling Places: How They Can Be Stopped; Temple Political and Civil Rights Law Review, Spring 2002

Introduction

Discrimination in voting is as old as voter registration. Throughout the years, laws and procedures have been used to keep people from voting. During the same time, laws have been on the books to battle discriminatory attempts to keep people off voter registration rolls. Some of these anti-discrimination laws have been effective, but many have not.

Beginning with the Fifteenth Amendment, ratified on February 3, 1870, to the Voting Rights Act of 1965 and its amendments in 1970, 1975, 1982 and 1992, the United States Congress has passed laws to prevent acts that disenfranchise minority group members. Also during this period, other laws were enacted under Congress’ power in Article I, Sections 4, of the U.S. Constitution to enforce the Fourteenth Amendment to assure effective practices and procedures that disenfranchised U.S. citizens.

The authors have worked for over thirty years to fight against unjust voting procedures. Others recently have declared their resolve to join in the fight to cure the events surrounding the Presidential election in November 2000, which left a new immediacy to concerns about the actions that prevent legitimate voters from casting their ballots, or having their ballots counted. Studies, reports, and other analyses have been produced to illuminate the fate of these voters, and to recommend solutions needed for the problems that are found. But there are several basic steps that need to be reviewed in pursuing this analysis, and they can be boiled down to the following:

- Real things happen in polling places.
- There are steps that have effectively stopped the bad things from happening in polling places.
- There are particular steps that can be taken now to stop bad things from happening in polling places.
- The states already have all the authority they need to administer elections fairly and effectively.

Weinberg0002.eps

It has been noted that voter registration procedures were first established to assist Indians that made it difficult for people to become voters. Most famously, voter registration requirements adopted after the Civil War kept thousands of African-American people from registering to vote. These laws that allowed only white people to register to vote, or laws that were neutral on their face but discriminatorily applied, the number of African-Americans on the voting rolls was kept to a minimum.

Ultimately, in Gros v. United States, the U.S. Supreme Court found unconstitutional a 1919 amendment to the Oklahoma constitution that required literacy tests for all applicants for voter registration, excepting everyone who was eligible to vote on January 1, 1866, and all of their blood descendants. Since the Fifteenth Amendment became effective in 1870, and African-Americans were able to register to vote before then, the 1919 amendment allowed all white males to avoid taking the literacy test, while requiring all African-American voter applicants to take it. Laws that exclude persons from a new category based on preexisting characteristics, which those persons have or got from their ancestors, are called grandfather classes. A grandfather clause in a subsequent Oklahoma statute disenfranchised voter registration to everyone qualified to vote in 1916, but who neither voted in 1916, nor registered to vote during a twelve-week period in 1916. These exceptions from the application of the law were individuals who were registered in 1914, a time when African-Americans could not register to vote because of the provisions conditional to the Census case. The new Oklahoma statute was eventually held to be an unconstitutional infringement of the Fifteenth Amendment in Lewis v. Wilson, 279 U.S. 356.

Similarly, when the U.S. Supreme Court ruled that Texas could not limit the franchise to white people in Nixon v. Herndon, 273 U.S. 536, that state abandoned its white-only laws for general elections, but attempted to remove the state from involvement in political party candidate selections. When that scheme was found unconstitutional in Smith v. Allwright, 321 U.S. 649, the Texas Democratic Party delegated its authority for candidate selection to a "white-only" club, arguing that an election to nominate a political party's candidate for office is private action, not state action, and therefore the party can equally exclude or exclude whoever it wants from voting in the election. This scheme, too, was found unconstitutional under the Fifteenth Amendment in Tilly v. Adams, 275 U.S. 394. During the pendancy of the case, state laws effectively kept African-Americans from voting in Texas for decades.

Other laws that were neutral were as effective as "white-only" laws in keeping African-Americans off the voting rolls, but were found equally unlawful. The poll tax, adopted by Alabama during its 1901 Constitutional convention, and intended to keep blacks from voting, was ruled unconstitutional in 1932. Literacy tests also precluded applicants from registering if they failed to demonstrate their literacy by reading and/or writing particular material, such as portions of the state constitution. These tests also effectively kept African-Americans off of the voting rolls.

As state laws were found to unconstitutionally bar African-Americans from voter registration, states adopted new tests to apply to voter applicants. When Louisiana adopted new voter registration standards, white people who were registered under the less stringent earlier standards were allowed to remain on the voting rolls. All the whites, African-Americans, who had been kept off the voting rolls until then, underwent testing to become registered. Although now white applicants were also required to meet the new standards, there was a marked disadvantage impact of the scheme. The Supreme Court did not allow...
such racially unfair circumstances to continue. [56, 14]

B. An Initial Federal Remedy for Disenfranchised Voters

In response to the poverty of practice and procedures that effectively disenfranchised African-American voters, federal civil rights voting laws were enacted in the Civil Rights Acts of 1957, 1960 and 1964, and codified at 42 U.S.C. § 1973 et seq. Taken together, these laws include additional language prohibiting racial discrimination in voting. [57] Under the U.S. Attorney General to file lawsuits to enjoin racial discrimination in voting. [58] and contain administrative and judicial procedures that may be used to stop harassment of newly disenfranchised African-American voters at the polls. These procedures made Congress's initial attempt to breach the wall of federalism, declaring that it is the function of the states and the states alone, to determine voter qualifications. [59] Because of the stringency in enforcing the Voting Rights Act, the procedure adopted by Congress to fight the discriminatory applications of literacy tests were provisions and required continuing participation by the courts. [60]

These procedures were not effective in dealing with the problem of the discriminatory application of literacy tests to thousands of individuals throughout the South. Lawsuits required proof that the Southern courts registered, nearly all who conducted voter registration and elections along with other tasks, infamously administered the state's literacy test to black applicants. [61]

To circumvent such proof, U.S. Department of Justice (DOJ) lawyers conducted investigations in each county in the Southern states that may have been at fault. At the county courthouse, lawyers, accompanied by DOJ, again interviewed each voter registration applications forms—thousands on all. Lawyers and paralegals then reviewed each form to record whether the applicant was white or black or white and had been marked on the application forms of white people, and a C for colored; had been marked on the forms of African-Americans, and to record the applicants' education. The reason the applicant failed the test, and other relevant information. Nearly all rejected applicants were African-Americans.

Reasons for application rejection ranged from an inability to explain constitutional provisions, to an indiscrinate period after the applicant's middle school. A number of African-American applicants who were rejected were college graduates, some with advanced degrees. It was common for the county registrar to complete applications in their handwriting for white people who passed literacy tests, but allowed the applicant to sign with his or her own nearly illegible, shaky signatures. Moreover, the clear evidence of the unfairly rejection of African-American voter applicants as shown by the registration forms still required bettering by other documentation and witnesses. [62]

*46* Given an arduous task, and the continued inability of the legal system to anticipate the discriminatory actions of voter registrars when applying voter registration requirements. African-American citizens continued to be excluded from the rolls of registered voters throughout the South.

Registration of voting-age Negroes in Alabama rose from 14.2% to 14.4% between 1958 and 1964. In Louisiana it barely inched ahead from 11.7% to 13.8% between 1956 and 1963, and in Mississippi it increased only from 4.4% to 6.4% between 1954 and 1964. In each instance, registration of voting-age whites rose roughly 50 percentage points or more ahead of Negro registration. [63]

In addition, each time litigation was successful in enjoining one kind of discriminatory procedure, the state or the county would adopt another kind of discriminatory procedure that was equally effective in keeping African-Americans off the voter rolls. Against this backdrop and the well-publicized efforts of civil rights workers helping southern African-Americans to register to vote, the setbacks of African-Americans marched on their way. In Selma, Alabama, heading to rally for voting rights on the steps of the state capital of Montgomery, Alabama, in March 1965, galvanized the nation and led to the passage of the Voting Rights Act of 1965 in August.

II. The Voting Rights Act of 1965

A. The Special Provisions of the Voting Rights Act

Congress found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting because of the incredible amount of time and energy required to overcome the obstacles erected in these lawsuits. After enduring nearly a century of systemic resistance to the Fifteenth Amendment, Congress might well
decide to shift the advanage of time and errors from the perpetrators of the evil to its victims. [2521]

The Voting Rights Act (the "Act") cut through the protective barrier of federalism with two important sections. Section 5 of the Act (the "preclearance" provision) required federal review of any new voting procedure enacted in areas that had a history of voting discrimination. Civil rights groups had pushed for this type of review in the Supreme Court's 1965 decision in the "Miller" case. [2522] This prohibited the adoption of new discriminatory practices when a jurisdiction's present practices were found to be unlawful. Section 4 of the Act initially led to the disfranchisement of thousands of people by suspending the use of literacy tests and similar discriminatory practices in the registration of African-Americans in the deep South. [2523] Some states, such as Virginia, immediately stopped using literacy tests. In other southern states, federal examiners were appointed under Section 4 of the Act [2524] and were assigned to counties to assume the voter registration under Section 1 of the Act. [2525] When white county officials refused to stop their racially discriminatory voter registration practices, [2526] that was no small task, as over 176,000 people were registered between 1965 and 1972 through the efforts of the federal examiners, mostly in Alabama, Georgia, Louisiana, and Mississippi. [2527]

Further, in order to allow the U.S. Attorney General to know whether discriminatory actions were taken against the newly enfranchised voters in the polling places on election day, Section 8 of the Act allowed that, whenever an examiner has been appointed, the Director of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, to enter and remain at any place for holding an election . . . for the purpose of observing whether persons are entitled to vote are being permitted to vote, and to enter and remain at any place for ballots to be marked and counted . . . for the purpose of observing whether or not those entitled to vote are being properly substituted. [2528] Thus, the use of federal observers in polling places initially aimed to protect the rights of new voters who were registered by federal examiners. Although federal voter registration became rare after 1975, the peddlers under the Voting Rights Act for assigning federal observers has not changed. Federal observers continue to be allowed only in counties that are certified by the U.S. Attorney General for federal examiners. [2529] As a result, to allow the assignment of federal observers to a county, the county must be certified by the U.S. Attorney General or a federal court for federal examiners. [2530] The assignment of federal observers continues to be a cornerstone of the enforcement of the Voting Rights Act. Over 33,000 federal observers have been assigned to monitor polling place procedures since 1965 and over 4,393 since 1990 alone. [2531]

B. Racial Discrimination at the Polls

Federal observers were able to note and document a wide variety of discriminatory actions that were taken against African-Americans in the polls. Some of these insidious and direct actions are reflected in the United States' response to interrogations in U.S. v. Connie County. [2532]

While providing assistance to a black voter, white poll official Albert asked, "Do you want to vote for white or negroes?" The voter stated that he wanted to give everyone a fair chance. Albert proceeded to point out the black candidate and, with express solicitation, said "This is the black on voting for." Poll official Albert made further reference to black voters as "niggers" in the presence of federal observers, including a statement that "niggers don't have principle enough to vote and they shouldn't be allowed. The government lets them do anything." [2533]

"N" White poll workers treated African-American voters very differently from the respectful, helpful way in which they treated white voters. When questioned some about the voter registration data for a white person, such as a person's address or date of registration, or when a white person's name was not immediately found on the poll book, the voter was addressed as Mr. or Mrs., was treated with respect, and the matter was resolved on the spot. If a black voter's name was not found, allowed to be changed at the poll book or, alternately, the person was allowed to vote in a provisional or challenged ballot, which would be counted later if the person was found to be properly registered. If this were a white voter, the name was addressed by his or her first name and either the middle initial or the whole white people's name. African-American voters were not allowed to take sample ballots into the polls and were made to vote without these aids. [2534]

African-American voters who were unable to read and write, due in large part to inferior segregated schools and the need to go to work in the fields at an early age, were refused their request to have someone help them mark their ballot, overwhelming the Voting Rights Act's ban on literacy tests. In some instances, white poll workers loudly announced the African-American voter's inability to read or write, embarrassing the voter in front of his or her neighbors. When black
voters said they could not see the ballot well, some white poll workers went so far as to give a magnifying glass to the African-American voters, compelling them to read the ballot through the magnifying glass in front of everyone present at the polling place. Neither white voters, on the other hand, were allowed assistance by a person of their choice without comment. Furthermore, white couples were allowed to enter the voting booth together to mark their ballots.

In those instances where African-American voters had an assistant in the booth, arbitrary rules were concocted that limited the number of voters an assistant could help, or made the assistant wait outside the polling place, requiring the voter to enter the poll alone, and separate from the long queues of white poll workers. Before being allowed to ask that the assistant be allowed to help, the voter had to be sure that the assistant was not afraid to help. In all these cases, when the voter said he or she needed assistance the white poll worker proceeded to help the voter, and did not give the voter a chance to ask for the assistance the *440 voter wanted; the voter did not know if the poll worker was the ballot as the voter desired, and had no confidence that the ballot was correctly cast.

Racial discrimination in the polls is neither limited to African-Americans, nor limited to the south. On November 2, 1999, in the City of Hamtramck, Michigan, the qualifications of more than 40 voters were challenged on the grounds that they were not citizens. The challenges were by members of a group known as Citizens for a Better Hamtramck ("CBH"), who were organized to keep down the voting. As described in the Consent Order and Decree in U.S. v. City of Hamtramck, [4572]

6. . . . Some voters were challenged before they signed their applications to vote. Other voters were challenged after they had signed their applications and their names had been changed. The challenged voters had dark skin and distinctive Muslim names, such as Mohamed, Ali, and Ali. The challenge was not to possess or consult any papers or lists in determining who to challenge.
7. . . . Once challenged, the city election inspectors required the challenged voters to swear that they were American citizens before permitting them to vote. Voters who were not challenged were not required to do so. The city election inspectors did not evaluate the propriety or merit of the challenges. Some black-voted voters produced their American passports to identify themselves to election officials. Nevertheless, these voters were challenged by CBH, and the election inspectors required them to take a citizenship oath at a polling place for voting. No white voters were challenged for citizenship. No white voters were required to take a citizenship oath prior to voting. [4573]

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

C. Discrimination Against Language Minority Group Members at the Polls

Besides discriminatory treatment of citizens based on race, citizens who speak English poorly, or not at all, have faced obstacles to voter registration and voting. In 1975, Congress took note of discrimination against people who have only a limited ability to speak English. For them, printing or providing information only in English is inefficient and ineffective, and it is not helpful in registering to vote or in casting an effective ballot. Such discrimination was outlawed when the Voting Rights Act was amended and expanded in 1975. The term of the Voting Rights Act, containing the formula for applying special coverage to counties, was changed to include *451 north of the border and metropolitan areas.

The practice or requirement by which any state or political subdivision provides any registration or voting notices, forms, instructions, assistance or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five percent of the citizens of voting age residing in such State or political subdivision are members of a single language minority. [4574]

Language minorities are defined in the Voting Rights Act as American-Indian, Asian-American, Alaskan-Natives, and peoples of Spanish heritage. [4575] Usually, political subdivisions as defined in the Act are counties. [4576] The 1975 amendments to the Act required that when a newly convened jurisdiction

provides any registration or voting services, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language. [4577]

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

The need for the language minority provisions of the Voting Rights Act continues to be demonstrated in areas of the country where English is not a personal primary language. Normally, one would assume that polling place workers would be chosen from the populations where the polling place is located, and that they would speak another language in addition to English with the same frequency as the voters. In many instances, however, this did not happen. For example, in culturally changing neighborhoods in New York City, the choices of the political party apparatus resulted in the required appointment of English-speaking poll workers where a large portion of the new voters in a precinct were Spanish-speaking Puerto Ricans. In Panaca, Nevada, English-speaking poll workers were unable to find the names of Spanish-speaking voters in the polls books because the poll workers did not know that the voters’ family name traditionally was the second of three names they used. Some voters were denied the ballot because they identified their street name according to common Spanish usage rather than the formal English name. In Tucson and southern Arizona polling places Hispanic voters were admonished not to use Spanish when filling in the polling place and when giving assistance to voters who needed help when voting. Minors on the citizenship of Hispanic voters was questioned in the polls, with voters being required to show photo identification evidence of their citizenship before being given a ballot, such evidence was not required of Anglo voters.

Evidence of other kinds of discriminatory behavior of polling place workers and others toward Spanish language voters inside the polls is provided in the reports of the Independent Election Monitor appointed in 1983. September 2006 by the court in a consent decree in U.S. v. Panaca City. At the University school, challengers became very aggressive and were yelling at voters, stating that they did not live in the county and should not vote. Numerous of these challenged voters were off-duty Panaca City police officers. Angel Calabos. It was true that challenged police officer who avoided confrontation and properly came to Panaca City Hall to have the voting status clarified. Escorted by the City Clerk and an investigator from the prosecutor’s office, Mr. Calabos was assisted in the polling place and was permitted to exercise his vote. The sample challenger was rejected and bound workers were removed that challengers should not be interfering with voters.

The most disturbing incident of the June 30, 2003 municipal primary election occurred at the polling place at St. Mary’s School in Panaca. Someone allegedly used the flag from outside the polling place. The police were called. An officer responded and asked the purported perpetrator, “The Officer entered the polling place and asked who had called the police. No one responded. The officer asked the community to inhibit the poll workers on fellows, “Can’t you read? What country do you come from?” When a man said a student or in a foreign country came to see what the problem was, the officer asked, “And what country do you come from?” When a Latino federal observer tried to explain the dictates of the consent order, the officer asked for credentials. When the observer showed his credentials, the officer found them inadequate because they lacked a picture and described the observer. “The Officer told the observer, “I could arrest you for this.” Upon being asked to the community. I asked investigation from the Panaca County Prosecution Office and Deputy Chief of the Panaca County Police Department to intervene. When a Sergeant from the Panaca Police department responded at the scene and learned what had happened, he prosecuted the federal observer and told him that some sensitivity training might be in order for the officer. Nearly, the discriminatory incident took place in a city where the Latino population is in 66 percent. Inadequacies in the city are still evident and being under eager of official rights.

The use of English rather than Chinese in polling places in Chinese neighborhoods of San Francisco and Oakland (Alameda County), California, and New York City left voters confused about procedures, and ignorance of ballot propositions and endorsed officials. As is noted in the Settlement Agreement and Order of the S. v. Alameda County.

According to the 1990 Census, the population of Alameda County includes 88,184 Chinese Americans and 30,179 Chinese American citizens of voting age. The 1990 Census report that 13,934 persons, or 37.5 percent of the Chinese citizens voting age population in Alameda County, and 1.3 percent of the total citizens voting age population in Alameda County do not speak English well enough to participate effectively in English language elections. This over 11,000 Chinese American citizens in Alameda County cannot function effectively in the electoral process except in the Chinese language.
Problems were also severe in Native-American areas of Arizona, New Mexico and Utah. The problems faced by Native-Americans in these areas are illustrated in Cibola County, New Mexico, which contains the Ramah Chapter of the Navajo Reservation and the Acoma and Laguna Pueblos. The Supremacy and Order in U.S. v. Cibola County, [252] notes that:

8. According to the 1990 Census, 57.8 percent of the Navajo voting age population and 61.1 percent of the Pueblo voting age population in Cibola County do not speak English well enough to participate effectively in English language elections. Thus, a significant proportion of the Native-American population of Cibola County, and a significant majority of Navajo, cannot function in the electoral process, except in the Navajo or Keresan languages. [257]

a. The Navajo and Keres populations of Cibola County live in circumstances of significant isolation from the non-Native-American populations of the county. Cibola County is unusually large, with physical terms and covers a geographic area roughly the size of the State of Connecticut. Over one-third of the non-Native-American population lives clustered within or near the adjacent incorporated communities of Grants and Milan, close to the county courthouse. The Acoma and Laguna population centers are between 25 and 50 miles away from Grants, the county seat, while the Ramah Chapter House is approximately 30 miles from Grants. The isolation of the Native-American population of Cibola County hinders their access to the franchise.

b. Native-American citizens living within Cibola County, suffer from a history of discrimination, which their right to register, to vote, and otherwise to participate in the political process. Until 1948, Native-American citizens of New Mexico were not permitted to vote in state and local elections. [255] In 1948, the court in Sanchez v. King held that the New Mexico state legislature had enacted laws discriminating against Native-Americans. [256]

c. The level of political participation by Native-American citizens of Cibola County is depressed. Voter registration rates in the 418 predominantly Native-American precincts have been less than half the rate in non-Native-American precincts, and Native-Americans are subject to disproportional numbers by voter purge procedures. Although Native-American citizens comprise over 38 percent of the county population, twice as much as the 14 percent of all absentee ballots have been from the predominantly Native-American precincts. There is a need for election information in the Navajo and Keresan languages, and a need for publicity concerning all phases of the election process for voters in Ramah, Acoma and Laguna. The rate of participation by Native-Americans in such issues in less than one-fifth of the participation rate among non-Native-Americans. There is a need for polling places staffed with trained translators conversant with the Native-American population. [252]

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

Native-American polling place workers in reservation precincts faced a more difficult task than while polling workers in getting to the polling places. In some polling places there were many miles up in countyscalit where most white people lived. At the polling places Native-American polling place workers were given little or no instruction about how to translate ballots and properties, and many of their attempts to do so on election day resulted in the most rudimentary references. For example, polling place workers assisting voters at the polls would refer to the office of secretary of state: as someone who works in the state. They were confident that this was the correct term for education was said simply to be in the course of study. Many times the Native-American polling place workers found it difficult to figure out how to explain items on the ballot they just instructed the voters to skip the items as appropriate. Moreover, Native-American voters who were successful from the voter rolls because they failed to respond to written notices either did not receive [258] or did not understand, were turned away from the polls with no explanation of why they were not able to vote, and were given no opportunity to re-register them. [257]
This DOJ effort, known as a pre-election survey, is conducted by the Voting Section of DOJ's Civil Rights Division. Pre-election surveys began right after the Voting Rights Act was enacted, as a tool for determining where and how many federal observers would need to be assigned under section 8 of the Voting Rights Act. Though the years the pre-election surveys have remained relatively unchanged for determining where racially discriminatory action (as manifested with language-based difficulties) would occur in the polling places of the deep south. This process is intrusive on a broad level because it can be used, with variations, by states throughout the country to determine, prior to election day, where problems will occur on election day in polling places across the state.

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

The surveys begin about six weeks before the election, which is a time when candidate qualifying has been completed and campaigning has been in progress. The Voting Section contacts county election directors to determine a number of facts, including the name and race of the candidates, the office each is seeking, which candidates are incumbents, the county's procedures for appointing polling place workers, and the county's procedures for responding to problems that arise on election day. Telephone calls are also made to African-American people in each county who are familiar with the way elections have been conducted in the county during recent elections, who know who the candidates are and whom the candidates have been competing against, and who are knowledgeable about relationships between the races in the county and whether there have been any recent racial incidents in the county.

Often, on-site information is necessary to decide whether federal observers are needed. Voting Section attorneys that travel to the counties where the facts show that poll workers will make it difficult for black voters to cast their ballots for the candidates of their choice. The attorneys interview the county election officials, the county sheriff (or chief of police, if a city election is in issue), African-American county residents, including people associated with community and civil rights organizations, and candidates. Thus, the attorneys get sufficient information to make their recommendations to Voting Section supervisors as to whether federal observers should be assigned for the election, and, if so, the number and placement of federal observers that will be needed on election day. (7-841) The polling places that are selected for the assignment of observers are those at which (1) the facts show that African-American voters are likely to be intimidated or misled on election day, and where (2) the county has no effective way to either know what is happening in the polls, or for responding to problems that occur at the polls, or both.

During the pre-election surveys the Voting Section supervising attorney talks frequently with the Voting Rights Coordinator at the Office of Personnel Management ("OPM") who recruits and supervises the people who serve as observers. (7-853) Thus, OPM is aware of the identity of the counties *408 that are the subject of field investigations, and of the recommendations of the attorneys for the assignment, number and location of federal observers. Because of the ongoing coordination between the Voting Section and OPM, the federal observers are chosen by OPM and are ready to depart for their assigned location the moment a final decision is made by the Assistant Attorney General for Civil Rights as to the numbers and placement of the observers. (7-853)

II. Federal Observer on Election Day

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

The observers are briefed by DOJ attorneys and the observer captain on the day before the election. The observers have prepared forms on which to record the activity in the polls. Observers often stand the ballot count and record the number of votes cast by each candidate. A federal observer report form can be found at Appendix E.

During election day, an observer supervisor repeatedly visits the polling places where federal observers are stationed. This supervisor maintains contact telephone contact with the DOJ attorneys in the county. This gives the DOJ attorney in the county a general flow of information about activities that transpire inside the polls. When the federal observer informs the DOJ attorney of actions of polling place officials that the attorney considers improper or discriminatory, the DOJ attorney facilitates action in the county or the state to stop the discriminatory activity. Local officials may also use this information after the election to take steps to prevent the incidents from happening again.

Similar steps are taken on election day when federal observers are needed to determine compliance with the language minority provisions of the Voting Rights Act. The pre-election preparation is different, however, because minority vote totals depend on the identity of the candidates or the issues involved in a particular election. The information obtained in one election about language minority procedures may determine whether federal observers are needed in the next election.

The reports of federal observers have a primary emphasis on the language aspects of polling place procedures and the actions of polling place workers. [...] A federal observer report form used for language minority elections can be found in Appendix F. Usually, it is neither required that the observer attend the polling place at the time of the poll nor that they stay all day. The goal is to have the observer attend the polls long enough to witness a number of minority language voters go through the voting process. This will give the observer sufficient facts to allow the DOJ attorney to analyze the county's compliance with the law.

We should emphasize that federal observers do not interfere with the election process. Their limited function is to pass along information to their OPM supervisors and the DOJ attorneys, as is in accord with the dictates of Section 9 of the Voting Rights Act (28.C.F.) The observers must not give instructions to poll workers, must not give help to voters, and must not share their observations, judgments, or opinions with individuals in the polls. They are eyes and ears. They are paid witnesses.

IV. Requiring Counties to Do Their Job
In the enforcement of all federal civil rights laws the DOJ attempts to obtain voluntary compliance from protective defendants. This has been especially true when enforcing the Voting Rights Act because the protective defendants are officials of state and local governments.

From the beginning of DOJ's enforcement of the Voting Rights Act, DOJ lawyers personally conducted investigations in each county before examiners or observers were assigned and regularly checked on the progress of examiners while they were in the field. On election day, a DOJ attorney accompanies each county in which federal observers are assigned. The DOJ attorney obtains information from the observers during election day and directs the observers immediately after the election. During their presence in the counties, the DOJ lawyers have continued contact with county officials to give them the information gained from their pre-election investigation in the county and from the federal observers. These local officials have the opportunity to instruct the local workers at the polling places to follow the appropriate procedures. The federal observers monitor the polling places witness the conduct of the discriminatory action, or if the discriminatory action continues, the DOJ lawyer brings the information from the observers to the attention of the county election officials to attempt to get corrective action. Thus, federal observers gather evidence of discriminatory activities in the polling places for future legal action, and serve to eliminate discriminatory action on the spot. At times, the more presence of federal observers at the polls simply prevents the tendency of polling place workers to discriminate against minority voters.

A. Coordinated Remedies Require Counties To Do Their Job in the South

Some corrective action is needed when county election administrators do not address continuing problems in the polls, and do not follow proper election day procedures. A primary reason for the institution of African-American voters was to provide the means for the failure of local election officials to appoint African-Americans as polling place workers. The evidence of mistreatment that this discriminatory policy had on African-American voters provided a firm basis for action.
енды requiring defendants to take specific steps to recruit and hire African-Americans to work in the polls. One good example of this result is the consent decree in U.S. v. Contra Costa. [252] The decree required the defendant political party executive committee (responsible for nominating people to serve as poll workers) to "engage in affirmative recruitment efforts aimed at ensuring that the pool of persons from which nominations are made fairly reflects the availability of all qualified persons in Contra Costa County who are interested in serving as election officials, without regard to their race or color." [252]

These recruitment efforts were required to include encouraging candidates to "seek out and propose for nomination black citizens," and sending notices to local organizations comprised predominantly of black citizens ... to advise them that the party wishes to nominate persons to serve as election officials and encouraging them to have interested persons notify the chairpersons of the respective political party executive committees. [241] of their willingness to serve as election officials." [241]

A 1993 consent order in U.S. v. Johnson County stated that:

1. According to the 1990 Census, the total population in Johnson County is 14 percent black and the total voting age population is 25.2 percent black.

2. Of the one hundred thirty-one individuals who were employed by Johnson County to serve as poll officials between 1988 and August 1992, eighty-eight (68%) were black. There were no black poll workers during this period at any of the twelve polling places.

3. Of the sixty-six poll officials employed by Johnson County for the July 21, 1992, primary election, thirty-nine (59%) were black. There were no black poll workers at eight of the twelve polling places.

4. Of the one hundred six poll officials employed by Johnson County for the November 3, 1992, general election, sixty-six (63%) were black. There were no black poll workers at six of the twelve polling places.

5. No black person has ever served as a managing poll officer or an assistant managing poll officer at any of the county's polling places. [241]

Included in the Johnson County consent decree among the steps the defendant county commission and supervisors of election must take to have African-Americans fairly represented among the polling place workers are, "[f]urnishing written notices to local organizations comprised predominantly of black citizens ... to advise them that the county intends to appoint black persons to serve as poll workers and poll managers;" and "[t]raining black candidates and members of the political party to address the issues, addresses and telephone numbers of black citizens who are qualified and available to serve as poll officials." [241] In addition, the defendants must publish in local newspapers, on radio, on television and on posters their policy of conducting elections free of racial discrimination. They also must train the poll workers on how to perform their duties in a racially non-discriminatory manner and, specifically, on how to deal with voters who need assistance.

Even with the specific steps set out in the fifteen-page Johnson County consent decree, the reports of federal observers showed that African-American citizens of Johnson County were continuing to be excluded from among the ranks of those appointed to work at the polls because the supervision of elections did not adhere to the terms of the decree. After further discussions between the county and DOJ, in lieu of DOJ pursuing contempt of court proceedings the county appointed a bi-racial committee. "422 formed of county residents to perform the preliminary poll worker recruitment and nomination functions previously performed by the election supervisor, having first set a uniform date for filling appointment the poll workers. [252] As a result, African-Americans were fairly appointed among those who worked at the polls, and discrimination against African-American voters in the polls abated in Johnson County, Georgia, in immediately subsequent elections.

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

V. State Laws Governing Integrity, Interference and Intimidation At Polling Places

Each state has established laws and regulations that govern the conduct of elections within the state. These include laws establishing the location of polling places, conduct of elections, methods of marking the ballot, preservation and printing of the ballot, appointment of officials overseeing the conduct of the election, selection and training of poll workers, qualifications of voters, and absentee voting. Many of these laws were intended to ensure that voters may freely exercise their right to vote.
Most states have given the candidates or political parties the power to observe behavior in the polling places. These are the people who choose the polling place watchers, and they have the power to refuse to allow watchers who do not properly apply state polling place procedures. Thus, the law of New York says:

As any general special town or village election, any party committee or independent body whose candidates are upon the ballot; and at any primary election, any two or more candidates and any political committee may have for each election direct three watchers at any one time. . . . Watchers shall be appointed by the chairman of any such party, committee or independent body or the candidates. [226] Similarly, Utah law says:

For each regular general election or statewide special election, and for each regular primary, each registered political party and any person interested in a ballot proposition appearing on the ballot may appoint one person to act as a voting poll watcher to observe the counting of ballots, another person to act as a counting poll watcher to observe the counting of the ballots, and another person to act as an inspecting poll watcher to inspect the conditions and observe the securing of ballot packages. [255] Though poll watchers are on hand during elections, state laws do not routinely give state-level officials the authority to take action apart from the authority to prosecute officials for malfeasance, if county or municipal election officials refuse to take steps that will assure fair treatment of voters at the polls. At most, state-level officials are empowered to gain information about activity in the polling place that can serve as the basis for action after the election.

B. Prohibiting Intimidation and Interference

In addition to prescribing routine election procedures, most states have laws that prohibit intimidation of voters or intimidation with their ability to freely exercise their right to vote. Some state laws have broad prohibitions against intimidation of voters or intimidation of voters in any way. Other states only present intimidation or intimation of voting from occurring and existing in the polling place. Others only prohibit interference with election officials in the exercise of their duties and are not subject with respect to voter intimidation. [7][3] While penalties for violations of most voter intimidation statutes are misdemeanor under state laws, some are felonious. [7][5][3]

In addition to providing criminal penalties, a few states have created other statutory means for dealing with voter intimidation, such as creating special civil causes of action or providing special remedies such as injunctions of elections. For example, Tennessee Code Annotated Section 13-17-119 allows the Federal Election Commission to enjoin the use of any method of voting if interference with or intimidation of voters is occurring. [7][6][4] Deliberate coercion creates a specific civil cause of action for those who are victims of intimidation or attempted intimidation. [7][7][4]

While most states have at least some statutes designed to protect voters from intimidation or interference, only a few states have specific statutory means for dealing with voter intimidation or interference while it is happening. For example, Nebraska and Washington allow certain specified officials to take action, including arrest, to clear entrances and exits from polling places when threatened. [7][5][6][5]

South Carolina and Virginia specifically confer special authority on election officials to take action to enforce state laws against voter intimidation or interference. A broader nation, physically blocking access to polling places. South Carolina law grants police powers to managers of elections. [7][2][6] Virginia law permits election officers to enter the arrest of persons under certain circumstances. [7][2][4] Virginia law requires certain election officials to prevent interference with voters in the polls, but does not provide how they are to do so. [7][5][1][4] These state provisions are unusual in that they specifically authorize election officials to take action to stop voter intimidation or interference at the time they occur.

While very few states allow intervention at the polling place, these are states that provide a mechanism for gathering information about things that are occurring in polling places, similar to those mechanisms under the federal civil rights laws. Take the laws of Illinois and Georgia, for example, which permit an official to the Secretary of State to Attorney General's office or the appropriate county's district attorney's office to take direct action regarding activity that occurs in the polling place, but only after the action has occurred. Illinois, the State Board of Elections may review and inspect proceedings and records relating to the conduct of elections and voter registration in any manner deemed necessary, and report violations of election laws to the appropriate State's Attorney. [7][2][5][3] in Georgia.

427 It shall be the duty of the State Election Board ... to investigate, or authorize the Secretary of State to investigate, when necessary or advisable, the administration of primary and election laws and findings and irregularities in primaries and elections and to report violations of election laws to the appropriate State's Attorney. [7][3][3][4][3]
History, however, is not on the side of broadening the investigation powers of state actors. For, historically, state actors have been part of the problem at polling places and not the solution. This is especially a dilemma in legislating against voter intimidation and interference.

C. Law Enforcement—Problems or Solution

There are state laws that recognize this problem and specifically prohibit law enforcement officials from engaging in intimidation or appearing within a certain distance of polling places. Penny’s basic law provides that “in no election may any police officer enter or aid in any intimidation, threats, force, or violence, or in any manner, directly or indirectly, influence, or attempt to influence the election or the conduct of any election...” [Penny § 16-99.01].

South Carolina limits the presence of police officers to those summoned by election managers to enforce their orders. No sheriff, deputy sheriff, police officer or other officer shall be allowed to come within the polling place except in such instance summoned into it by a majority of the managers. There are other states that, while not prohibiting law enforcement officers from being present at polling places, specifically prohibit acting under color of authority to intimidate or interfere with voters.

VI. Problems That Allegedly Occurred in Polling Places On Election Day: November 7, 2000

The 2000 presidential election focused perhaps the greatest attention on the election process in the United States. Numerous organizations conducted investigations and issued reports on what happened in the polls on November 7, 2000. Some of these reports were more focused than others in reviewing what has happened in Florida. While historically there has been some public awareness of problems at the polls in the United States, even members of the public were shocked to discover that, in fact, every ballot cast for president is not necessarily counted and that problems at the polls are not limited to certain areas of the country where there are minority groups. In the past, it has been commonly thought that polling place problems, that publicity, has been primarily due to actions taken by the Department of Justice in enforcing the Voting Rights Act. Thus, many people believed that election day irregularities were limited only to particular areas of the country and that these irregularities were largely a thing of the past. As a result of the focus on the 2000 presidential election, however, there is more general awareness that polling problems are far more prevalent and widespread.

For years, in addition to local poll watchers, both the Republican and *429 Democratic parties have conducted election day operations during which attorneys and political operatives across the country have monitored activities at the polls on election day, and, in the case of Wisconsin, throughout the recount process, sometimes for weeks after the election. In 2000, this activity continued well beyond election day. While the DOJ focuses on election day, it is to gather information to combat investigations for future action and to address problems that arise on election day, the partisan election day operations have been more focused on identifying problems that could potentially be solved during the election day. As part of this operation, the parties maintain election judges who are not receiving case management or reporting of election day irregularities. Normally, this operation is over when the polls close in the base state. In 2000, however, that was only the beginning. On the day after the election, reports of election day irregularities continued flooding into the Democratic National Committee and the Gray Panthers, among others. Special phone lines were set up to receive these calls and obtain contact information. Several days later, teams of attorneys were sent into Florida to contact complainants and gather and organize the allegations of irregularities. Some of this data was used by the various law firms that were brought to Florida.

Despite the numerous organizations that conducted reviews of election day 2000, these reviews resulted in reports, not action. While the Justice Department may have investigated specific allegations, there has been no public comprehensive investigation into most of the allegations. Therefore, it is impossible to determine how many of the allegations were meritorious. For purposes of this article, however, it is not necessary to know. There is now a widespread perception that election irregularities do occur in this country—including some beyond the types of problems addressed by the
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Voting Rights Act: A review of the types of allegations made in 2000 is helpful to an understanding of what steps states can take to minimize public confidence in the electoral system.

In 2000 some of the allegations of irregularities were known on election day and others were not discovered until after that day. In the case of some election day allegations, there were opportunities to take steps to attempt to correct them before the polls closed. Following is a summary of the types of allegations of irregularities made and some specific examples of each.

A. Ballot Design Irregularities

Poorly cut out of a ballot can result in voter confusion. Perhaps the most prominent allegation of flawed ballot design is the new nationwide "butterfly ballot" in Palm Beach County Florida. The design of the ballots was such that many people were uncertain which hole to punch for the candidate of their choice. In some instances, voters punched more than one hole for president, known as "overvotes." In other instances, voters believed that they might have punched the wrong hole. When the results were published, there were concerns that many people who intended to vote for Al Gore, in fact cast their votes for Pat Buchanan. As a result of this confusion, there were also allegations that voters who were confused or thought that they had missed their vote were denied an opportunity to discard the ballot and vote a new ballot, even though Florida state law provided that remedy.

Palm Beach County officials were aware on election day of the alleged confusion caused by the butterfly ballot. Palm Beach county officials were contacted and in some instances, signs were posted in polling places advising people of this confusion and urging that they review their ballot carefully. Information was also put out through radio stations advising of the confusion and instructing to allow voters who had not yet gone to the polls. For some voters, of course, it was too late. In a number of calls from individuals who were afraid that they might have voted for the wrong person, seeking advice as to what they could do once they left the polls.

B. Long Lines at the Polls

There were numerous complaints on election day that lines, particularly in minority polling places, were excessively long. Long lines allegedly discouraged some voters, particularly those who must take off from work to vote and those whose employers do not readily provide leave for voting. There were allegations that some people who saw the lines in various polling places became discouraged and left without casting votes.

There were also allegations of confusion regarding the rules on voting after the polls close. Most states provide that any voter in line at the time of the closing is entitled to vote. There were allegations, however, that people waiting in line outside polling places were told that they might as well leave because they would not be allowed to vote even though they were in line at the time of closing.

In one case a lawsuit was brought on election day seeking to keep the polls open late because it was alleged that long lines caused by inadequate number of polling places and voting machines, and machine breakdowns, would result in the de facto denial of the right of many voters to vote. A Circuit Court Judge of the Circuit Court of the City of St. Louis ordered that the Board of Elections extend the hours of voting, but that order was overturned later that day on appeal to the Missouri Court of Appeals. [729/33]

C. Inadequate Parking Facilities and Lack of Public Transportation

There were allegations that voters were selected for polling places were not easily accessible by public transportation or had inadequate parking available. These allegations were made in Florida as well as other states. Some people waiting in their cars were not in line as the polls, they would not be eligible to vote after normal poll closing times, even though they were waiting in the parking lot to find a parking space. Lack of access to public transportation also can cause hardship for voters, particularly for those who must take time off from work. A lengthy commute to the polls or a long walk from public transportation can discourage people from voting.

While, in the absence of an investigation, there was no evidence that most parking and transportation problems were malicious, there were some allegations that local law enforcement authorities directed voters to places where there was no parking available and sought to vigorously enforce no parking zones around polling places even where it was clear that the
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D. Motor Voter Problems

There were numerous allegations from across the country that voters who had registered under the National Voter Registration Act showed up at their polling place and were not on the rolls. Under the NVRA, state agencies that obtain voter registrations are required to forward them to the appropriate authorities. These allegations are ones that the Department of Justice typically investigates after the election is over to determine whether there were widespread systemic problems or actions by the state agencies charged with implementing the law.

E. Interference by Law Enforcement Officials

Presence of state and local law enforcement officers can have a negative impact on turnout and can intimidate legitimate voters. There were allegations in various parts of the country that officers set up roadblocks outside polling places to perform random seat belt, drivers license and car registration checks; that officers stood outside polling places with lists of outstanding warrants looking for suspects, and that officers stood outside polls suggesting that voters needed to be able to prove their eligibility to vote by producing some type of identification. These types of allegations can be brought to the attention of state and local authorities who have the ability to intervene during election day and stop any unauthorized action by any color of law. Some such allegations were made in Florida on election day and were investigated by state officials.

*433 F. Integrity of Ballot Boxes

In most states, ballot boxes (or the equivalent depending on the system used) are collected at the local level and are transported to central locations for tabulation. The integrity of the count depends heavily on the accuracy of these boxes. There were allegations across the country that ballot boxes were missing, that they were found later but their chains of custody could not be determined, that ballot boxes were left unsecured in areas where there was restricted access, and that the number of ballots counted did not correspond to the number of votes voting. Of course, these types of allegations are not new, and do they come primarily from Florida. Our popular culture has long associated the word with voters from the state, being in a vacuum room and stuffing ballot boxes from the upper Midwest to the Deep South going back to the earliest days of our democracy. However, the accuracy of the vote count depends on the integrity of the system of guarding and accounting for those votes, and while jinks are made about the past, ballot-counting shenanigans are unacceptable in the 21st century.

G. Lack of Training of Poll Workers

Our system of voting depends heavily on the use of volunteers across the country. While elections are managed under the auspices of state and local boards of elections, in most jurisdictions the polling places themselves are run virtually exclusively by volunteers. There were numerous allegations in 2000 that polling place officials refused to answer questions from..

H. Absentee Voting Irregularities

Absentee voting problems were not unique to regular voting on election day as well as with the unique problem of military absentee ballots. There were allegations that voters who requested absentee ballots received more than one, that voters who requested absentee ballots but did not receive them were not allowed to vote when they showed up at the polls, that partisan representatives of political parties were allowed by local election officials to compete simultaneously filled out absentee ballot envelopes, that absentee ballots were obtained in behalf of nursing home inhabitants that were then voided with the assistance of partisan officials and that absentee ballots not properly filled out were counted in some jurisdictions and disallowed.
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involves.

*460 In Florida, there was a particular issue with vast numbers of excesses military ballots. Under the terms of a consent decree with the Department of Justice, in Federal elections, excess military ballots must be counted if mailed by the date of the election and received within a specified time period. [FN102] There were allegations after the election in Florida in particular that military ballots were counted even though they did not meet the technical requirements, such as the requirement that they be dated.

1. Accuracy of Tabulation and Uniform Standards

As a result of the recount in Florida in 2000, numerous articles and studies have now been written about the relative merits of different types of voting equipment. Accuracy issues are of two kinds: (1) whether the equipment accurately record and count the votes cast by each voter; and (2) whether the equipment correctly tabulate the votes cast. The Florida recount focused attention on the differences between types of voting machines, their accuracy, and the number of ballots routinely disqualified. Prior to the Florida recount, there was a widely misunderstood by the public that in any election there are numerous ballots that are disqualified and not counted in precincts across the country. Of course, in an election that is not close, disqualified ballots would not change the outcome of the election and, therefore, are of little concern. In a close election, they could [FN103] Much of the legislative interest post-November 2000 has been on ensuring that state and local governments obtain voting equipment that records accurately in states votes as possible and is as immune as possible from human error. The American public has now become familiar with recounts, undervotes and other terms that previously were not household words.

In addition to machine failure or inability to accurately record votes cast, the aftermath of election 2000 also drew attention to the lack of uniform standards for counting votes. The Florida press conference at this point in time illustrated the diversity of standards (or lack of standards) applied from one precinct to another even within the same state.

3. Bush v. Gore

The opinion of the Supreme Court in Bush v. Gore [FN105] suggests that states must develop uniform standards for use of electronic voting equipment.

The per curiam opinion of the Court stated that the Equal Protection Clause of the Fourteenth Amendment applies not only to the granting of the right to vote but also to the manner in which the right to vote is exercised.

*461 which the right to vote is exercised.

The right to vote is exercised in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another. [FN106]

While the full significance of Bush v. Gore for state administration of elections will evolve over the next few election cycles, it is clear that more attention must be given to a statewide level to the conduct of elections at the local level. The per curiam opinion notes that the question of whether local entities within a State may develop different systems for implementing elections is not at issue in the case. [FN107] However, the Court's equal protection analysis suggests that where state officials confer authority on local officials the state may have a greater burden to ensure the equal application of its laws to voters. [FN108] It may no longer be sufficient to confer local officials with the same level of discretion they have exercised in the past.

VII. States Should Act Now to Stop Bad Things from Happening to Voters in the Next Election

The states have the authority to regulate activity that is permitted in the polling places on election day, including regulations as to who is allowed in the polls, and to adopt rules to keep order in the polls. As noted above, nearly all of the states have used that authority in part to limit the discretion of the poll officials or others that deny or abridge people's right to vote without intimidation or interference. But the states have delegated to the counties the responsibility for conducting the election and maintaining order in the polls, and by doing so the states have dedicated their responsibility for preventing bad things from happening to voters in the polls on election day.

The history of voting through administrative action, as reflected in the federal voting rights cases, was one of state leniency, as in the first instance. Then, when the states' rules and actions were enforced, the states adopted legislation...
leaving it up to the counties to take the arbitrary actions that deprived people of their right to vote. This pattern continues today, as counties continue to deprive people of their voting rights by assigning the responsibility delegated by the states to conduct elections.

Moreover, deprivations of voting rights today transcend the racially based actions that soil our nation’s history. The opposition that came to light in the wake of the presidential election in November 2000, and the United States Supreme Court’s analysis of the unequal application of administrative rules at violations of the Equal Protection Clause in Bush v. Gore, illustrate *48* that deprivations of voter rights because of administrative malfeasance, disregard of the rules or a failure to apply rules equally to all voters and voters is unlawful. Since the states have the authority to set the rules for the conduct of elections, it is up to the states to remedy those deprivations.

The federal observer program as it is administered under the Voting Rights Act illustrates that government officials can design programs to anticipate where there will be an unequal application of state rules at the polls, and to direct remedial action at those polling places where the problems are likely to occur. States can do likewise, and could devise even more effective programs to anticipate where voters may be deprived of their rights at the polls, given the states’ closer proximity to their counties and more direct knowledge of the activities that occur during elections in the state. States already have much information about depressions, overvotes and other instances where voters have been ineffective in casting their ballots, and can determine where voters are deprived of their rights at the polls. Once the identity of those polling places is established, state law should give state election officials the responsibility of contacting the county election officials to inform them of the nature of the problem at the polls and of the corrective election procedures. In instances where the county officials are unwilling or unable to take action to ensure that the anticipated problems do not occur, state law should give same election directors authority to direct that correct procedures be used. And to use personnel already responsible in the polls in order to ensure that state procedures are followed.

The Voting Rights Act does not give the federal observers or the U.S. Department of Justice authority to stop discriminatory action as it occurs. 42 U.S.C. § 1971(b) but the presence of disinterested third-party observers under the Voting Rights Act has the prophylactic effect of discouraging such behavior in the polls, especially when those observers represent a government agency that is immune from ensuring correct behavior toward voters. The states can go much further, and confer on observers authority to inform polling place workers about correct state procedures, and to point out supervisor personnel in contact with county or polling place officials to direct them to follow state voting rules. If the Voting Section of the Department of Justice’s Civil Rights Division can do such a fine-detailed job from Washington, D.C., then local polling places where matters group voters are likely to be disadvantaged or at which there may be efforts to intimidate voters, needs the state, from a close vantage point, with knowledge of their own procedures and familiarity with their own county election administrators, could do at least as effective a job. After all, the state rules are the ones that are to be followed, and it is their citizens and voters who will be victimized by their own officials.

If the states do not assume the responsibility for conducting effective *48* decisions when the counties fail to do so, then the United States Congress should consider whether federal civil rights voting laws should be expanded to include the deprivation of voting rights at the polls because of administrative malfeasance, disregard of the rules or a failure to apply rules equally to all voters and voters. At the same time, Congress should consider similarly expanding the proportionately successful federal observer program.

Such legislation could be constitutionally based on the Equal Protection Clause of the Ninth Amendment. There is precedent for this approach in the Voting Rights Act itself. The Act initially was based on the Fifteenth Amendment. The Fifteenth Amendment’s protections apply only to deprivations of the right to vote on the grounds of race, or a previous condition of servitude. When the Voting Rights Act was amended in 1975 to prohibit discrimination against language minority groups, the amended provisions were based on the Fourteenth Amendment as well as the Fifteenth Amendment in order to eliminate possible challenges to the new provisions on the grounds that the protected minority language people would not be found to be racial groups. 42 U.S.C. § 1973

Conclusion

The continuous deprivation of voting rights faced by United States citizens at election polls, coupled with the complexity of these problems following the November 2000 presidential election, make it incumbent upon the states to use their authority to regulate the election process. States should adopt procedures for: (1) determining when a county will face obstacles while casting effective ballots at the polls, and (2) intervening and removing these obstacles in any county that fails or refuses to
numeral them on its own. These procedures may follow the federal observer model or any variation of other models. If a state fails to discharge its responsibility, federal legislation should consider expanding the civil rights voting laws and the federal observer program in order to address such deprivation of voting rights.

Reforms to correct voter discrimination have financial implications for the states, however. [20114] For example, there is a widespread belief that voting technology across the country must be updated. This is costly, and federal action to provide funds is critical. But, even beyond the cost of voting machines, establishing an effective system for training election officials, monitoring elections and enforcing the laws will require a substantial commitment of resources by the states—a commitment they may be unable to make without federal financial assistance.

**APPENDIX A**


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<th>State</th>
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<th>Non-White People</th>
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<td>Total</td>
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<td>161,239</td>
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</tr>
</tbody>
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**APPENDIX B**


**TABLES OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE**

**APPENDIX C**

**EXCERPTS FROM PLAINTIFFS RESPONSE TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS, U.S. v. Conneaut County **[20117]**

A white voter walking in line to vote stood to a poll official John P. Stover that she was unable to obtain a yellow paper ballot. The black voter standing next in line had received a yellow paper ballot from Mr. Bowley and stated, “You ain’t [sic] of the right color.” During the same day, Mr. Bowley stated that federal observer Riddle, “has the raison of being the white marked ballots. The neger prances not the neger don’t.” After the elections, they told the woman they didn’t have any ballots. I don’t think that’s right.” [20119]

Poll officials instructed white registrants to confirm their registrations to the office of the Probate Judge. Black voters whose names were not on the list were in each instance simply told that they could not vote, and were given no instruction by poll officials. When voter Saler’s name did not appear on the list, and Mr. Saler acknowledged that he voted in a real practice and not in box 31-1. Mr. Saler nevertheless was allowed to vote an unchallenged ballot directly on the machine. [2019] [2031]

Ms. Lewis, who sought assistance because of a vision problem, signed the poll list and stated that she wished for her companion missed her to provide assistance in voting for her. While poll official Woodham stated, “Can’t nobody go in there with you,” after a pause, Mr. Woodham stood in front of Mr. Lewis, “you can fill out an affidavit and then she can go in with you. Can’t you (affidavit) Ms. Woodham’s time and manner were sufficiently obtrusive that Ms. Lewis left the voting place. Some witnesses later she was observed to remark to a companion, who was trying to persuade her to make another attempt to vote, “I’ve done had trouble with them twice before and I’m not bothering them any more. I’m not scared but I’m not bothering anybody.” Ms. Lewis returned accompanied by Mr. Richard Rabb, in that time the Chair of the Conneaut county Branch of.
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the Alabama Democratic Conference. Ms. Lewis was allowed to vote, and the poll officials provided necessary assistance with the affidavit. Ms. Lewis remained very upset and remarked, "Why couldn't they have let me vote to begin with?"

Black voters at lot 9-1 (Old Town) were told throughout the day of the October 12, 1982 special runoff election, that more than two voters were allowed in the polling place at one time. This "441 restriction" was imposed im 36-38 occasions. In no instance were white voters required to conform to this procedure, and the poll officials allowed as many as five white voters inside the polling place at one time. [2818]

Ms. Stacey explained the limitations on the amount of time a voter could spend in the booth in a random and discriminatory fashion. She also explained the limitation against black voters more frequently than against white voters. During the last hour of voting, the requirement was applied eclekically against black persons. On at least two occasions the told black voters that their votes had been spoiled when, in fact, it had not. [2819]

During the course of the day, poll officials addressed all black voters by their first names. Older white voters were addressed by the courtesy title of Mr. and Ms. [2820]

White poll official James Ellis invented new procedures for assistance of black voters. Without notice to any person, Mr. Ellis required assistants accompanying voters into the polling place to remain 30 feet outside the polls until Mr. Ellis had finished interviewing the voter and announced the result. [2821]

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

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

Poll officials frequently served as assistants without asking voters receiving assistance who they wanted to assist them. On a number of occasions, poll officials serving as assistants did not read the complete ballot to the voter. [2823]

*442 Appendix D

JURISDICTIONS CURRENTLY CERTIFIED FOR FEDERAL EXAMINERS UNDER SECTION 3(A) OF THE VOTING RIGHTS ACT (FN23)

<table>
<thead>
<tr>
<th>State</th>
<th>Jurisdiction</th>
<th>Term of certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Louisiana</td>
<td>St. Landry</td>
<td>December 15, 1973 order, effective &quot;until further order of the court.&quot;</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Passaic County</td>
<td>June 2, 1999 order, effective until December 31, 2003.</td>
</tr>
<tr>
<td>New Mexico</td>
<td>Bernalillo County</td>
<td>April 27, 1998 order, effective until June 30, 2003.</td>
</tr>
<tr>
<td>New Mexico</td>
<td>Cibola County</td>
<td>April 21, 1994 order, effective until April 21, 2004 (originally certified by December 17, 1984 order).</td>
</tr>
<tr>
<td>New Mexico</td>
<td>San Miguel County</td>
<td>September 9, 1994 order, effective until at least</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Certification Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah</td>
<td>San Juan</td>
<td>December 31, 1998, effective until December 31, 2002 (originally certified January 11, 1984 order)</td>
</tr>
</tbody>
</table>

**FEDERAL OBSERVER REPORT**

<table>
<thead>
<tr>
<th>Name of Federal Observer</th>
<th>Arrival Time</th>
<th>Departure</th>
</tr>
</thead>
</table>

1. SITE AND VOTING LOCATIONS

Describe any signs/numbers/indicators to locate the polling place:

---

Were signs bilingual? Yes ___ No ___

Describe any signs/numbers/indicators to locate the voting location inside the building: ______

Were signs bilingual? Yes ___ No ___

**4. III TELEPHONE**

Was a telephone available for use at the polling place? Yes ___ No ___

Where was it? ______

---

Did you observe election officials using the telephone at any time to contact election officials? If so, under what circumstances?

III. INITIAL SET-UP OF POLLING PLACE (For FIRST SITE only, one for each targeted ED)

**NEW**

What time did election officials arrive? **__**

Did board members have a check list for availability and posting of bilingual materials? Yes __ No __

Did they receive all the materials from their supply pack and review them? Yes __ No __

Did the board members read the board migrant certificate (pay stub) before signing? Yes ____ No __

At what time was the ED open for voting? If the ED was not fully staffed at the poll opening time, were any voters turned away? Yes ____ No __

If yes, how many were turned away? **__**

Additional observations during set-up:

**__**

**__**

**__**

*IV. CLOSURE OF POLLING PLACE (For LAST SITE only, one for each targeted ED)

**NEW**

What time did election officials begin shutting down? **__**

What time was the voting machine shut down? **__**

Did voters show up after the machines were shut down? Yes ____ No __

If so, how many? ____ If so, were they allowed to vote? Yes ____ No ____

What time did the polls close? ____ Were any persons in line? Yes ____ No ____

If yes, how many ____

Were all persons in line allowed to vote? Yes ____ No ____ If not, who prevented them from voting and what reasons, if any, were given? **__**

What time did election officials leave? **__**

Additional observations during closing:

**__**

**V. POLLING SITE OFFICIALS**

**TABULAR OR GRAPhic MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE**

**VI. DESCRIPTION OF POLLING PLACE**

Draw a diagram of the polling place that shows the following:

- Location of voting machines or booths
- Location of tables for election officials for all E.D.'s (Identify electoral district number)
- Location of (A) Master Board Worker, (B) Judge, (C) Inspector, (D) Member, (E) Translator, (F) Challenging Officer, (G) Polling Officer, (H) Investigator, (I) Deputy Attorney General, and Federal observer(s)
- Location of telephones, if any
- Location of the provisional ballot bag storage bag
- The route from the building entrance to voting site (describe if necessary)

Label the location of Spanish and English language voting instructions, signs, or cards (labeled by number, see pp. 6 and by language E = English, S = Spanish or B = Bilingual)

**VIII. BILINGUAL MATERIALS**

**WANTED:**

Use the following table to indicate where the following are, circling which items were in English (E), which were in Spanish (S), and which were bilingual (B).

<table>
<thead>
<tr>
<th>Item</th>
<th>Located</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Sample voting machine ballots</td>
<td>E, S, B</td>
</tr>
<tr>
<td>2) Voter Rights Pamphlet</td>
<td>E, S, B</td>
</tr>
<tr>
<td>3) Vote Here/No Voter Turned Away sign</td>
<td>E, S, B</td>
</tr>
<tr>
<td>4) Board worker's name tag</td>
<td>N/A</td>
</tr>
<tr>
<td>5) Voter complaint forms Available here table sign</td>
<td>E, S, B</td>
</tr>
<tr>
<td>6) Voter instructions sign</td>
<td>E, S, B</td>
</tr>
<tr>
<td>7) &quot;Write in&quot; instructions sign</td>
<td>E, S, B</td>
</tr>
<tr>
<td>8) Interpreter available sign</td>
<td>S</td>
</tr>
<tr>
<td>9) Passaic County Superintendent of Election Poll book</td>
<td>E</td>
</tr>
</tbody>
</table>

10) Voter authority slips (booklet)  E
11) Challenge forms (3 forms)  E, S
12) Challenger Instructions sign  E, S
13) Voter’s complaint form (2 forms)  E, S
14) Provisional ballot Instruction sign  E, S, B

ITEMS TYPICALLY WITHIN BALLOT BOOTH
15) Instructions on what to do if assistance needed inside E, S, B
   of voting booth
16) Machine instructions (how to operate the machine)  E, S, B
17) Voting strips [candidate names]  E, S

ITEMS ACCESSIBLE TO BOARD WORKERS
18) Pre-addressed postage paid envelopes for complaint N/A
    form
19) County polling place material checklist (for board E, S
    worker’s use)
20) Affidavit of residency  E, S, B
21) Provisional ballots  E, S, B
22) 3 Simple means to voting  E, S, B

*484* VIE. CHART SUMMARY

1. LANGUAGE ASSISTANCE FROM CHART A

Did you observe any voters who received assistance in Spanish
From bilingual board workers? Yes __ No __ How many? __
From bilingual machine? Yes __ No __ How many? __
From bilingual challengers? Yes __ No __ How many? __
Number of disability certificates used? __

2. PERSONS NOT RECEIVING LANGUAGE ASSISTANCE (Record specific instances on Chart B)

3. PERSONS VOTING WITHOUT ASSISTANCE BY PROVISIONAL OR EMERGENCY BALLOT (Record specific instances on Chart C)

Did you observe any voters who were not permitted to vote by machine? Yes __ No __

1. Were they permitted to vote a provisional ballot? Yes ___ No ___ Of those, how many were Hispanic? ___ Explain the process, including what the board member did with the completed ballot.

2. Were they permitted to vote an emergency ballot? Yes ___ No ___ Of those, how many were Hispanic? ___ Explain the process, including what the board member did with the completed ballot.

3. Were any voters being challenged? ___ Yes No ___ Of those, how many were Hispanic? ___

4. PERSONS NOT PERMITTED TO VOTE (Record specific instances on Chart D)

   Did you observe any voters who were turned away and not permitted to vote? Yes ___ No ___

   Of those, how many were Hispanic? ___ Explain the process.

5. PERSONS CHALLENGED (Record specific instances on Chart E)

   Did you observe any voters being challenged? Yes ___ No ___

   Of those, how many were Hispanic? ___

   Of those, how many were Hispanic? ___ Explain the process.

   Did the challenger complete a Challengers affidavit for all persons challenged? Yes ___ No ___ If no, How many? ___

   What were the names of each?

6. GENERAL QUESTIONS ON ASSISTANCE (Indicate accounts of language assistance are to be recorded on Chart A)

   Did any language assistance available when you were present at the site? Yes ___ No ___ If not, specify WD/D, record time frames and circumstances.

   Were there any voters who were unable to sign their names? Yes ___ No ___

   If yes, were they Spanish speaking? Yes ___ No ___ Were they offered assistance in casting their ballots? Yes ___ No ___

   If so, in what language? ___ If no, explain ___

   Did you observe voters who verbally sought or appeared to have needed assistance but did not receive it? Yes ___ No ___ If yes, explain. Include WD/D.

   What was the average waiting time for assistance? ___

   Did anyone bring a personal assistant (i.e., a relative or a friend)? Yes ___ No ___ How many? ___

   If yes, were voters allowed to take a personal assistant into the booth? Yes ___ No ___ If no, explain ___

   Were voters informed there was a time limit on how long a voter could take to cast the ballot? ___

Yes ___ No ___ If so, what was the time limit?

Was it enforced? Yes ___ No ___ If so, explain:

7. Were voters permitted to bring marked sample ballots or other election material into the voting booth?

Yes ___ No ___ If no, explain.

8. Based on your observation of assistance, for each ID, explain generally what happens to the voter who needs language assistance from the time they enter the polling place until they leave.

*472 X. TREATMENT OF HISPANIC VOTERS AND HISPANIC BOARD WORKERS

1. Did you observe any Hispanic voter being treated rudely (describe the actual words used and actions taken) by a board worker or translator? Yes ___ No ___ If yes, please explain. Use additional sheets or back of paper if necessary. Please obtain the names and ward and district of Board Workers involved.

2. Did you observe any Hispanic voter or bilingual board worker being treated rudely by a board worker?

Yes ___ No ___ If yes, please obtain the names and ward and district of Board Workers involved.

XI. GENERAL

1. Describe any specific problems that occurred but are not recorded elsewhere in the report.

2. Describe the nature and extent of your contact with board workers, including any noteworthy contact. Please identify by name and election district, and explain.

*473 CHART A ASSISTANCE IN A MINORITY LANGUAGE (CHECKLIST) (Purpose: record the assistance process) WRTED

Your

Language spoken

Time begun: ___ Time ended: ___

Name of board worker / translator / challenger:

Who initiated the contact?

In what language?

Assistance occurred: (circle) inside booth / outside booth. Was a Disability Certificate Used? (circle one) Yes / No

How was the ballot cast? (circle one) machine / provisional / emergency

If used by provisional or emergency ballot, state reason for not being permitted to vote on the machine:

Did the official providing assistance (circle response):

ask if assistance was needed? YES / NO in English or Spanish?

ask voter for choice of language? YES / NO in English or Spanish?
<table>
<thead>
<tr>
<th>CHART</th>
<th>VOTERS NOT RECEIVING LANGUAGE ASSISTANCE</th>
<th>Purpose: record information about voters who need language assistance but do not receive it. Name: Race: Time:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>Language spoken</td>
<td>Did the voter request or ask for assistance? Yes / No</td>
</tr>
<tr>
<td>Did the voter appear to need assistance? Yes / No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If yes, state observations:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*CHART C: VOTING WITHOUT ASSISTANCE (by Provisional or Emergency Ballots) |
(Purpose: record the provisional and emergency ballot process (For nec: use: (A) for Asian, (B) for Black, (H) for Hispanic, (W) for White) Name: Race: Time: |

Address: Language spoken |

How Voted (circle): Provisional / Emergency |

Reason for not being permitted to vote on machine: |

*CHART D: PERSONS NOT PERMITTED TO VOTE IN ANY MANNER (Purpose: record time/day) (For nec: use: (A) for Asian, (B) for Black, (H) for Hispanic, (W) for White) Name: Race: Language spoken |

Nonsensical of official not permitting vote WD/ED |
Reason for not permitting vote: |
What did the official suggest the voter do in order to vote? |

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Alaska

Alaska Statute § 11.56.270. Unlawful interference with voting in the first degree.

A person commits the crime of unlawful interference with voting in the first degree if the person, 1) uses, threatens to use, or causes to be used force, coercion, violence, or intimidation, or causes, threatens to cause, or tries to influence, in any manner, to prevent or obstruct another person in voting or refrains from voting at an election, or 2) knowingly pays, offers to pay, or causes to be paid money or other valuable thing to a person to vote for or refrain from voting in an election, or attempts, accepts, or agrees to accept money or other valuable thing with the intent to vote for or refrain from voting for a candidate at an election for any elective office or position.

Arkansas


It is unlawful for a person knowingly: 1) Directly or indirectly, by any act or means or by threat, violence or intimidation, to induce or threaten or attempt to induce or threaten, by himself or through any person, any exercise or vote, or any act or any other person, of any injury, damage, harm, or loss, or in any manner or practice intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting for a particular person or measure at any election, or on account of such person having voted or refused from voting at an election, or 2) By abduction, detention, or any false or fraudulent device or otherwise, to induce or attempt to induce, or to threaten, or otherwise interfere with the free exercise of the elective franchise of any voter, or to compel, induce or attempt to induce, or threaten, or otherwise interfere with, the free exercise of the elective franchise of any voter, or to compel, induce or attempt to compel, or threaten, or otherwise threaten, any person to vote or refrain from voting at an election, or to vote or refrain from voting at an election for any particular person or measure.

California

California Election Code § 18540. Use of threats to influence voting.

Every person who makes or who uses or threatens to make use of any force, violence, or threat of violence or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refused from voting at any election or voted or refused from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or any term or terms or years. Every person who uses or threatens any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refused from voting at any election or voted or refused from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or any term or terms of years.

Colorado

Colorado Revised Statute § 1-5-711. Interference with voter while voting.

Any person who interferes with any voter who is about to insert in the immediate voting area or is making a ballot or operating a voting machine at any election provided by law is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.
Connecticut

Disturbance of meetings; elections, refusal to assist public officer; breach of the peace; intimidation; false information or false statements concerning telephones, disorderly conduct, false information concerning bombs, etc.

Delaware

A person is guilty of improper influence when the person threatens unlawful harm to any person with intent to influence the latter's opinion, recommendation, vote or other exercise of discretion as a public servant, party officer or voter.


Whoever, being a duly qualified elector of this State according to the Constitution and laws thereof, is prevented from voting, or abstains in her or her behalf, to vote at any election by reason of any interference by any person or persons, or any person or persons, cause, or other power, exercising or attempting to exercise force, intimidation, or threat, or offering any qualification or condition unlawful to such Constitution and laws, shall be deemed and take to have suffered pro-act damage and injury, and shall have and recover thereof, in the courts of this State, by civil action against every person who polluted such interference, whether by active participation, or by advice, counsel, or in any way encouraging the same.

District of Columbia

Any person who shall register, or attempt to register, or vote, or attempt to vote, under the provisions of this subchapter and make any false representations as to his or her qualifications for registering or voting, or for holding elective office, or be guilty of voting, § 1-101.01, or § 1-101.02, or § 1-101.10, or § 1-101.11, or by guilty of bribery or intimidation of any voter in an election, or being registered, shall vote or attempt to vote more than once in any election or hold, or shall perform any act of any of the acts set in any election, or attempt to vote in an election held by a political party, other than that to which he or she has declared himself to be affiliated, or, if employed in the counting of votes in any election held pursuant to this subchapter, knowingly make a false report in regard thereto, and every candidate, person, or official of any political committee who shall knowingly make any expenditure or contribution in violation of Chapter 11 of this title, shall for such offense, be fined not more than $10,000 or be imprisoned not more than 3 years, or both.

Florida

Voting rights, deprivation of, or interference with, prohibited, penalty.

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of intimidating or compelling any other person to vote or not to vote, or for the purpose of causing such other person to vote for or not to vote for any candidate, for any office at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

Georgia

Interference with primaries and elections generally.

Any person who uses or threatens violence to any poll officer or voter, or improperly interferes with the execution of his or her duty, willfully blocks or attempts to block the avenue or the door of any polling place, uses or threatens violence to any citizen to prevent or delay unlawfully voting.
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Hawaii Revised Statutes Annotated § 19-3.9

Election frauds

Every person who, directly, personally or through another, makes use of, or threatens to make use of, any force, violence, or menace, or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way, precautionary intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or in any election, or on account of the person having voted or refrain from voting, or voted or refrained from voting for any particular person or party, or who by abduction, detention, or any device or manner, impedes, prevents, or abates or interferes with the free exercise of the electoral franchise.

Idaho

Idaho Code § 16-2113

Bribery conduct and interference with election

Any person who willfully disturbs, or is guilty of any violent conduct at or near any election place or voting premises, with intent to disturb the same, or interferes with the access of the electors to the polling place, or in any manner, with the free exercise of the electoral franchise of the voters, or any voter there assembled, or disturbs or interferes with the counting of the votes, or with the making of the returns, is guilty of a misdemeanor.

Illinois


Conspiracy to prevent vote - Liability. If 2 or more persons conspire to prevent by force, intimidation, threat, deception, forgery or bribery any person from registering to vote, or preventing any person lawfully entitled to vote from voting, or preventing any person from voting in any manner, or in any election, or on account of the person having voted or refrain from voting, or voted or refrained from voting for any particular person or party, or who by abduction, detention, or any device or manner, impedes, prevents, or abates or interferes with the free exercise of the electoral franchise of the voters, or any voter there assembled, or disturbs or interferes with the counting of the votes, or with the making of the returns, is guilty of a misdemeanor.


All elections shall be free and equal. An election is free where the voters are exposed to no intimidation or improper influence and where each voter is allowed to cast his ballot in his own conscience defense. Elections are equal when the vote of each voter is equal in its influence upon the result to the vote of every other elector — where each ballot is as effective as every other ballot. People v. Statler, 106 N.W. 392 (Iowa 1906).

Indiana

Indiana Code Annotated § 3-14-3.13

Improper solicitation acts or threats to influence voter's vote.

A person who, for the purpose of influencing a voter or candidate, seeks to influence the purchase of a debt by force or threat of force or to frighten the business or trade of the voter or candidate commits a Class A misdemeanor.

Indiana Statutes Annotated § 3-14-3.14

Obstruction or interference with election officers or voters.

A person who knowingly obstructs or interferes with an election officer in the discharge of the officer’s duty, or knowingly obstructs or interferes with a voter within 50 feet of the polls, commits a Class D felony.

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Iowa

Iowa Code § 752.2.7. Prohibited acts on election day.

Intimidating, hindering, or opposing any voter while in or approaching the polling place for the purpose of voting is prohibited on any election day.

Iowa Code § 752.2.7. Misconduct by election official.

A precinct election official who knowingly causes a voter to cast a vote contrary to the voter's intention or withers or changes any ballot, or in any way causes any vote to be accepted contrary to the intention of the person causing that vote, or refuses or rejects the vote of any qualified voter commits a section misdemeanor.

Kansas

Kansas Statutes Annotated § 75-3402. Intimidation of voters.

Intimidation of voters is intimidating, threatening, coercing or attempting to intimidate, threaten, or coerce any person for the purpose of interfering with the right of such person to vote or in any manner, or of causing such person to vote for, or not to vote for, any candidate for any office or proposition submitted at any election.

*OS* Oregon

Oregon Revised Statutes Annotated § 193.135. Preventing voter from casting ballot—interfering with election.

Any person who unlawfully prevents or attempts to prevent any voter from casting his ballot, or intimates or attempts to intimidate any voter so as to prevent him from casting his ballot, or who unlawfully interferes with the election officials in the discharge of their duties, shall be guilty of a Class B misdemeanor. Any person who, by himself or in aid of others, forcibly breaks up or prevents, or attempts to break up or prevent, or obstructs or attempts to obstruct, the lawful holding of an election, shall be guilty of a Class A misdemeanor.

Louisiana

Louisiana Statutes § 14:120. Bribery of voters.

Bribery of voters is the giving or offering to give, directly or indirectly, any money, or anything of apparent present or prospective value to any voter or any general, primary, or special election, or at any convention of a recognized political party, with the intent to influence the voter in the casting of his ballot. The acceptance of, or the offer to accept, directly or indirectly, any money, or anything of apparent present or prospective value, by any such voter under such circumstances shall also constitute bribery of voters. Whoever attempts the crime of bribery of voters shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both, for the first offense. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than five thousand dollars or imprisonment at hard labor for not more than five years, or both.

Louisiana Statutes § 18:1462. Acts prohibited on election day; electioneering; exceptions; enforcement; penalty.

The Legislature of Louisiana recognizes that the right to vote is a right that is essential to the effective operation of a democratic government. Due to a past, longstanding history of election problems, such as multiple voting, votes being recorded for persons who did not vote, votes being recorded for deceased persons, voting by non-residents, vote buying, and vote intimidation, the legislature finds that the state has a compelling interest in securing a person's right to vote in an environment which is free from intimidation, harassment, confusion, obstruction, and undue influence. The legislature, therefore, finds that subsection to provide for a one-hundred foot campaign-free zone around polling places to provide to each voter such an environment in which to exercise his right to vote. Except as otherwise specifically provided by law, it shall be unlawful for any person, between the hours of 6:00 a.m. and 9:00 p.m., to perform or cause to be performed any of the following acts within any polling place being used in an election on election day or within any place wherein absence.
voting in being conducted. *32664* or within a radius of six hundred feet of the entrance to any polling place being used in an

election or election day or any place wherein advance voting is being conducted.

Laws of the State of Louisiana - Title 47, Chapter 261, Sec. 47:261.6, Acquisition of voter's identity.

No person shall intercept or attempt to intercept with any voter when marking his ballot, or endeavor to induce any voter before voting to show how he is going to vote or mark his ballot, or influence or attempt to influence any voter to vote for or against a particular candidate, or otherwise, violate any of the provisions of this Chapter or rules adopted pursuant hereto. Whoever violates this Section shall be punished as prescribed in R.S. 18:1416, R.S. 14:146, R.S. 14:120, R.S. 14:138, or any other applicable law enacted to punish violations of laws relating to other elections.

Laws of the State of Louisiana - Title 47, Chapter 261, Sec. 47:261.7, Election Offenses, penalties.

No person shall knowingly, willfully, or intentionally: 1) Offer, promise, solicit, or accept money or anything of present or prospective value to influence or to influence a vote or registration of a person; 2) Intimidate, directly or indirectly, any voter or prospective voter in matters concerning voting or nonvoting or registration or nonregistration; 3) Offer money or anything of present or prospective value or use directly or indirectly, any form of intimidation to influence the action or encourage action of any public official with regard to the duties of his office or to influence a commissioner or watchman in his decision to serve or not to serve or to subservi in his performance of his duties on election day. Whoever violates any provision of this Section shall be fined not more than one thousand dollars or be imprisoned for not more than one year, or both. On a second offense, or at a succeeding offense, the penalty shall be a fine of not more than two thousand five hundred dollars or imprisonment for not more than five years, or both.

Maine


A person commits a Class E crime if that person interferes with a voter attempting to cast a vote or interferes with or attempts to influence a voter in marking that voter's ballot.

Maryland

Maryland Annotated Code, Article 19, § 39-2661, Offenses relating to voting.

Generally, a person may not willfully and knowingly influence or attempt to influence a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward.

Maryland Annotated Code, Article 19, § 39-2661. Offenses relating to registration.

Generally, a person may not willfully and knowingly present, induce, or delay a person having a lawful right to register for registration, through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward.

Massachusetts

Massachusetts Annotated Laws Chapter 56, § 29. Intimidating with voter.

Wherever willfully and without lawful authority hinders, delays or interferes with, or aids in hinders, delaying or interfering with a voter while on his way to a primary, caucus or election, while within the polling place, while marking his ballot or while voting or attempting to vote, or endeavors to induce a voter, before depositing his ballot, to disclose how he marks or has marked it, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

Massachusetts Annotated Laws Chapter 56, § 30. Willfully obstructing voting.

Wherever willfully obstructs the voting at a primary, caucus or election shall be punished by a fine of not more than one

Massachusetts Annotated Laws - Chapter 50, § 11. Illegal Challenging. Any person challenging a qualified voter for purposes of intimidation, or of discouraging how he votes, or for any other illegal purpose shall be punished by a fine of not more than one hundred dollars.

Michigan Compiled Laws Service § 168.931. Prohibited conduct; violation is misdemeanor; "plain and obvious consideration".

A person is guilty of a misdemeanor if that person either directly or indirectly, discharge or threaten to discharge an employee of the person for the purpose of influencing the employee’s vote at an election.

Michigan Compiled Laws Service § 168.932. Prohibited conduct; violation is felony.

A person shall not attempt, by means of bribery, menace, or other corrupt means or device, either directly or indirectly, to influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote at any election held in this state in guilty of a felony.

Minnesota Statutes § 624.72, Interference with use of public property.

For the purpose of protecting the free, proper and lawful access to, egress from and proper use of public property, and for the purpose of preventing the conduct of public business therein or thereon, free from interference, disturbance or the threat thereof, the legislative or any public officer, agency or board having the supervision thereof, may, to that end promulgate reasonable rules and regulations. Whosoever, intentionally or through coercion, force or intimidation, resists or interferes with the lawful right of another to the free access to or egress from or to use or remain in or upon public property or in the manner reprimand with the transaction of public business therein or thereon may be sentenced to imprisonment for not more than one year or a fine of not more than $3,000 or both.

Minnesota Statutes § 294.06, Conduct in and near polling places.

Linger or near polling place. An individual shall be allowed to go in and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is voting to register or to vote shall stand within 100 feet of the entrance to a polling place. The entrance to a polling place is the doorway or point of entry leading into the room or area where voting is occurring. A violation of this subsection is a gross misdemeanor.

Minnesota Statutes § 211.13, Undue influence on voters prohibited.

A person may not directly or indirectly use or threaten force, coercion, violence, retribution, damage, harm, loss, including loss of employment or economic retaliation, undue influence, or immediate or economic injury, against an individual to vote for or against a candidate or ballot question. Abduction, threats, or fraud may not be used to obstruct or prevent the free exercise of the right to vote at a vote at a primary or election, or compel a vote to vote at a primary or election. Violation of this section is a gross misdemeanor.

Mississippi Code Annotated § 223-15-99, Unlawful to interfere with or influence vote of elector.

It is unlawful for a person to interfere with or influence the vote of an elector on a measure by means of violence, threats, intimidation, enforcing the payment of a debt, bring a suit or criminal prosecution, any threat or action affecting a person’s condition of employment or other corrupt means.

*489 Minnesota Law, Annotated § 97B.087, Threats and intimidation, white-capping.
Any person or persons who shall, by threats, or other writing, or verbally, attempt to injure the person or property of another, or intimidate such other person into an abandonment or change of home or employment, shall, upon conviction, be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or in the penitentiary not exceeding five years, as the court, in its discretion may determine.

Missouri Code Annotated § 571.010.2. Intimidation.

Missouri Revised Statutes of the State of Missouri § 155.620. Three hours off work to vote—Interference by employer a class four offense.

Any person entitled to vote at any election held within this state shall, on the day of such election, be entitled to absent himself from any services or employment in which he is then engaged or employed, for a period of three hours between the time of opening and the time of closing the polls for the purpose of voting, and any such absence for such purpose shall not be deemed for the discharge of or the direct or indirect discharge of any such person from such services or employment; and such employer, if he votes, shall not, because of so absconding himself, be liable to any penalty or discipline, nor shall such deduction be made on account of such absence from his social salary or wages, provided, however, that request shall be made for such hours of absence prior to the day of election, and provided further, that this section shall not apply to a voter on the day of election if there are three successive hours while the polls are open at which he is not on the service of his employer.

The employer may specify any three hours between the time of opening and the time of closing the polls during which such employee may absent himself.

Revised Statutes of the State of Missouri § 135.115. Polling places, how designated, exceptions—voters not required to go to more than one polling place—library and handicapped polling places, common sites.

Each county within its jurisdiction, the election authority shall designate a polling place for each precinct within which any voter is entitled to vote at the election. No person shall be required to go to more than one polling place to vote on the same date. Each local election authority may upon designation one common one as an election day polling place designed for accessibility to the handicapped and elderly, in addition to being able to supply such voters with their appropriate ballots, and being open during regular voting hours, such a polling place shall otherwise be staffed and operated in accordance with law.

Montana Code Annotated § 45-7-522. Threats and other improper influence in unofficial and political matters.

A person commits an offense under this section if the person purposely or knowingly threatens harm to any person, the person’s spouse, child, parent, or sibling, or the person’s property with the purpose to influence the person’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter.


No person, directly or indirectly, by himself or any other person in his behalf, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot box before the people, may use or threaten to use any force, coercion, violence, restraint, or undue influence against any person, or solicit or threaten to solicit, by himself or any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.
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Revised Statutes of Nebraska Annotated § 32-1530. Interference with voter registration process.

Any person who causes or aids in the breach of the peace or uses any disorderly violence or threat of violence, which impeded or hindered any registration of voters or rescissed any registration of voters or rescissed any amendment of voter registration lists or arrested unlawful proceedings of any duly appointed shall be guilty of a Class 3 misdemeanor.


Any judge or clerk of election, police officer, inspector, sheriff, or other peace officer shall clear the passages and prevent obstruction of the doors or entrances and provide free ingress to and egress from the polling place building and shall arrest any person obstructing such passage.

*491 Nevada

Nevada Revised Statutes Annotated § 293.730 Intimidation of voters.

It is unlawful for any person, in possession of any election or petition, whether acting himself or through another person, in his behalf, to: (a) Use or threaten to use any force, coercion, violence, restraint or undue influence, (b) Influct or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another.

New Hampshire

New Hampshire Revised Statutes Annotated § 354-A:11 Interference, coercion or intimidation.

It shall be an unlawful discriminatory act to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of their exercise or enjoyment of, any right granted or protected by this chapter.


No person shall directly, indirectly, falsely or intimidate any voter or to vote or to vote for or against any question submitted to voters or to vote for or against any question or candidate for an election. Whoever violates the provisions of this section shall be guilty of as provided in RSA 640:2 or RSA 640:3.

New Jersey

New Jersey Statutes § 19:34-5 Interference with conduct of election.

No person shall, during an election with intent to hinder or delay any voter in the performance of his lawful duties, remove or destroy any of the ballots or ballots placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot. Any person wilfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by fine not exceeding five hundred dollars and imprisonment until such fine and the costs of the conviction are paid.

*492 New Mexico

New Mexico Statutes Annotated § 1-20-11 Intimidation.

Intimidation consists of including or attempting to induce, fear in any member of a precinct board, voter, challenger or watcher by use of or threatened use of force, violence, intimidation of damage, harm or loss or any form of economic retaliation, upon any voter, precinct board member, challenger or watcher for the purpose of impeding or preventing the free exercise of the elective franchise or the impartial administration of the Election Code. Whoever commits intimidation is guilty of a fourth degree felony.

New York

New York Consolidated Laws Service § 17159. Duties and intimidation of voters.

Any person or corporation who directly or indirectly: 1) Uses or threatens to use any force, violence or threat, or illicit or disgrace to inflict any injury, damage, harm or loss, or in any other manner practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting for or against any particular person or for or against any proposition submitted to votes at such election, or to place or cause to be placed his name upon a register of voters, or on account of such person having voted or refrain from voting at such election, or having voted or refrain from voting for or against any particular person or proposition submitted to voters at such election, or having registered or refrain from registering as a voter, or 2) Brings about, aids or procures or is an accessory to any person to do any such thing, is guilty of a misdemeanor.

North Carolina


It shall be unlawful for any person holding any office, position, or employment in the State, its government, or any department, institution, bureau, board, commission, or other State agency, to aid, aid and with any county, city, town, district, or other political subdivision, directly or indirectly, in discharge, threatens to discharge, or cause to be discharged, or otherwise intimidate or oppose any other person in the performance of his duties, as a member of the board of elections, or in the discharge of his duties as a person employed on the payroll of any local government, or as a member of the board of elections, or in the performance of his duties as a person employed on the payroll of any local government, or as a member of the board of elections.

North Carolina General Statutes § 163-272. Offenses of voters; interference with voters; penalty.

Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful: 1) For any person to interfere with, or attempt to interfere with, any voter when marking his ballot.

North Dakota

North Dakota Century Code § 12.1-44.01. Interference with elections. A person is guilty of a Class 2 misdemeanor if, without or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally: 1) Interferes, intimidates, or interferes with another because he has or has not been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election. 2) Interferes, intimidates, or interferes with another in order to prevent him or any other person from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.

Ohio

Ohio Revised Code, Annotated § 595.24. Interference with conduct of elections.

No person shall attempt to intimidate an election officer, or prevent an election official from performing the official duties.

**Oklahoma**

Oklahoma Statutes - 25 O.S. § 1413. Intimidation with voter or conduct of election

Any person who interferes with a registrant voter who is attempting to *vote* or any person who attempts to influence the vote of another by means of force or intimidation, or any person who interferes with the orderly and lawful conduct of an election shall be deemed guilty of a misdemeanor.

**Oregon**

Oregon House Bill 2794. Relating to elections.

No person shall obstruct or enter an entrance of a building in which a polling place is located.

**Pennsylvania**


If any person shall present or attempt to present any election officer from fulfilling any primary, or election, under the provisions of this act, or shall use or threaten any violence to any such officer, or shall interrupt or improperly interfere with him in the execution of his duties, or shall block up or attempt to block up the avenue to the door of any polling place, or shall use or practice any intimidation, threat, force or violence with the design to influence unduly or otherwise any elector, or to prevent him from voting or restrain his freedom of choice, or shall present, or present to any election officer a fraudulent elector’s certificate not signed in the polling place by the elector whose certificate it purports to be, or shall deposit fraudulent ballots in the ballot box, or shall register fraudulent votes upon any voting machine, or shall disrupt any district register, voting check list, numbered list of voters, ballot box or voting machine, or shall converse with others to commit one of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, he shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding $15,000 or to undergo an imprisonment of no more than seven years, or both, in the discretion of the court.

Pennsylvania Statutes - 25 P.S. § 3527. Peace Officers: no police officer to be within one hundred feet of polling place, exceptions: presence of soldiers prohibited.

None even any police officer shall fully use or practice any intimidation, threats, force or violence nor in any manner shallfully influence or coerce any elector or prevent him from voting or restrain his freedom of choice, nor may any such police officer prevent or directly or indirectly attempt to influence the election or electors while within one hundred feet of a polling place.

**Rhode Island**

Rhode Island General Laws § 17-29-8. Bribery or intimidation of voters - immunity of witnesses in bribery trials.

Every person who directly or indirectly gives, or offers to give, to any elector or to any person for the benefit of any elector, any sum of money or other valuable consideration for the purpose of inducing the elector to give an or withhold his elector’s vote at any election in this state, or by way of reward for having given or withheld that elector’s vote, or who uses any threat or employs any means of intimidation for the purpose of inducing or withholding an elector’s vote or for or against any candidate or candidates or proposition pending at an election, shall be guilty of a felony, and no person after conviction of this offense shall be permitted to vote in any election or upon any proposition pending before the people, or to hold any public office, and no evidence given by any witness testifying upon the trial of an charge of bribery may be used against the person giving the evidence.

**South Carolina**

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South Carolina Code Annotated § 16-17-560. Assault or intimidation on account of political opinions or exercise of civil rights.

It is unlawful for a person to assault or intimidate a citizen, discharge a citizen from employment or occupation, or eject a citizen from a rented home, land, or other property because of political opinions or the exercise of political rights and privileges guaranteed to every citizen by the Constitution and laws of the United States or by the Constitution and laws of this State. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both.

South Carolina Code Annotated § 16-17-560. Assault or intimidation on account of political opinions or exercise of civil rights.

The polling places shall be provided with a table for the managers. The polls shall be provided with a guandril, so that no one except the lawful authority shall approach nearer than five feet to the bounds in which the voters are preparing their ballots. The managers at each voting place shall arrange the table, desk or other place upon which the ballot boxes shall be placed so that there shall be no crowding or confusion immediately around the box, and suitable means shall be provided to enable each voter to approach the boxes and deposit his ballot without interference or hindrance. The right to vote of each person is unfettered and the secrecy of the ballot shall be preserved at all times.

*956* South Carolina Code Annotated § 17-3-150. Maintenance of order; police powers of managers.

Managers of elections are clothed with such police powers as may be necessary to carry out the provisions of this article. The managers shall possess full authority to maintain good order at the polls and to enforce obedience to their lawful commands during an election and during the canvass and counting of the votes. All peace officers shall answer all such calls for help in preserving the peace as may be made by the managers of election.

South Carolina Code Annotated § 17-3-150. Penalty for failure to assist in maintaining order.

Any person who, when summoned or called upon by peace officers shall fail or refuse to assist in maintaining the peace and good order at the polls shall be fined in a sum not to exceed five hundred dollars or imprisoned not to exceed thirty days.

South Carolina Code Annotated § 17-3-150. Peace officers shall keep polling place only on request or to vote.

No sheriff, deputy sheriff, policeman or other officer shall be allowed to come within the polling place except to vote unless summoned into it by a majority of the managers. On failure of any sheriff, deputy sheriff, policeman or other officer to comply with the provisions of the preceding sentence, the managers of election, or one of them, shall make affidavit against such sheriff, deputy sheriff, policeman or other officer for his arrest.

South Dakota

South Dakota Code Annotated § 12-5-42. Electioneering, offices, communications centers and polling prohibited near polling place - violation a misdemeanor.

No person may engage in any practice which interferes with the voter’s free access to the polls or disrupts the administration of the polling place, or conduct, on the day of an election, any sale or public auction within 100 feet of a polling place.

Tennessee

Tennessee Code Annotated § 2-7-301. Posting of sample ballots and instructions - arrangement of polling place - restrictions.

The exercise of free speech rights conflicts with another fundamental right, the right to cast a ballot in an election free from the taint of intimidation and fraud.

Tennessee Code Annotated § 2-7-302. Polling places.

The case law of this state recognizes that minority violations alone may be sufficient to invalidate an election especially when they thwart those statutory provisions designed to prevent undue influence or intimidation of the free and fair expression of the will of the electorate.

Texas


A person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to not file an application for a place on the ballot or a declaration of write-in candidacy in an election that may be subject to this subsection. As used in this section, "intimidation" has the meaning assigned by Section 1.07, Penal Code. An offense under this section is a Class A misdemeanor unless the intimidation or coercion is a threat to commit a felony, in which event it is a felony of the third degree.

Utah


A person may not obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

Vermont

Vermont Statutes Annotated § 2506. Campaigning during polling hours, voter access.

On the sidewalks and driveways leading to a building in which a polling place is located, no candidate or other person may physically interfere with the progress of a voter to and from the polling place.

* Virginia

Virginia Code Annotated § 22.1-240. Prohibited conduct; intimidation of voters; disturbance of election; law prevention, penalties.

It shall be unlawful for any person to bombard, intimidate, or interfere with any qualified voter so as to prevent the voter from casting a secret ballot. The officers of election may order a person violating this subsection to cease such action. If such person does not promptly desist, the officers of election, or a majority of them, may order the arrest of such person by any persons authorized by law to make arrests and, by their warrant, may commit him to the county or city jail, in the case of a first offense not exceeding two-year term. Any person violating this subsection shall be guilty of a Class I misdemeanor.

Washington

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No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place. Any person, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction, and may arrest any person creating such obstruction.

**West Virginia**

**West Virginia Code 3-46-26**

Disorder at public proceedings. Failure to assist in preventing disorder, penalties.

Any person who shall, by force, menace, fraud or intimidation, prevent or attempt to prevent any officer where duty is by law to assist in holding an election, or in creating the votes cast therein, and certifying and returning the result thereof, from discharging his duties according to law, or who shall, by violence, threatening gestures, speech, force, menace or intimidation, prevent or attempt to prevent an election being held, or who shall in any manner obstruct or attempt to obstruct the holding of an election, or who shall, by any manner of force, fraud, menace or intimidation, prevent or attempt to prevent any votes from being cast in an election or from being exercised, or in any manner obstruct or attempt to obstruct the holding of an election, or who shall, by any manner of force, fraud, menace or intimidation, prevent or attempt to prevent any votes from being cast in an election or from being exercised, or in any manner obstruct or attempt to obstruct the holding of an election, or who shall, by any manner of force, fraud, menace or intimidation, prevent or attempt to prevent any votes from being cast in an election or from being exercised, or in any manner obstruct or attempt to obstruct the holding of an election, or who shall, by any manner of force, fraud, menace or intimidation, prevent or attempt to prevent any votes from being cast in an election or from being exercised, shall be guilty of a misdemeanor, and, upon conviction, fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.

Any person who, having been theretofore convicted of an election, or either of them, shall fail or refuse to assist in the election of the public officers, in whatever manner may be necessary or proper to prevent intimidation, disorder or violence at the polls, shall be guilty of a misdemeanor, and, upon conviction, fined not less than one hundred dollars.

**Wisconsin**

**Wisconsin Statutes Annotated § 5.37**

Polling place requirements.

No polling place may be situated so as to interfere with or disturb election officials from carrying out their duties. The municipal clerk and election inspectors shall prevent interference with and disturbance of election at polling places.

**Wyoming**

**Wyoming Statutes Annotated § 23-13-139**

Poll watchers, certification, qualifications, authority, removal.

Additional poll watcher from each political party may be accommodated in the polling premises without disrupting the polling process. A poll watcher is authorized to observe voter turnout at the registration and may make written endorsements but shall not challenge votes, conduct discouraging activities or disrupt the polling process. The chief judge may remove a poll watcher from the polling premises for disrupting the polling place, or for any other violation of the Election Code.

**NOTES**

Barry R. Weinberg is a committed and frequent speaker here and abroad on U.S. and international voting laws. He is the former Deputy Chief of the Voting Section in the U.S. Department of Justice’s Civil Rights Division where he supervised numerous lawsuits to enforce the Voting Rights Act, the initial litigation establishing the constitutionality of the National Voter Registration Act of 1993, and other actions. For most of his 33 year tenure at the Justice Department, Mr. Weinberg was in charge of the federal observer program under the Voting Rights Act. Larry Wolf is a professor at Penn, UMD, & MacKean where he practices election law, representing Members of Congress, candidates, committees, labor organizations, corporations and others in federal and state campaign finance, election law, lobbying regulation and ethics. He is a former Special Assistant General Counsel at the Federal Election Commission, and has served as counsel to numerous candidates, including the presidential campaigns of former Vice President Walter Mondale in 1984, Senator Ted Kennedy in 1982, President Clinton in 1996, and Vice President Gore in 2000. She is an election law consultant of the ABA Administrative Law Division and was recently appointed to a three-year term on the ABA Standing Committee on Election Law. The authors acknowledge and greatly appreciate the assistance of Sara Moskowitz and Mark Goodwin in the research and preparation of this article, and the assistance of Ariel Myers in its final assembly.

**PRN**: “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.” U.S. Const. amend. XV, § 1.

Established nonstatutory voting reforms who could receive applications for an order that people were qualified to vote and had been deprived of the opportunity to register under color of law, take evidence, and report to the court whether the applicant was qualified to vote. This was followed by a show-cause order within 10 days on why an order should not be entered in accordance with the report. There would be a hearing only if there were genuine issues of material fact.

allowed for three-judge courts if a finding of a pattern or practice of discrimination was requested.

Many, as probate judge or circuit clerk, were the highest administrative county official.

sent Section 4 of the Voting Rights Act based on the use of literacy tests and other preenrollment devices (such having current

\textbf{[FN28]}

\textit{Serk v. Carolina}, 383 U.S. 945 (1966) (stating that "nothing is more universally easier to prepare, sometimes requiring as many as 6,000 man-hours spent combing through registration records in preparation for trial").

\textbf{[FN27]}


\textbf{[FN26]}


\textbf{[FN25]}

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fourteenth or fifteenth amendment justifying equitable relief have occurred.¹

¹See supra Part III.D.2.b. From 1998 through 2000, there were 2,449 federal observers assigned to elections in the states of the Deep South, very few of which involved discrimination against language minority group members, and there were 2,913 federal observers assigned to monitor elections in other areas of the country, most of which involved discrimination against language minority group members. See Appendix B.

FNS46: Most addressed to streets using the Spanish nickname was delivered because the postal personnel were familiar with the local Spanish language usage, as the poll workers were not.

FNS47: Anglos could not compile lists of Hispanic voters' names for their poll watchers to challenge at the polls on the ground that the voters were not citizens. United States citizenship is required by every state as a qualification to register to vote in state and federal elections. But in order to avoid discrimination, treatment of voters at the polls and disruption of polling places with election-day challenges, persons who, before an election, have evidence that a registered voter is not a U.S. citizen should be required to present that information to the vote registrar, and to avoid from interpreting challenges of the polls to voters whose qualifications have been upheld by the registrar.


FNS73: U.S. v. Passaic City, No. 95-2544 (citing Tinomine supra n. 41 at 6-7).


FNS76: U.S. v. Citrus County, No. 93 1814 (D.N.M. Apr. 21, 1994).

FNS77: Id

FNS78: Trujillo v. Garity, CA No. 1350 (D.N.M. August 11, 1948).

FNS79: Sánchez v. King, CA No. 20-005-M (D.N.M. 1948).

FNS80: Citrus County, No. 93 1544, slip op. at 5-7.

FNS81: Residents were on the5 Navajo reservation often were miles apart, with no power lines, and many homes have no electrical service. It is not unusual for evacuation residents to pick up their mail periodically at a store or other place far from their homes.

FNS82: Voters were confused because they voted in tribal elections without problem, and were not told, for example, that under state law they had been purged from the county voter rolls because they did not vote in a particular frequency and in particular elections, such as every two or four years in general elections. To add to the confusion, in many areas the tribal elections and the state elections were held on different days but at the same locations. Prior to the National Voter Registration Act, 28 U.S.C. § 1738aa et seq., voter registration in many countries in Indian country was conducted only in the county seat, far from reservation housing, until, in some instances, litigation required that deputy registrars be made available at reservation sites, and that voter purge procedures be modified to allow fair notice to Native-American voters. U.S. v. Attawia, 98-1890 slip op. at 6-11 (D. Ariz. filed May 22, 1999); First Amended Consent Decree, 5-10 (Jan. 3, 1994).

FNS83: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina and Texas are fully covered under the Voting Rights Act's special provisions by the formula in Section 4 of the Act, 42 U.S.C. § 1973b(b). One or more counties are specially covered under Sections 1 and 4 in California, Florida, Michigan, New Hampshire, New York, North Carolina, South Dakota and Virginia. All jurisdictions covered under Section 4 of the Act are listed in the Appendix to 28 CFR Part 55.

FNS84: Certification under Section 4(a) of the Voting Rights Act, 42 U.S.C. § 1973b(b), is for a particular term as defined.
by the court. Certification by the U.S. Attorney General under Section 6 of the Voting Rights Act, 42 U.S.C. § 1973c, is for an unlimited time. Jurisdictions certified under Section 6 can seek to have their certification terminated under Section 13 of the Voting Rights Act, 42 U.S.C. § 1973d. Appendix D is a list of the jurisdictions that have been certified for examiners by court order under Section 5(a) of the Act.

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

Federal observers are assigned and supervised by the Office of Personnel Management. See 5 U.S.C. § 9906. OPM centralizes the observer program in the OPM office in Atlanta, Georgia, over the past several years. Beginning in 2002 the program was consolidated in the OPM office in Denver, Colorado. There is no standing group of people who are federal observers. Rather, the people chosen to serve as federal observers at a particular election are volunteers, usually from among the OPM nationwide staff except when special skills are required, such as Native-American language ability. General training sessions are held for observers and observer supervisors at selected sites during the year. Often people will volunteer to serve as observers in election after election, but they are not always available for every election because of the demands of their regular work assignments and prior obligations. Because of the need to recruit observers for each election, and the logistical requirements of transportation (airplane tickets, rental cars, and lodging), the OPM coordinator and the Voting Section supervising attorney are in contact throughout the year to discuss observer needs in upcoming elections.

If a county for which federal observers are recommended has not been certified yet for federal observers, a separate certification of the county by the U.S. Attorney General is necessary. Certifications are effective upon publication in the Federal Register. 42 U.S.C. § 1973cb. OPM must publish in the Federal Register a location for an examiner’s office. 5 U.S.C. § 9906(j).

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

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

The federal observers assigned to a particular polling place speak the minority language that is used by the voters at that polling place.

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Id. at 3-4.

Id. at 4.


Id. at 6.

This change in practice was reviewed and approved under Section 5 of the Voting Rights Act, 42 U.S.C. 1973d.

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[PSN91] slip op. at 1.


[PSN94] 1973(e).


[PSN96] Tex. Code Ann. § 32.010. "The cause law of this state recognizes that many violations alone may be sufficient to invalidate an election, especially where they thwart the statutory provisions designed to prevent undue influence or intimidation of the free and fair expression of the will of the electors." Tex. Code Ann. § 32.010.

[PSN97] "Whoever being a duly qualified elector of this State according to the Constitution and laws thereof, is prevented from voting, or obstructed in his or her effort to vote, at any election, by reason of any interference by any person or persons, or military power, or other power, exercising or attempting to exercise force, intimidation or threats, or requiring any qualifications or conditions unknown to such Constitution and laws, shall be deemed and taken to have suffered personal damage and injury, and shall have civil remedy therefor, in the court of this State, by civil action against every person who prevented such interference, whether by active participation, or by advising, counseling, or by anywise encouraging the same." Tex. Code Ann. § 32.010.

[PSN98] N.J. Rev. Stat. § 15:2-40 (2003) ("Any judge or clerk of election, presiding or district inspector, sheriff, or other peace officer shall clear the passageway and prevent obstruction of the doors or entries and provide free ingress to and egress from the polling place building and shall arrest any person obstructing such passageway."); N.Y. Rev. Stat. Ann. § 25.51(2) (West 2003) ("Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction.

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[FN109] Of course, the parties continue to monitor and observe recounts.

[FN110] The information regarding these allegations comes from the author’s personal knowledge, serving as counsel for the Gore/Lieberman campaign. Many of the allegations are similar to those reported to the numerous organizations that conducted reviews of election day 2000.


[FN114] Historically, very close elections have usually happened where the electorate was very small. There have been recounts in many states at the State and local level in such close races—some of which involved reviews of disqualified ballots. What was unprecedented in 2000 was the realization that the Presidential contest could be so close that disqualified ballots could make the difference.


[FN116] Id. at 114-115.

[FN117] Id. at 116.

[FN118] Id.

[FN119] The U.S. Attorney General has no cease and desist power in this area. Remedies for discriminatory actions at the polls must be sought in lawsuits in federal district court.


[FN121] It is noted that all reform is not costly. Less expensive changes include clarification of standards and rules governing the conduct of elections and the counting of votes.


[FN123] People were listed in Aisien, Dade, Doral, Doral, East Carver, East Feliciana, Madison, Ouachita, Plaquemines, and West Feliciana Parishes.

[FN124] People were listed in Baitus, Lee, Santee, and Terrell Counties.

[FN125] People were listed in Bevier, Carle, DeSoto, East Carroll, East Feliciana, Madison, Ouachita, Plaquemines, and West Feliciana Parishes.


[FN127] People were listed in Cumbia and Orleans Counties.

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

I am Bradley Schlozman, the Principal Deputy Assistant Attorney General of the Civil Rights Division at the Department of Justice. As I have underscored in previous testimony before this Subcommittee, the President has directed the full power and might of the Justice Department to enforcing the Voting Rights Act and preserving the integrity of our voting process. This Administration looks forward to working with Congress on the reauthorization of this important legislation.
It is my privilege today to provide you with an overview of the Justice Department’s use of sections 6 and 8 of the Voting Rights Act, which pertain to Federal examiners and Federal observers. As you know, these provisions, like section 5, are slated to expire in August 2007.

FEDERAL EXAMINERS

Let me begin by explaining what “federal examiners” are within the meaning of the Voting Rights Act. Federal examiners are essentially officials assigned to a particular political subdivision to whom certain complaints of voting discrimination can be made. Governed by section 6 of the Act, the authority to appoint Federal examiners was first designed as a congressional response to the racially discriminatory voter registration practices that existed throughout the South at the time of the Act’s original passage in 1965. Examiners are charged with processing (or “examining”) applicants for voter registration and making a list of those applicants who meet State eligibility rules; the list is then given to the local county registrar, who is required to put those names on the county’s voter registration rolls. Those on the examiner’s list are commonly called “federally registered voters.” The Voting Rights Act also requires the examiners to be available during each of the jurisdiction’s elections, and for two days afterward, to take complaints from any federally registered voter claiming that he/she had not been allowed to vote.

Federal examiners can be appointed in two separate ways. The first route is through section 6’s empowerment of the Attorney General to “certify” for the appointment of Federal examiners any jurisdiction falling within the coverage of the Voting Rights Act in which there is reason to believe that voters have been denied the right to vote on account of their race or status as a language minority. In particular, the Attorney General must certify that either: (i) he has received complaints in writing from twenty or more residents alleging that they have been denied the right to vote under color of law on account of race or color or because they are a member of a language minority and he believes such complaints to be meritorious; or (ii) in his judgment, the appointment of examiners is necessary to enforce the guarantees of the 14th or 15th Amendments. The second method by which Federal examiners may be appointed is for a Federal court to do so pursuant to section 3(a) as part of an order of equitable relief in a voting rights lawsuit to remedy violations of the 14th or 15th Amendment. Judicial certifications, unlike those of the Attorney General, are not restricted to those political subdivisions covered by section 4 of the Voting Rights Act. Regardless of who makes the formal certification, once the determination is made, the actual selection of the examiner is undertaken by the Director of the Office of Personnel Management (OPM), who then oversees the examiner’s activities.

The Voting Rights Act’s ban on literacy tests and other discriminatory practices has mitigated many of the voter registration problems that made examiners so important. As a result, the need for, and role of, Federal examiners has greatly diminished over time. Although there are still 148 counties and parishes in 9 States that the Attorney General has certified for Federal examiners, nearly all of these certifications were certified shortly after the Voting Rights Act was passed in 1965 when conditions were radically different from today. Moreover, many of the counties/parishes have not been the source of any race-based voting registration complaints for decades.

According to OPM, there have been no new “federally registered voters” (i.e., voters registered by Federal examiners) added in any jurisdiction throughout the country since 1983. Nor has the Department of Justice received any complaints about covered jurisdictions refusing to register Federal voters in decades.

In addition to the great advances in minority access to the franchise today as compared to 30–40 years ago, the decline in registration-related complaints is also attributable to the passage of the National Voter Registration Act of 1993 (NVRA), which made voter registration dramatically more accessible. Prior to this 1993 Act,  

5 There are also 19 political subdivisions in 12 States currently certified by court order. With two exceptions, all of these certifications pertain to language-minority issues. An additional 14 jurisdictions in eight States previously were certified for Federal examiners by Federal courts under section (a), but the designations have since expired.

4 The complete list of counties certified by the Attorney General, along with dates of certification, can be found on the website of the Department of Justice’s Voting Section. See http://www.usdoj.gov/crt/voting/examine/activ
there were few Federal standards for voter registration. Through the NVRA, however, Congress established specific, uniform requirements for voter registration and State maintenance of voter registration lists. All of these requirements are applicable across the United States, not just in those jurisdictions certified for Federal examiners or otherwise covered by the Voting Rights Act. The reality today is that the only real importance of the Federal examiner provision from a practical standpoint is its function as a statutory prerequisite to the Attorney General’s ability to call upon OPM to assign Federal observers to monitor particular elections in certified jurisdictions.

FEDERAL OBSERVERS

At any time after a Federal examiner has been appointed to a particular jurisdiction, the Attorney General may request under section 8 that the Director of OPM assign Federal observers to monitor elections in that jurisdiction. These observers are Federal employees who are recruited and supervised by OPM. They are authorized by statute to enter polling places and vote-tabulation rooms in order to observe whether eligible voters are being permitted to vote and whether votes cast by eligible voters are being properly counted.

The OPM observers work in conjunction with attorneys from the Justice Department’s Civil Rights Division. Department of Justice attorneys assist OPM with the observers’ training, brief the observers on relevant issues prior to the election, and work closely with them on election day. Federal observers are instructed to watch, listen, and take careful notes of everything that happens inside the polling place/vote-tabulation room during an election. They are also trained not to interfere with the election in any way. After the election, Justice Department attorneys debrief the observers, and the observers usually complete written reports on their observations. These reports are sent on to the Civil Rights Division and can be used in court if necessary.

Most Federal observers dispatched to cover elections find no irregularities. Still, problems occur. Over at least the last decade, most of these have related to compliance with the language minority requirements of section 203. Where problems are discovered, a variety of actions may be taken depending on the relevant circumstances. On occasion, Justice Department personnel will assess the situation and work with county/parish officials on election day to clarify Federal legal requirements and immediately resolve the identified problem. Other times, the Department will send a letter to the jurisdiction following the election in which we identify certain incidents or practices that should be addressed or improved in the future (e.g., removal of certain poll workers, additional training for election-day officials, etc.). Department attorneys likewise may recommend further investigation. If no Federal issues are identified, the matter may be referred to State authorities. If necessary, the Department will commence a civil action (or contempt motion if applicable) to enforce the protections of the Voting Rights Act.

Notwithstanding the general overall compliance with the Voting Rights Act, the Department of Justice has taken full advantage of the Federal observer provisions to help avoid slippage or complacency by covered jurisdictions. In 2004, for example, the Civil Rights Division worked with OPM to send 1,463 observers to cover 55 elections in 30 jurisdictions in 10 different States. Meanwhile, already in 2005, Federal observers have been dispatched to 21 elections in 17 jurisdictions in 10 different States.

In areas of the country where Federal observers cannot be sent, the Civil Rights Division will send its own staff lawyers to monitor elections if it has received complaints or has uncovered credible evidence of possible violations of the Voting Rights Act. In fact, the great bulk of our recent enforcement cases since, say, 1993, have involved jurisdictions (e.g., Massachusetts, California, New York, New Jersey, Florida, Washington, and Pennsylvania) where there is no statutory authority to send Federal observers. We have expended substantial resources in this endeavor. For example, in 2004, the Department of Justice sent 533 departmental personnel to monitor 108 elections in 80 jurisdictions in 27 different States. So far in 2005, the Department has sent 186 personnel to cover 24 elections in 21 jurisdictions in 9 different States. Those monitors helped account for the record-setting work we have done in enforcing the Voting Rights Act in recent years.

As I have said before to this Subcommittee, the Civil Rights Division has made the vigorous enforcement of voting rights a primary objective, and we have been very successful in doing so. Our election monitoring and observer coverage is just
one small part of that effort. I thank the committee for the opportunity to submit this statement.

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**INSERTED INTO THE RECORD BY CONGRESSMAN WATT DURING THE HEARING: LETTER FROM WILLIAM JENKINS, DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE, TO THE HONORABLES JOSEPH LIEBERMAN, HENRY WAXMAN, AND JOHN CONYERS, JR. REGARDING THE DEPARTMENT OF JUSTICE’S ACTIVITIES TO ADDRESS PAST ELECTION-RELATED VOTING IRREGULARITIES**

September 14, 2004

The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

**Subject: Department of Justice’s Activities to Address Past Election-Related Voting Irregularities**

Election day problems in Florida and elsewhere in November 2000 raised concerns about voting systems that included, among other things, alleged voting irregularities that may have affected voter access to the polls. The term voting irregularities generally refers to a broad array of complaints relating to voting and/or elections that may involve violations of federal voting rights and/or federal criminal law for which the Department of Justice (DOJ) has enforcement responsibilities.

You requested that we review activities at DOJ to help ensure voter access to the polls and actions to address allegations of voting irregularities. This report (1) identifies and describes changes DOJ has made since November 2000 to help ensure voter access to the polls; (2) identifies and describes actions that the Voting Section in DOJ’s Civil Rights Division has taken to track, address, and assess allegations of election-related voting irregularities received between November 2000 and December 2003; and (3) assesses the Voting Section’s internal control activities.

**GAO-04-1041R DOJ Activities to Address Past Voting Irregularities**

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**GAO-04-1041R DOJ Activities to Address Past Voting Irregularities**
to help ensure relevant, accurate, and reliable recording and documentation of allegations of voting irregularities to accurately track actions taken in response to allegations and provide accurate and complete information to the public and congressional committees.

We primarily performed our work at DOJ's Civil Rights Division, Voting Section. We obtained relevant documentation and interviewed responsible officials regarding DOJ's activities to help ensure voter access to the polls. To identify and describe changes made since November 2000, we reviewed documentation on DOJ's efforts to monitor and observe elections, increase emphasis on enforcement of minority language and overseas voters' rights, disseminate election-related guidance, and increase its resources to address voting issues. To identify and describe actions that the Voting Section took to track, address, and assess allegations of voting irregularities, we reviewed telephone logs and 34 files with information on a preliminary investigation, matters, and cases that the Voting Section considered to be election-related voting irregularities initiated from November 2000 to December 2003. To assess the Voting Section's internal controls, we obtained available documentation of policies, procedures, and techniques the Voting Section has to manage allegations of voting irregularities and considered them in relation to GAO's internal control standards. We also interviewed officials and obtained documentation from DOJ's Criminal Division, Public Integrity Section (PINS), in relation to the coordination between the Voting Section and PINS to address voter access to the polls.

On August 31, 2004, we provided your staffs a briefing document on the results of our work. Enclosure 1 contains the materials we presented at that time. Our audit work was performed in Washington, D.C., from May 2003 through August 2004 in accordance with generally accepted government auditing standards.

Background

The Voting Section in the Civil Rights Division is charged with the responsibility of enforcing federal voting rights statutes that are designed to safeguard the right to vote of racial and language minorities, disabled, elderly, and illiterate persons, and military and overseas voters, among others. The Voting Section is also charged with the responsibility of enforcing federal statutes that, among other things, address issues such as voter registration, provisional voting, and voter information. Provisional voting permits eligible persons to vote on election day if their names are not on voter registration lists, with the understanding that each person's eligibility will be verified after the election and their votes counted, if eligible. (See app. I and attach. I, for more information on statutes that the Voting Section enforces.)

The Voting Section, among other things, monitors election-day activities to ensure voting rights are protected and initiates investigations and opens matters—an activity that has not resulted in a court filing of a complaint, indictment, or information—to examine allegations of voting irregularities that fall within the jurisdiction of the Civil Rights Division. If warranted, a matter may culminate in a case—an activity that has resulted in the filing of a complaint, indictment, or information with a federal court.
The Voting Section also may initiate matters to monitor private lawsuits. Voting Section attorneys are generally responsible for conducting investigations and prosecuting cases.

The Voting Section also coordinates with PIN to refer allegations the Voting Section receives that involve violations of criminal statutes related to voting fraud. For example, in relation to the 2002 federal election, the Voting Section referred three matters deemed to be potential violations of criminal laws to PIN, which assumed responsibility for the investigations. In addition, the Voting Section and PIN have provided joint training to Assistant U.S. Attorneys, with the Voting Section presenting information about civil rights statutes that are to protect the right to vote and PIN presenting information about criminal statutes that are to prevent election fraud.

Results

Since November 2000, DOJ has implemented changes to help ensure voter access to the polls. The Voting Section emphasized the importance of its monitoring of election-day activities and increased its monitoring of these activities. In 2002, DOJ attorneys and professional staff monitored elections in 5 counties in 5 states. By 2002, the number of election jurisdictions monitored by DOJ attorneys and professional staff increased to 10 counties in 10 states, with monitoring of elections in counties in Florida accounting for the bulk of the increase. The Voting Section also (1) placed a greater priority on protecting the voting rights of language minority voters by helping to ensure that certain covered jurisdictions provided bilingual voting materials for elections; (2) placed a priority on enforcing and preparing for compliance with the federal statute to help ensure voting rights of overseas voters; (3) provided additional training to Assistant U.S. Attorneys on civil rights statutes to educate them about voters’ rights; and (4) provided guidance to states regarding the implementation of sections of the Help America Vote Act of 2002 (HAVA) that DOJ enforces. For example, the Voting Section provided guidance to states by issuing a press release that outlined provisions of HAVA that took effect on January 1, 2004, such as provisional voting and identification requirements for new voters who register by mail.

The Attorney General directed the Civil Rights Division to work with civil rights leaders, state and local election officials, and U.S. Attorneys prior to election day in an effort to help ensure that citizens’ voting rights are protected. The Attorney General also directed the Criminal Division to work with these same groups in helping to preserve ballot integrity and prevent election offenses. Almost all of the U.S. Attorney Offices reported that they had contacted various state or local officials prior to the November 2002 election. Voting Section officials reported that the Assistant Attorney General for the Civil Rights Division and staff from that division met with various civil rights organizations.

According to Voting Section officials, DOJ plans to help ensure voter access for the upcoming November 2004 election include increasing its monitoring of elections, coordinating with civil rights organizations, and establishing procedures for bringing the concerns of civil rights organizations about specific issues or jurisdictions to DOJ on or before election day in November 2004. Voting Section officials also said that final decisions as to where monitoring will be conducted are not made public until shortly before an election. (See enc. I for more information.)

The Voting Section has used several means of tracking allegations of voting irregularities and the Section’s actions with regard to those allegations. First, the Voting Section used telephone logs to track telephone calls regarding allegations of voting irregularities it received related to the November 2000 and 2002 elections. According to the Voting Section, contractors were hired to help handle the unprecedented number of calls that were received concerning the November 2000 election situation. It helped ensure that the public would be able to voice opinions and concerns. Second, DOJ tracks matters and cases through its Interactive Case Management (ICM) system—its formal process for tracking and managing work activities. Prior to opening a matter, the Voting Section may make a determination that an allegation does not fall within DOJ’s jurisdiction or may initiate a preliminary investigation about an allegation. Third, the Voting Section tracked monitoring of elections using logs and for some election monitoring activities they opened matters; thus, it has not routinely tracked election-monitoring activities through the ICM system. (See enc. I for more information.)

Actions that Voting Section attorneys took to address allegations of voting irregularities initiated from November 2000 to December 2003 included contacting complaint election officials at the state and local levels, obtaining data as appropriate; interviewing voters affected by alleged voting irregularities; meeting with minority groups; and assessing the merits of the allegations to determine what, if any, further action was needed. Attorneys in the Voting Section addressed allegations of voting irregularities by first determining whether the allegations related to violations of federal civil rights statutes and then, if warranted, initiating a preliminary investigation or matter to determine whether an allegation had merit. If warranted, a matter may culminate in a case that is filed with a federal court. We reviewed files for 1 closed preliminary investigation, 25 closed matters, and 8 open and closed cases that the Voting Section considered election related. The preliminary investigation and 13 matters were closed because they lacked merit. The remaining 12 matters were closed because the state or voting jurisdiction took action to remedy an issue. The state court issued an order addressing the issues, the voting jurisdiction implemented changes for future elections, or Voting Section attorneys provided election officials feedback following the on-site monitoring of elections. Six cases remain open pending fulfillment of consent decrees entered into on behalf of DOJ and the jurisdiction in alleged violation of federal statute, and two cases were closed because states had taken action in response to consent decrees. Enclosure I and attachment IV provide detailed information on actions taken regarding selected matters and cases that the Voting Section considered as involving election-related voting irregularities initiated from November 2000 to December 2003.
Regarding internal controls, we found that the Voting Section did not have a reliable method to consistently record and document telephone calls received alleging voting irregularities. According to Voting Section officials, the number of calls received following the November 2000 election far exceeded the number received in past elections. As a result, the Voting Section used a contractor to assist in handling the telephone calls. To track some of the telephone calls related to the November 2000 election, Voting Section and contractor staff used telephone logs that had several broad categories to capture the subject of the allegation, rows for states from which the calls originated, and, for the most part, tabulated the numbers of calls voting tick marks. Voting Section staff also kept two other types of logs to record some telephone calls, which included columns to record a caller’s name, state, telephone number, and description of the call. Our analysis of the contractor telephone logs found, among other things, that these logs did not include a way to record calls from 4 states—Arkansas, Kansas, Montana, and North Dakota. According to Voting Section officials, these 4 states were left off the contractor logs inadvertently, although these officials noted that they were aware of any calls received from these states. Our analysis of logs that Voting Section staff completed found that Voting Section staff recorded having received calls from some of these states. The Voting Section improved upon the telephone log for the November 2002 election by having one log that consistently provided for documenting the caller’s name, telephone number, and action taken. Compared with the telephone log that contractor staff maintained and one of the three types of logs that Voting Section staff maintained after the November 2000 election, which had several columns to broadly categorize the subject of the telephone calls, the November 2002 log included one column to capture the subject of the telephone calls. The Voting Section plans to take several actions to address voting irregularities for the November 2004 election, including, among other things, using a telephone log similar to the one used for the November 2002 election. The Voting Section did not provide written instructions to contractors for completing the telephone logs related to the 2000 election. However, for the November 2002 federal election, the Voting Section provided instructions to DOJ staff for how to handle calls from citizens, the press, members of Congress, and others. In addition to its method for recording and documenting telephone calls received regarding voting irregularities, we found that the Voting Section did not routinely track its election-monitoring activities through its ICM system. The Voting Section said that it has plans to assign one identification number to track these activities in the future. (See enc. I for more information.)

In conclusion, lack of specificity about allegations and actions limits DOJ’s ability to have accurate and clear information to share with the public or Congress about the types of allegations received and actions taken. Predictions of another close presidential election in November 2004 combined with possible voter confusion over new requirements in the Help America Vote Act—such as the implementation of provisional voting in states that had not previously used provisional voting—and possible questions regarding voting equipment could result in the Voting Section again receiving a very large number of telephone calls. This could result in the need to use contractors to record voter allegations because much of the Voting Section staff will be monitoring election sites on election day. It is important that the
information collected be as complete, accurate, and specific as possible regarding specific allegations. If the Voting Section collects more precise information about voter allegations, it is in a better position to assure the public that it has addressed allegations of voting irregularities. Moreover, if it documents actions taken more precisely, it is better able to reassure the public and Congress of its commitment to enforce federal voting rights statutes.

The Voting Section emphasized the importance of its monitoring of election day activities, but the monitoring program has not been routinely tracked in the Voting Section’s ICM system. We believe the significance of this program warrants a more formal tracking of monitoring efforts and resources dedicated to the program to allow for reliable, relevant, and timely information for management decision making and for external reporting purposes.

Recommendations for Executive Action

Confidence in our election processes is of utmost importance. To help ensure confidence in the integrity of voting processes, the Voting Section plays an important role in addressing voting irregularities. By accurately recording and documenting its activities in as clear a manner as possible, the Voting Section contributes to ensuring the public and Congress of the integrity of our voting processes and that allegations of voting irregularities have been addressed.

To reassure citizens of the integrity of our election processes and to reassure the public and Congress of DOJ’s commitment to its responsibility to enforce federal voting rights statutes, we recommend that the Attorney General direct the Chief of the Voting Section to take the following two actions:

- develop and implement procedures for the November 2004 election to help ensure that the Voting Section has a reliable method of tracking and documenting allegations of voting irregularities and actions taken to address them. Procedures could include more precise categories to record types of allegations and actions taken, development of instructions on completing the telephone logs, and development and implementation of training for contractors, should they be needed; and

- implement a method to track and report on election monitoring activities in the ICM system.

Agency Comments

We provided a draft of this report to DOJ for review and comment. The draft report sent to DOJ for comment reflected changes made as a result of DOJ’s prior detailed review of this report. Following our exit conference with them, in commenting on the draft, DOJ generally agreed with the report and recommendations. The Deputy Assistant Attorney General for the Civil Rights Division accepted both recommendations and said that the
Assistant Attorney General for the Civil Rights Division has directed their implementation.

In commenting on our recommendation for the Civil Rights Division to track and report on election-monitoring activities in the ICM system, DOJ noted that it currently has procedures that effectively track election-monitoring activities. Our report acknowledges that the Division had information on election monitoring. However, the Voting Section told us that they did not routinely track election-monitoring activities in the ICM system—its formal process for tracking and managing work activities. Because we had asked for clarification of the confusing and unclear information previously provided on election monitoring and tracking, the Civil Rights Division, in a May 25, 2004, written response, provided clarifying information that explained the different databases and data from logs that were used to capture information on election monitoring. In this written response, the Civil Rights Division included four charts on election monitoring that had been recently created, one for each calendar year from 2000 through 2003 (but not for 2004, as the Division stated it did). In addition, the Civil Rights Division said that it had asked for a program that would provide the types of reports and data that the Division is routinely asked to provide regarding the election-monitoring program. Our recommendation is directed toward improving the Voting Section’s tracking of election-monitoring activities, which the Voting Section has emphasized as being a very important part of its efforts to help ensure voter access to the polls. Tracking election-monitoring activities in the ICM system would ensure that this important component of the Voting Section’s work is incorporated into the Division’s formal process for tracking and managing work activities.

After we provided DOJ with a copy of the draft report that included this correspondence and its enclosure for review and comment, Civil Rights Division officials realized they had not provided us with information on all of the telephone logs used following the November 2000 election. The Civil Rights Division subsequently provided that additional information, which showed that Voting Section staff used two additional types of logs for the November 2000 election. These logs included columns to record callers’ names, telephone numbers, states, and descriptions of the calls. This new information was incorporated into our report to accurately reflect the Voting Section’s activities to track telephone calls following the November 2000 election. (See p. 5 in this letter and p. 42 in enc. 1.) According to the Civil Rights Division, the November 2002 log, which it proposes as the basis for documenting telephone calls related to the upcoming November 2004 elections, was the only one used by Voting Section staff for the November 2002 election.

DOJ noted that the draft report discussion of the Civil Rights Division’s use of telephone logs focused almost exclusively on the logs maintained by contractors, that the draft report failed to note that these logs were only a small portion of all the records of telephone calls received by the Division, and that any shortcomings in these logs were extremely unlikely to have changed the course of subsequent investigations. As we note in our report, it was difficult to obtain precise information on the number of calls or the specific nature of alleged irregularities from the
telephone logs on the November 2000 election. The information that the Voting Section collected on its telephone logs was not precise enough to support the Division's statements that upwards of 95 percent of the calls received regarding the November 2000 election reflected citizen frustration or anger over the election, that the vast majority of the calls that connectors received came from New York and California, or that the vast majority of the calls from those two states expressed frustration over the situation in Florida. Moreover, it is important to note that our recommendation with regard to record-keeping complaints about voting irregularities for the November 2004 election is based on the limitations of the log used in November 2002 and the lack of a clear plan for accurately recording a potentially large volume of complaints that may arise from the November 2004 election. For example, November 2004 will be the first national election in which all states will be implementing HAVA's new voter identification and provisional voting requirements with which many voters may be unfamiliar.

In its comments, DOJ said that the Civil Rights Division invited us to meet with Voting Section staff who worked during the time of the November 2000 election and that we declined this invitation. We did not receive an invitation from officials in the Civil Rights Division, who arranged our meetings with Voting Section staff, to meet to discuss the November 2000 election logs. Throughout this review, we requested meetings with Voting Section and Civil Rights Division officials. It is always our preference, as part of our work, to meet with agency officials to discuss issues and questions we may have about agency processes, procedures, and documentation. However, Civil Rights Division officials preferred that we provide questions in writing and to respond to those questions in writing. The Civil Rights Division sometimes took weeks to respond in writing, which contributed significantly to the length of time it took us to complete our review. Had Civil Rights Division officials been more willing to meet with us to explain the Voting Section’s processes and discuss the documentation provided to us, rather than rely on written questions and responses, the time required for this review could have been significantly reduced.

DOJ’s written comments are in attachment V. DOJ also provided technical comments from the Criminal Division's Public Integrity Section and from the Civil Rights Division, which we incorporated as appropriate. The Civil Rights Division provided additional information on cases initiated for calendar years 2000, 2001, and 2004. The 2002 and 2005 cases involved enforcement under Sections 2 and 203 of the Voting Rights Act and were not clearly identifiable in the EBM system as also involving language minority issues under Section 203 of the Voting Rights Act. The Civil Rights Division subsequently identified these cases as including enforcement of language minority violations, and we have included them in our report. Information on cases initiated in calendar year 2004 had not been included because our review covered complete calendar years, but we have added information on cases initiated in 2004 as of August 2004 as a courtesy to the Division.

As agreed with your offices, unless you publicly release its contents earlier, we plan no further distribution of this report until 50 days from its issue date. At that time, we
will send copies of this report to the Attorney General, Department of Justice; Chairman, Senate Committee on Governmental Affairs; Chairman, House Committee on Government Reform; Chairman, House Committee on the Judiciary; Chairman and Ranking Minority Member, House Committee on House Administration; and Chairman and Ranking Minority Member, Senate Committee on Rules and Administration. Copies of this report will be made available to other interested parties upon request. This report will also be available on GAO’s Web site at http://www.gao.gov. If you have any questions, please contact me at (202) 512-8777 or by e-mail at jenkinsw@gao.gov or Linda Watson, Assistant Director, at (202) 512-8985 or by e-mail at watsonl@gao.gov. Key contributors to this report were Katherine Davis, Gina Flacco, Evan Gilman, Geoffrey Hamilton, Mary Martin, Maria Santos, and Daniele Schiffman.

William O. Jenkins, Jr.
Director, Homeland Security and Justice Issues

Enclosures
DOJ Activities to Address Past Election-Related Voting Irregularities

Results of work completed for the
Ranking Minority Member of the
House Committee on Government Reform,
Ranking Minority Member of the
House Committee on the Judiciary, and
Ranking Member of the
Senate Committee on Governmental Affairs

August 31, 2004
### Enclosure I

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GAO-04-1041R DOJ Activities to Address Past Voting Irregularities
Enclosure I

Objectives

This briefing addresses the following objectives:

1. Identify and describe any changes the Department of Justice (DOJ) has made since November 2000 to help ensure voter access to the polls.

2. Identify and describe any actions that the Voting Section in DOJ’s Civil Rights Division has taken to track (monitoring work initiated and actions taken), address, and assess allegations of election-related voting irregularities received between November 2000 and December 2003.

   Election-related refers to a preliminary investigation, matter, or case that the Voting Section initiated pursuant to an allegation about a specific election.
Enclosure I

Objectives

- A preliminary investigation is an investigation into an allegation that has not been assigned an identification number. A matter is an activity that has been assigned an identification number but has not resulted in a court filing of a complaint, indictment, or information. A case is an activity that has been assigned the same identification number that it had as a matter and has resulted in the court filing of a complaint, indictment, or information.

- Voting irregularities, for purposes of this review, generally refer to a broad array of complaints relating to voting and/or elections that may involve violations of federal voting rights and/or federal criminal law for which DOJ has enforcement responsibilities.

3. Assess the Voting Section’s internal control activities to help ensure relevant, accurate, and reliable recording and documentation of allegations of voting irregularities for management decision-making and external reporting purposes.

- Internal controls are integral components of an organization’s management that provide reasonable assurance of objectives that include, among other things, efficient operations. They comprise the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, support performance-based management.
1. Since November 2000, DOJ has increased its monitoring of election activities on election day, provided additional training to Assistant U.S. Attorneys on civil rights laws, placed a greater priority on protecting the voting rights of language minorities and overseas voters, and provided guidance to states regarding implementation of the Help America Vote Act (HAVA).

2. The Civil Rights Division tracks matters and cases through a case management system. Telephone calls related to the 2000 and 2002 federal elections were tracked using telephone logs. The Voting Section addressed allegations of voting irregularities by contacting cognizant officials, obtaining data if deemed appropriate, and assessing the merits of the allegation to determine what, if any, further action was needed.

3. The Voting Section tracked the unprecedented volume of telephone calls related to the November 2000 election by using logs. Some logs had several broad categories to capture the subject of the calls and rows for states from which the calls originated, while other logs contained callers' names, contact information, and description of the call. The Voting Section improved upon the telephone log for the November 2002 election by including categories to capture the action taken on each call and to record the caller's name, telephone number, and subject of the call. The Voting Section tracked some monitoring of elections by assigning matter identification numbers.
Scope and Methodology
To address our objectives, we performed work at DOJ’s:

- Civil Rights Division’s Voting Section,
- Criminal Division’s Public Integrity Section (PIN),
- Federal Bureau of Investigation’s (FBI) Public Corruption Unit, and
- Executive Office for U.S. Attorneys (EOUSA).
To identify changes in DOJ’s efforts to help ensure voter access to the polls, we

- gathered documentation on DOJ’s efforts to
  - monitor and observe elections,
  - increase emphasis on enforcement of minority language and overseas voters’ rights,
  - disseminate election-related guidance, and
  - increase its resources to address voting issues, and

- interviewed responsible officials primarily in DOJ’s Voting Section and PIN.
To identify DOJ's actions to track, address, and assess allegations of voting irregularities, we

- interviewed officials in the Voting Section about procedures for tracking, addressing, and assessing allegations of voting irregularities;

- analyzed information on the approximately 11,000 reported telephone calls made to the Voting Section about the November 2000 election; and

- reviewed all files that the Voting Section identified as those it considered to be election-related voting irregularities that were initiated from November 2000 to December 2003. This included 1 closed preliminary investigation, 25 closed matters, and 8 closed and open cases. The Voting Section tracks its matters and cases based on statutes it enforces and not on whether an allegation relates to a specific election. Consequently, the Voting Section had to identify for us the preliminary investigation, matters, and cases that it considered to be election-related voting irregularities.
Enclosure I

Background

Voting Section
Voting Section responsibilities include:

- enforcing the Voting Rights Act, which is designed to safeguard the right to vote of racial and language minorities and illiterate persons, among other provisions;

- enforcing federal statutes designed to safeguard the right to vote of disabled, elderly, military, and overseas voters; and

- enforcing provisions of the National Voter Registration Act, and the Help America Vote Act (HAVA) which address issues such as voter registration, provisional voting, and voter information.

Attachment I provides more information on statutes that the Voting Section enforces.
The Voting Section, among other things, monitors election-day activities to ensure voting rights are protected and initiates investigations and opens matters to examine allegations of voting irregularities that fall within the jurisdiction of the Civil Rights Division. If warranted, a matter may culminate in a case that is filed with a federal court.

Voting Section attorneys are generally responsible for conducting investigations and prosecuting civil cases. The Voting Section also may initiate matters to monitor private lawsuits.

The Voting Section coordinates with the Criminal Division’s Public Integrity Section (PIN) to help ensure voters’ rights are protected, such as referring three allegations to PIN about possible election crimes related to the 2002 election. (See attach. II for more information about PIN’s election-related responsibilities.)
### Enclosure I

**Background Voting Section**

The following table provides information on all matters and cases initiated by the Voting Section in calendar years 2000 through 2003.

<table>
<thead>
<tr>
<th>Year initiated</th>
<th>Matters</th>
<th>Cases</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>70</td>
<td>10</td>
<td>88</td>
</tr>
<tr>
<td>2001</td>
<td>63</td>
<td>7</td>
<td>69</td>
</tr>
<tr>
<td>2002</td>
<td>127</td>
<td>10</td>
<td>137</td>
</tr>
<tr>
<td>2003</td>
<td>99</td>
<td>4</td>
<td>103</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>349</strong></td>
<td><strong>46</strong></td>
<td><strong>395</strong></td>
</tr>
</tbody>
</table>

Source: GAO analysis of data from DOJ’s Civil Rights Division’s Voting Section.

According to Voting Section officials, the number of matters was higher in 2002 because the Voting Section initiated new matters for each of the 80 newly covered jurisdictions required by the Voting Rights Act to provide bilingual election materials and assistance to language minority citizens. Following the 2000 Census, DOJ, in conjunction with the U.S. Census Bureau, identified these 80 jurisdictions. The Voting Rights Act requires jurisdictions to provide language minority assistance when certain criteria are met, such as when more than 5 percent of the citizens of voting age, or more than 10,000 of the citizens of voting age, are members of a single language minority group, and are unable to speak or understand English adequately enough to participate in the electoral process.
### Envelope I

#### Background Voting Section

As shown in the following table, the Voting Section's positions for attorneys (authorized and on-board) increased since the beginning of fiscal year 2000.

<table>
<thead>
<tr>
<th>Time period</th>
<th>Authorized attorney positions</th>
<th>Attorneys on-board</th>
</tr>
</thead>
<tbody>
<tr>
<td>Start FY 2000</td>
<td>34</td>
<td>31</td>
</tr>
<tr>
<td>End FY 2000</td>
<td>36</td>
<td>35</td>
</tr>
<tr>
<td>End FY 2001</td>
<td>47</td>
<td>40</td>
</tr>
<tr>
<td>End FY 2002</td>
<td>47</td>
<td>42</td>
</tr>
<tr>
<td>End FY 2003</td>
<td>41</td>
<td>38</td>
</tr>
<tr>
<td>As of April 16, 2004</td>
<td>41</td>
<td>39</td>
</tr>
</tbody>
</table>

Source: DOJ's Civil Rights Division's Voting Section.

The number of authorized and on-board attorneys declined at the end of fiscal year 2003 because the number of submissions to the Voting Section for redistricting changes following the 2000 Census began to decline that year, according to Voting Section officials. Every 10 years, after the federal census, states redraw their legislative election districts to make these districts equal in population. The process of drawing new election district boundaries is called redistricting.
Enclosure I

Changes to Help Ensure Voter Access
Since November 2000, DOJ focused on ensuring voter access to the polls by:

- placing more emphasis on its election-monitoring program,
- providing additional training for certain Assistant U.S. Attorneys who handle election-related issues that included placing more emphasis on handling civil rights issues,
- directing U.S. Attorney Offices to contact election and other officials at the state and local level to offer assistance prior to election day,
- placing greater priority on enforcing the voting rights of language minorities and overseas voters, and
- providing guidance to states regarding HAVA implementation.
Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring

In March 2001, the Attorney General announced that DOJ was placing more emphasis on its election-monitoring program. The Attorney General is authorized by law to notify the Office of Personnel Management (OPM) of the need to assign federal observers to monitor polling place activities on election day in counties that the Attorney General has certified under the Voting Rights Act and in counties authorized by federal court orders. The Attorney General delegates the authority with respect to federal observers to the Voting Section. The Voting Section's decision to request federal observers is based on past experience or investigations that indicated observers may be needed to protect voting rights. (See attach. 1 for information on the law authorizing federal observers.)

In addition to OPM federal observers, the Voting Section assigns DOJ attorneys and professional staff to monitor election day activities in local jurisdictions throughout the United States, whether or not the locations have been certified under the Voting Rights Act. This additional monitoring is part of the Voting Section's investigations of possible voting rights violations. Unlike OPM observers, DOJ attorneys and professional staff do not have specific statutory right of access to polling places and must get authority from the appropriate state and/or local officials for them to enter polling places.
Enclosure I

Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring

DOJ attorneys and professional staff are assigned to these jurisdictions when there may be insufficient time to arrange for federal observers in covered jurisdictions, or when the results of Voting Section staff’s pre-election investigations indicate the need for some limited federal presence.

The Attorney General directed the Voting Section to increase resources devoted to the election-monitoring program through the use of OPM federal observers and DOJ attorneys and professional staff.

The level of resources used and number of elections monitored were greater in federal election years (even-numbered years) than other years, as shown in the next figure.
Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring

The number of OPM federal observers and DOJ attorneys and professional staff were greater in the 2002 elections than in the 2000 elections. Similarly, more elections were monitored in 2002 than in 2000.

Note: DOJ include are attorneys and professional staff.
Enforcement

Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring

OPM federal observers are always accompanied by DOJ attorneys and professional staff when monitoring elections and were present for elections held during calendar years 2000 through 2003 in Attorney General-certified and court-ordered counties and jurisdictions in several states. In a few instances, DOJ attorneys and professional staff independently monitored elections in these Attorney General-certified and court-ordered counties and jurisdictions.

DOJ attorneys and professional staff also independently monitored elections in counties and jurisdictions that were not Attorney General-certified or under court order during this 4-year period. In 2000, DOJ attorneys and professional staff monitored elections in 5 counties in 5 states. By 2002, the number of election jurisdictions monitored by DOJ attorneys and professional staff increased to 19 counties in 10 states, with monitoring of elections in counties in Florida accounting for the bulk of the increase.

According to the Voting Section, election monitoring is a high-priority program of DOJ and a very important part of the Section’s efforts to address voting irregularities.

See attachment III for more information on election monitoring in Attorney General-certified and court-ordered election jurisdictions and election jurisdictions that DOJ monitored independently.
Enclosure I

Changes to Help Ensure Voter Access Training

Officials in the Voting Section and PIN said that Assistant U.S. Attorneys can attend annual public corruption conferences, where they receive (1) training on handling election crime investigations and prosecutions and (2) periodic updates to DOJ’s manual on prosecuting election crimes. Starting in October 2002, additional annual training, referred to as the Ballot Access and Voting Integrity Conference, was provided to Assistant U.S. Attorneys who, in coordination with DOJ Headquarters, handle election-related matters for the 93 U.S. Attorneys.

The Ballot Access and Voting Integrity Conference training, according to Civil Rights Division officials, included civil rights issues that had not been covered in the training offered to Assistant U.S. Attorneys prior to October 2002 and was designed to provide them a better understanding of what the Voting Section does to enforce federal voting rights statutes. Also, according to the Civil Rights Division, the presentations that the Voting Section made at this annual training conference placed special emphasis on the election-monitoring program and solicited the Assistant U.S. Attorneys’ involvement in helping to enforce federal voting rights laws, ballot access, and the election-monitoring program. According to PIN, this training, which was mandatory for the Assistant U.S. Attorneys designated as district election officers, also covers voting integrity issues important to election crime matters.
Enclosure I

Changes to Help Ensure Voter Access Training

The Ballot Access and Voting Integrity Conference training was provided to Assistant U.S. Attorneys in October 2002, September 2003, and July 2004.

The training materials for 2002 included topics related to federal voter registration and election-day statutes that the Voting Section enforces, which include the Voting Rights Act, National Voter Registration Act, and the Uniformed and Overseas Citizens Absentee Voting Act, and topics related to handling election crime investigations, trials, and the statutes and theories used to address election crimes.

The 2003 training materials included, in addition to the same topics covered in 2002, information on HAVA and election monitoring by federal observers. According to PIN and the Voting Section, the content of the 2004 training was similar to that provided in previous years.
Enclosure I

Changes to Help Ensure Voter Access
Contacts with State and Local Election Officials

In October 2002, the Attorney General directed each U.S. Attorney to coordinate with state and local election and law enforcement officials prior to the November 2002 elections to, in part, explore ways that they could work more closely together to deter and detect discrimination and to deter and prosecute election crimes.

According to PiN officials, the Attorney General’s October 2002 directive (1) formalized an ad-hoc practice that had existed in DOJ for many years of coordinating elections and election-related matters with state officials and (2) led to a systematic effort to coordinate election issues and matters with these officials.
Prior to the November 2002 federal elections, almost all of the U.S. Attorney Offices reported to PIN that they had contacted various state or local officials either by telephone, in writing, or in person.

The state and local officials contacted varied by each U.S. Attorney Office. For example, according to PIN,

- the three U.S. Attorneys in the state of Florida reported having met with the Florida Secretary of State and

- the U.S. Attorney for the Southern District of California reported having met with the San Diego County Registrar of Voters, Election Administrator, and Deputy District Attorney, and the Imperial County Registrar of Voters and District Attorney.
Enclosure I

**Changes to Help Ensure Voter Access**

**Contacts with Civil Rights and Other Organizations**

The Attorney General directed the Civil Rights Division was to work with civil rights leaders, state and local election officials, and U.S. Attorney Offices prior to election day in an effort to help ensure that citizens' voting rights are protected. The Attorney General also directed the Criminal Division to work with these same groups in helping to preserve ballot integrity and prevent election offenses.

According to the Voting Section, the Assistant Attorney General for the Civil Rights Division has met with representatives of civil rights organizations to discuss the Voting Section's election-monitoring program and its plans for monitoring the November 2004 election and has made other presentations concerning voting rights issues at many of these organizations' meetings and conferences. The Voting Section also said that as this election approaches, it plans to ask civil rights organizations what election jurisdictions they believe the Voting Section should consider monitoring.

The Voting Section also said that since October 2002, staff from the Civil Rights Division have made presentations to, met with, or received presentations from various civil rights and other organizations, such as the NAACP, Lawyers' Committee for Civil Rights Under Law, League of United Latin American Citizens, Leadership Conference on Civil Rights, AARP, National Association of Secretaries of State, and National Association of State Election Directors.
In 2002, the Civil Rights Division made enforcement of voting rights laws that address access to voting for language minority groups one of the Voting Section’s highest priorities. DOJ reported in a civil rights accomplishments fact sheet that the Civil Rights Division conducted an outreach campaign with state and local election officials and local language minority groups to help ensure access to bilingual voting materials for language minority groups. This was begun in July 2002 following the certification of covered jurisdictions based on the results of the 2000 census.

- The fact sheet states that the outreach included a July 2002 letter from the then-Assistant Attorney General for the Civil Rights Division to each of the 296 political jurisdictions covered by Section 203 of the Voting Rights Act notifying them of their bilingual access obligations in the upcoming and future elections. According to the Civil Rights Division, attorneys from the Division visited many of the 296 counties covered by Section 203.

- In addition, the fact sheet reported that Civil Rights Division attorneys conducted in-person meetings with state and local election officials and local language minority groups in almost all of the more than 80 newly covered jurisdictions.
Enclosure I

Changes to Help Ensure Voter Access
Language Minority Voting Rights

We analyzed data as of March 15, 2004, on matters and cases related to Section 203 language minority issues recorded in DOJ’s Interactive Case Management (ICM) system, which is used to track and manage these data. We found that the Voting Section initiated 7 matters and no cases in 2000, 13 matters and 2 cases in 2001, 94 matters and 1 case in 2002, and 28 matters and no cases in 2003. According to the Civil Rights Division, the Division also initiated the following cases: (1) two language assistance cases in 2002 under Section 2 and Section 203 of the Voting Rights Act; (2) two cases in 2003 under Section 2, Section 203, and Section 208 of the Voting Rights Act; and (3) five cases in 2004 under Section 203 of the Voting Rights Act. Sections 2, 203, and 208 of the Voting Rights Act are described in attachment 1.
Given the large number of troops deployed overseas and an increase in concerns about late mailing of absentee ballots, Voting Section officials said that the Voting Section placed increased priority in 2004 on enforcing and preparing to ensure compliance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which only applies to federal elections. These officials cited the following enforcement and preparation activities during 2004:

- Obtained a court order in April for emergency relief to remedy an UOCAVA violation committed during the Pennsylvania primary election.
- Negotiated with the state of Alabama in May to obtain a similar emergency relief order from a state court for a county’s failure to provide enough time for the mailing to and return of ballots from overseas voters for its primary election.
- Obtained a court order in an UOCAVA lawsuit in July against the state of Georgia for similar emergency relief for its primary election.
- Established a working group of Voting Section attorneys to facilitate communications with the Department of Defense’s Federal Voting Assistance Program, which is charged with administering UOCAVA, and to plan for the possibility of more UOCAVA litigation during 2004.

Our analysis of matters and cases in DOJ’s ICM system as of March 15, 2004, showed that the Voting Section initiated 3 matters and 2 cases during calendar years 2000 through 2003 involving the issue of absentee voting by uniformed and overseas citizens. All 5 of the matters and cases were initiated in 2002.
Enclosure I

Changes to Help Ensure Voter Access
Guidance to States on HAVA

In October 2002, HAVA established the Election Assistance Commission to, in part, serve as a national clearinghouse and resource to compile information and review procedures related to federal election administration and provide guidance on implementing certain HAVA requirements. Because the Election Assistance Commission was not established until December 2003, the Voting Section provided informal, nonbinding guidance to states on implementing the requirements of HAVA.

The Voting Section’s guidance to states on HAVA’s requirements included:
- interpreting requirements of the law and advising states on how to comply with them based on DOJ’s enforcement role under HAVA;
- responding to inquiries from state and local officials;
- making presentations at various meetings and conferences;
- writing letters to the chief state election official, governor, and attorney general in each of the 50 states, the District of Columbia, and the U.S. territories offering to assist the jurisdictions in their efforts to ensure compliance with HAVA and summarizing HAVA provisions;
- creating a HAVA information page on its Web site; and
- issuing a press release that outlined provisions of HAVA that took effect on January 1, 2004, such as provisional voting and identification requirements for new voters who register by mail.

According to the Civil Rights Division, the Voting Section also filed its first enforcement action in California in 2004 against a county for violating the voter information provisions of HAVA.
Enclosure I

Changes to Help Ensure Voter Access Plans for November 2004 Election

According to Voting Section officials, DOJ's plans for helping to ensure voter access for the November 2004 election include

- increasing its on-site monitoring of elections considerably over prior years through greater use of staff from other sections in the Civil Rights Division. Voting Section officials also said that final decisions as to where monitoring will be conducted are not made public until shortly before an election, but they told us that the Voting Section has prepared a list of jurisdictions for consideration based on consent decrees and will update the list with other jurisdictions being considered for coverage as the election approaches. According to these officials, the Voting Section has not established a specific goal for achieving an increase in staff or elections to be covered, and

- coordinating with civil rights organizations that will be monitoring the election and establishing procedures for bringing their concerns about specific issues or jurisdictions to DOJ on or before election day in November 2004.
Enclosure I

GAO

Actions to Track, Address, and Assess Allegations
In our review, we found that the Civil Rights Division had formal procedures to track matters and cases to address voting irregularities. Specifically, the Voting Section tracks investigative matters and cases through the Division’s ICM system using unique identification numbers. In addition, the Voting Section tracked telephone calls alleging voting irregularities for the November 2000 and November 2002 elections using telephone logs.

Voting Section attorneys addressed and assessed allegations of election-related voting irregularities initiated from November 2000 to December 2003 in various ways, depending on the allegation. Our review of files related to 1 preliminary close investigation, 25 closed matters, and 8 open and closed cases generally found that attorneys contacted cognizant officials and assessed the legal merits of evidence of alleged violations of civil rights laws.

In our review of files, we found that Voting Section attorneys generally addressed allegations of voting irregularities initiated from November 2000 to December 2003 through a preliminary investigation or investigative matters and took actions such as interviewing election officials at state and local levels, interviewing voters affected by alleged voting irregularities, and meeting with civil rights groups.

Our review of Voting Section files also found that Voting Section attorneys, in conjunction with supervisory attorneys, assessed information collected and determined whether (1) federal voting rights laws were violated; (2) an investigation should be closed; or (3) further action was needed by the Voting Section, such as filing a complaint with a federal court or continual monitoring.
Enclosure I

Actions to Track, Address, and Assess Allegations
Tracking Allegations of Voting Irregularities

The ICM is a database system that the Voting Section uses to track and manage matter and case data for the Section and can be used to generate reports.

Each matter and case is assigned a DJ number, which is an unique identification number. Information on matters and cases can be searched by the identification numbers, statutes, and other information maintained in the system.

The system is set up to automatically enter certain data and has required fields for which data must be entered. Voting Section staff can enter other data into the system, as appropriate.
Officials told us that the Voting Section

- receives numerous citizen calls, comments, and questions daily;
- receives telephone calls, e-mails, faxes, letters, and packages. Most of the calls and written allegations from citizens do not concern issues within the jurisdiction of the Civil Rights Division and, in such instances, the caller is often notified of this determination over the telephone and referred to other state or federal agencies with possible jurisdiction;
- documented telephone calls received at the Section’s toll free telephone number using telephone logs for the 2000 and 2002 elections;
- found that only a small percentage of allegations that it received following the November 2000 election fell within its jurisdiction or presented substantive issues that merited further review. Notifications on logs documenting telephone calls related to the November 2000 election indicated that some of the calls—we were unable to quantify the number of calls because of the way calls were recorded—were related to dissatisfaction with the outcome of the election or other issues such as general complaints about the election process that contained no specific allegations of violations of federal laws;
- in addition to following up with people who called the Voting Section after the November 2000 election, Voting Section staff pursued other avenues of complaints, such as complaint logs generated by the NAACP Voter Fund, hearings conducted by the U.S. Commission of Civil Rights and the NAACP, and incidents receiving a large amount of publicity, to determine if federal laws had been violated; and
- expects attorneys to find new matters for investigation in addition to assignments made by Section management.
Actions to Track, Address, and Assess Allegations
Tracking Allegations of Voting Irregularities

Voting Section officials told us that on election day:

- In addition to calls received by the Section at its toll-free number, an OPM federal examiner maintains a toll-free telephone number to receive calls. An examiner is a federal employee assigned by OPM to receive complaints of racial or minority language discriminatory voting practices. (See attach. I for the statute related to federal examiners.) Any allegations taken by the examiner that are deemed to require immediate attention are routed to the Civil Rights Division when received, while other allegations are transmitted after the election and reviewed to determine if further action is needed. According to the Chief of the Voting Section, they received few, if any, allegations from examiners in relation to the November 2000 election, and

- A small number of Civil Rights Division staff remain available at the Voting Section on major election days to take citizen calls, with the vast majority of Section staff at various locations around the country for monitoring purposes. Major problems that arise from these calls are routed to attorney supervisors to determine what actions are needed.

Our review of files included five matters that were initiated to monitor elections. According to Voting Section officials, this activity is not routinely tracked through the ICM, but they plan to designate a single identification number to track this activity.
The following presents information on the Voting Section's process for addressing allegations related to voting irregularities.

- If the Voting Section deems that a voting allegation falls within its jurisdiction and appears to have merit, an attorney is assigned to make inquiries about the allegation. The attorney performs some investigative work to determine whether the allegation should be pursued.
- If an attorney believes a matter should be investigated, the attorney discusses this with the Deputy Chief responsible for the state in which the matter arises. The Section Chief and Deputies decide whether or not to formally open a matter. The Voting Section assigns a number to the matter for tracking purposes.
- When Voting Section staff monitor elections and receive allegations of or information about voting irregularities while on site, they make efforts to resolve allegations by contacting local election officials immediately. Further investigation of such irregularities is conducted after an election if the allegation was not resolved on election day or if it is deemed otherwise necessary to prevent such problems from arising in the future.
Our file review found that the Voting Section generally took the following actions during its investigations initiated from November 2000 to December 2003:

- Interviewed state and county election officials, other state and county officials who may provide insight into the investigation, state Attorneys General, voters raising the allegations, and representatives from the NAACP and other minority groups.
- Requested documentation detailing certain election procedures.
- Facilitated the resolution of allegations and issues that arose during elections, when monitoring elections. If Voting Section staff monitoring elections received allegations about voting irregularities, they immediately took steps to resolve the allegations by contacting local election officials.
- Where deemed appropriate, filed enforcement actions in federal court against jurisdictions that allegedly violated federal voting rights laws by either obtaining judgments against them or entering into consent decrees with jurisdictions that agree to remedy their alleged violations of federal voting statutes.
Enclosure I

Actions to Track, Address, and Assess Allegations

Actions to Address Allegations

Following the investigation of a preliminary investigation or matter, a Voting Section attorney, in conjunction with a supervisor, determines whether the allegation has merit, whether the preliminary investigation or matter should be pursued further, or whether the preliminary investigation or matter should be closed. The determination to close a matter or pursue it as a case is a legal judgment and is often based on whether there is deemed to be a sufficient evidence of violations of voting rights laws and whether the state or local election officials have taken action to correct problems.

The Voting Section identified a total of 34 closed investigations and open and closed cases initiated between November 2000 and December 2003 that it considered to involve election-related voting irregularities: 1 closed preliminary investigation, 25 closed matters, and 8 open and closed cases.

The preliminary investigation was closed because the Voting Section concluded that the allegation lacked merit.
Enclosure I

Actions to Track, Address, and Assess Allegations

For the 25 closed matters:
- 13 were closed because the Voting Section concluded that the allegations lacked merit;
- 5 were closed because the state or voting jurisdictions took actions to resolve the issues (e.g., one state passed an election law, and the Voting Section approved changes to election procedures that one city had proposed);
- 4 were closed following the completion of elections, and the Voting Section provided feedback on the elections related to election procedures while monitoring elections;
- 2 were closed because voting jurisdictions implemented changes for future elections; and
- 1 was closed because a state court issued an order addressing the issue.

For the 8 cases:
- 6 are open pending fulfillment of consent decrees entered into on behalf of DOJ and the jurisdictions in alleged violation of statutes, and
- 2 are closed because consent decrees entered into on behalf of DOJ and the jurisdictions in alleged violation of statutes required states to take corrective actions and states did so by passing legislation, among other actions.

Attachment IV provides detailed information on the results of our file review of the 34 closed preliminary investigation matters and open and closed cases initiated from November 2000 to December 2003 that the Voting Section considered as involving election-related voting irregularities.
Enclosure I

GAO

Assessment of Internal Controls
In our review, we found that:

- the Voting Section tracked telephone calls related to the November 2000 election by using telephone logs. Some logs had several broad categories to capture the subject of the calls, rows for states from which the calls originated and, for the most part, tabulated the numbers of calls using tick marks. Other logs that the Voting Section used contained information such as callers’ names, telephone numbers, and descriptions of the calls. The Voting Section improved upon the telephone log for the November 2002 election by including columns to record the action taken on each call in addition to recording the caller’s name and telephone number, but has one column to capture the subject of the call, and

- as mentioned previously, the Voting Section tracked some monitoring of elections by opening matters and assigning each matter an identification number. According to Voting Section officials, it has not routinely tracked election-monitoring activities through the case management system but is considering assigning one identification number to track election-monitoring activities.
The Voting Section received an unprecedented volume of telephone calls in November and December 2000 related to the unusual events surrounding the November 2000 presidential election.

- The Voting Section reported to the Senate Committee on the Judiciary that it received approximately 11,000 calls related to the November 2000 election. In comparison, the Voting Section told us it received several hundred calls related to the November 2002 election. The Voting Section said it does not have records of telephone calls related to other elections except to the extent that such telephone calls generated investigations that became matters or cases.
- According to the Voting Section, contractors were hired in November 2000 to help handle the unprecedented number of incoming telephone calls received concerning the November 2000 election to help ensure that the public would be able to voice opinions and concerns. Hiring contractors was not intended as a mechanism to gather specific allegations.
- Voting Section staff and contractors kept telephone logs that consisted of tables with columns identifying broad categories of allegations or comments and rows with the state from which a call originated. Voting Section staff also kept two other types of logs, which included the caller’s name, state, telephone number, and description of the call. Calls were recorded on most logs as tick marks, while some logs included limited narrative on the nature of the call.
Enclosure I

Assessment of Internal Controls
November 2000 Election Telephone Logs

Our analysis of the telephone call logs completed by contractors found the following:

- It was difficult to count how many calls were received because, for example, one caller could have made multiple complaints and some logs appeared to be duplicates.
- The call logs did not include a way to record calls from 4 states—Arkansas, Kansas, Montana, and North Dakota. According to Voting Section officials, these 4 states were left off the contractor logs inadvertently, although these officials noted that they were unaware of any calls received from these states. Our analysis found that Voting Section staff recorded having received calls from some of these states.
- Columnar that were used to record callers were labeled voter fraud, irregularities, request investigation, re-vote, and general comments. In some of the logs, the columns were re-labeled manually to tally additional types of comments. The broad nature of these column labels to record information about the nature of the calls and the limited narrative sometimes included on logs did not always provide sufficient information to determine whether the Voting Section should initiate an investigation.
- The telephone logs did not include information on callers’ contact information such as telephone numbers.
Some of the telephone logs that Voting Section and contractor staff completed included comments indicating allegations that people may have been prevented from voting. According to the Voting Section, Voting Section personnel reviewed logs on an ongoing basis and efforts were made to contact callers who provided telephone numbers and whose messages indicated possible violations of federal civil rights statutes. The Voting Section does not have records indicating how many such return calls were made and noted that return telephone contact information was not always provided or asked for.

According to Voting Section officials, an assessment of the calls led them to determine that most of the calls focused on concerns about the election situation in Florida, often from citizens in states other than Florida, and that few allegations included substantive information about possible violations of federal law. However, the information on the November 2000 telephone logs is not precise enough to document this assessment.
For the November 2002 federal election, the Voting Section assigned staff to receive calls; provided instructions for how to handle calls from citizens, the press, members of Congress, and others; and provided state contact information to refer callers to state officials, when appropriate.

According to Voting Section officials, a telephone log was used to record calls received. The telephone log included columns to record time of call, caller information for name, city, state, and telephone number; subject; and action. No instructions were provided with the telephone log about how to complete it regarding the type of information to be included in the subject or action columns.
According to the Civil Rights Division, the Voting Section plans to ensure that it has full capability to receive and respond, as appropriate, to all calls related to the November 2004 general election in the most expeditious way possible. Division officials further stated that the Voting Section has procedures in place to track and respond to telephone calls that it might receive in relation to the November 2004 general election.

- Specifically, the Civil Rights Division told us that the Voting Section plans to use a telephone log such as the one used for the November 2002 election to record information on the caller’s name, time of call, city and state, telephone number, subject of the call, and action taken on the call. The Division noted that the November 2002 log or any log that the Voting Section might use for the November 2004 election is a tool to ensure that the Voting Section does not miss calls raising important concerns over which it has jurisdiction and is not intended to definitively track all election-related allegations received.
Assessment of Internal Controls
Plans for the November 2004 Election

The Civil Rights Division also cited other procedures that the Voting
Section plans to use to track and respond to possible telephone calls
related to the November 2004 general election. These procedures will
include the Voting Section

• continuing its practice of assigning its staff to specific states for the
  purpose of reviewing citizen calls and letters;

• keeping a sufficient number of staff and supervisory attorneys in
  headquarters on election day to handle calls and to respond to
  allegations referred from Voting Section staff monitoring elections in the
  field on that day; and

• using contractors, if needed, to take telephone calls. The Division plans
to determine the need to use contractors on a case-by-case basis.
The Voting Section received an unprecedented number of calls related to the November 2000 election and took steps to document telephone calls. According to the Voting Section, it also documented calls for the November 2002 election for which far fewer calls were received. The 2000 and 2002 election telephone logs differed somewhat in format, and improvements were made regarding how information was collected on the 2002 election telephone log. The Voting Section did not provide written instructions to contractors in November 2000 about how to complete the logs, but did provide written instructions to DOJ staff on completing some of the information for the 2002 logs. However, both logs lack precision for documenting the nature of the call and actions taken because broad categories were used to capture information on the call.
· Predictions of another close presidential election in November 2004, possible voter confusion over new requirements in the Help America Vote Act, and possible questions regarding voting equipment could result in the Voting Section again receiving a large number of telephone calls and possibly result in the use of contractors to handle calls since most of the Voting Section staff are monitoring election sites on election day. If the Voting Section collects more precise information about such calls, it is in a better position to assure the public that it addressed allegations of voting irregularities; if it documents actions taken more precisely, it is better able to reassure the public and Congress of its commitment to enforce federal voting rights statutes.

· The Voting Section has emphasized the importance of its monitoring of election day activities, yet the monitoring program has not been routinely tracked in the ICM system, its formal process for tracking and managing work activities. Voting Section officials told us they were considering tracking this program in the future, and we believe the significance of this program warrants a more formal tracking of monitoring efforts and resources dedicated to the program.
Enclosure I

GAO Recommendations

Confidence in election processes is of utmost importance. To help ensure confidence in the integrity of our voting processes, the Voting Section plays an important role in addressing voting irregularities. By accurately recording and documenting its activities in as clear a manner as possible, the Voting Section contributes to assuring the public and Congress of the integrity of our voting processes.

To reassure citizens of the integrity of our election processes and to reassure the public and Congress of DOJ's commitment to its responsibility to enforce federal voting rights statues, we recommend that the Assistant Attorney General for the Civil Rights Division direct the Chief of the Voting Section to:

- develop and implement procedures for the November 2004 election to ensure that the Voting Section has a reliable method of tracking and documenting allegations of voting irregularities and actions taken to address them. Procedures could include more precise categories for recording types of allegations, more precise categories to record actions taken, development of instructions on completing the telephone logs, and development and implementation of training for contractors, should they be needed, and

- implement a method to track and report on election monitoring program activities in the Interactive Case Management system.
Attachment I

Voting Laws Enforced by the Voting Section Relevant to Contents of Briefing and Its Attachments

According to the Voting Section, to carry out its mission, the Voting Section brings lawsuits against states, counties, cities, and other jurisdictions to remedy denials and abridgments of the right to vote; defends lawsuits that the Voting Rights Act authorizes to be brought against the Attorney General; reviews changes in voting laws and procedures administratively under Section 5 of the Voting Rights Act; and monitors election day activities through the assignment of federal observers under Section 8 of the Voting Rights Act. Provided below are short descriptions of some of the primary voting laws enforced by the Voting Section.


- **Section 2 of the Voting Rights Act (42 U.S.C. § 1973)**

  Section 2 of the Voting Rights Act establishes a nationwide ban against any state or local election practices or procedures that deny or abridge a citizen’s right to vote on account of race, color, or membership in a language minority group. The Voting Rights Act provides that plaintiffs may establish a violation of Section 2 by demonstrating that “the political processes leading to nomination or election” deny members of the protected classes an equal opportunity to participate in the political process and to elect representatives of their choice. A court, under the Voting Rights Act, may also consider the extent to which members of the protected class have been elected to office in the jurisdiction, though Congress made clear that Section 2 does not confer upon protected classes a right to proportional representation.


  Sections 203 and 4(f)(4) are the language minority provisions of the Voting Rights Act and require certain covered jurisdictions to provide bilingual election materials and assistance based on census data pertaining to the population of citizens of voting age with limited English proficiency and their rate of illiteracy. With respect to Section 203, the Voting Rights Act requires jurisdictions to provide language minority assistance when certain criteria are met, such as when more than 5 percent of the citizens of voting age or more than 10,000 of the citizens of voting age are members of a single language minority group, and are unable to speak or understand English adequately enough to participate in the electoral process.

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Attachment I

- **Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-4)**

  Section 203 of the Voting Rights Act authorizes voting assistance for blind, disabled, or illiterate persons. A voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

- **Section 5 of the Voting Rights Act (42 U.S.C. § 1975c)**

  Under Section 5 of the Act, “covered” jurisdictions may not change their election practices or procedures until they obtain federal “preclearance” for the change. The act provides for either judicial or administrative preclearance. Under the judicial mechanism, covered jurisdictions may seek declaratory judgment from the United States District Court for the District of Columbia that the change has neither the purpose nor the effect of discriminating against protected minorities in exercising their voting rights. Under the administrative mechanism, covered jurisdictions may seek the same determination from the Attorney General. The Attorney General may deny preclearance by issuing and objection to the proposed change within 60 days of its submission.

- **Section 8 of the Voting Rights Act (42 U.S.C. § 1973d)**

  Section 8 of the Voting Rights Act provides for the appointment of federal examiners by order of a federal court or, with respect to certain covered jurisdictions, upon certification by the Attorney General. Federal examiners help to register voters by determining whether a citizen meets state eligibility requirements and must therefore be included in the registration rolls. A federal court, under the Voting Rights Act, may order the appointment of federal examiners to any jurisdiction and under any statute to enforce certain constitutional voting guarantees. In covered jurisdictions, the Attorney General may appoint examiners upon certification that the Attorney General has reviewed at least 20 meritorious written complaints of voting discrimination or that the Attorney General otherwise believes that the appointment of examiners is necessary to protect voting rights.

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1The jurisdictions targeted for “coverage” are those evidencing discriminatory voting practices, based upon a triggering formula, as defined in Section 4 of the Voting Rights Act (42 U.S.C. 1970b). The Attorney General and the Director of the Census have responsibility for determining which jurisdictions are covered by the triggering formula, and their determinations are not reviewable in any court and are effective upon publication in the Federal Register.

Attachment I

- **Section 8 of the Voting Rights Act** (42 U.S.C. § 1973c)
  
  Under Section 8 of the Voting Rights Act, federal observers may be appointed, upon request of the Attorney General, in any jurisdiction where an examiner is serving. Federal observers are to monitor elections and report whether persons entitled to vote were allowed to vote and whether their votes were properly counted.

- **Section 11(b) of the Voting Rights Act** (42 U.S.C. § 1973(b))
  
  Section 11(b) of the Voting Rights Act prohibits persons, whether acting under color of law or not, from intimidating, threatening, or coercing, or attempting to intimidate, threaten, or coerce, any person for voting or attempting to vote. Section 11(b) further prohibits intimidation, threats, or coercion of those persons aiding other persons in voting or exercising certain powers or duties under the Act.


The Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), in general, requires states and territories to allow absent uniformed service voters, their spouses and dependents, and certain other overseas voters to register and vote absentee in elections for federal office. UOCAVA requires, for example, that a presidential designate prescribe a federal write-in absentee ballot for all overseas voters in federal elections. The ballot is to be used if the overseas voter applies for, but does not receive, a state absentee ballot. While state law, in general, governs the processing of these federal write-in ballots, UOCAVA requires that states permit their use in federal elections.

**National Voter Registration Act** (42 U.S.C. §§ 1973gg to 1973gg-10)

The National Voter Registration Act of 1993 (NVRA) established procedures designed to “increase the number of eligible citizens who register to vote in elections Federal office,” while protecting “the integrity of the electoral process” and ensuring the maintenance of “accurate and current voter registration rolls.” NVRA requires all states to adopt certain federal voter registration procedures, except for those states that have no registration requirements or that permit election-day registration with respect to federal elections. NVRA, for example, requires states to allow applicants for driver’s licenses to register to vote on the same form. NVRA also requires states

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3 Id. § 1973gg-1(b).

4 Id. § 1973gg-1(c).


6 Id. § 1973gg-2(a).

7 Id. § 1973gg-2(a).
Attachment I

to provide voter registration forms and accept completed applications at various state agencies, including any office in the state providing public assistance, any office in the state that provides state-funded disability programs, and other agencies chosen by the state, such as state licensing bureaus, county clerks' offices, public schools and public libraries. NVRA also contains detailed requirements regarding state removal of names from federal registration rolls.5


Congress has passed legislation intended to improve access for elderly and handicapped individuals to registration facilities and polling places for federal elections. The Voting Accessibility for the Elderly and Handicapped Act of 1984 requires, with some exceptions, that political subdivisions within each state that are responsible for conducting elections assure that polling places and registration sites are accessible to handicapped and elderly voters. If the political subdivision is unable to provide an accessible polling place, it must provide an alternative means for casting a ballot on election day upon advance request by the voter. The act's requirements also include, for example, that each state or political subdivision provide a reasonable number of accessible permanent registration facilities, and that each state make available certain types of voting and registration aids such as large-print instructions and information and telecommunication devices for the deaf.6

Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131 to 12134) (enforced by the Disability Rights Section of the Civil Rights Division)

Title II of the Americans with Disabilities Act prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State and local governments. According to the Voting Section, as construed by the courts, Title II requires that polling places be accessible to persons with disabilities with certain exceptions.

Help America Vote Act (42 U.S.C. §§ 15381 to 15385)

The Help America Vote Act of 2002 (HAVA), among other things, established a program to provide funds to states to replace punch card voting systems, established the Election Assistance Commission to assist in the administration of federal elections and to otherwise provide assistance with the administration of certain

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Attachment I

Federal election laws and programs, and established minimum election administration standards for States and units of local government with responsibility for the administration of federal elections. Certain HAVA provisions including those relating to voting system standards, provisional voting and voting information requirements, and computerized statewide voter registration lists are to be enforced by the Attorney General.17

17 42 U.S.C. § 15511.
Attachment II

Role of the Criminal Division’s Public Integrity Section in Federal Elections

The Public Integrity Section (PIN), in conjunction with the 93 U.S. Attorneys and the FBI, is responsible for enforcing federal criminal laws applicable to federal election fraud offenses, among other things. Election fraud is conduct that corrupts the electoral processes for: (1) obtaining, marking, or tabulating ballots; (2) canvassing and certifying election results; or (3) registering voters. Election fraud can be committed with or without the participation of voters. Examples of election fraud that do not involve voter participation are ballot box stuffing, ghost voting, and "nursing home" fraud. Examples of election fraud that involves, at least to some extent, voter participation are vote buying schemes, absentee ballot fraud, voter intimidation schemes, migratory voting or floating voter schemes, and voter "assistance" fraud in which the voters’ wishes are ignored or not sought. According to a PIN official, its attorneys spend about 10 percent of their time on election fraud investigations and trials.

PIN is also responsible for overseeing the U.S. Attorneys’ and the FBI’s investigation and prosecution of federal election fraud, one of the most common types of alleged federal election crimes. PIN’s oversight entails: (1) advising investigators and prosecutors on the application of federal criminal laws to election crimes, (2) reviewing all major election crime investigations and all proposed election crime charges, and (3) assisting with implementing DOJ’s District Election Officer (DEO) program. Under the DEO program, PIN selects the 93 U.S. Attorneys to appoint an Assistant U.S. Attorney to serve as a DEO and provide training and guidance to DEOs on carrying out their responsibilities. DEOs, whose responsibilities are performed in conjunction with their other responsibilities, are to:

- screen and conduct preliminary investigations of complaints, in conjunction with the FBI and PIN, to determine whether they constitute potential election crimes and should become matters for investigation;
- oversee the investigation and prosecution of election fraud and other election crimes in their districts;
- coordinate their district’s investigative and prosecutorial efforts with DOJ headquarters prosecutors;
- coordinate election matters with state and local election and law enforcement officials and make them aware of their availability to assist with election-related matters;
- issue press releases to the public announcing the names and telephone numbers of DOJ and FBI officials to contact on election day with complaints about voting or election irregularities and answer telephones on election day to receive these complaints; and
- supervise a team of Assistant U.S. Attorneys and FBI special agents who are appointed to handle election-related allegations while the polls are open on election day.
Attachment II

Our analysis of information from PIN on election fraud matters showed that U.S. Attorneys and PIN attorneys initiated a total of 61 election fraud matters, or investigations, related to election years 2000 through 2003. Most of the 61 matters related to elections held in 2002. Matters were initiated in 26 states and 1 U.S. territory (the U.S. Virgin Islands) and ranged from 1 to 7 matters per state/territory over the 3-year period. The most frequent allegations of election fraud were for absentee ballot fraud and vote buying. According to PIN, many of these matters resulted in indictments and subsequent convictions.

According to the Criminal Division, the information provided by PIN does not include all election fraud investigations that the U.S. Attorneys have initiated because (1) U.S. Attorneys are not required to consult with PIN for preliminary investigations as opposed to grand jury investigations, which require consultation; (2) PIN did not track election fraud investigations prior to October 2002; and (3) election fraud investigations are sometimes initiated under non-election statutes.
## Table 1: Attorney General-Certified Election Jurisdictions Monitored during Calendar Years 2000 through 2003

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**Total Jurisdictions:** 13

*Elections were monitored by DOJ attorneys and professional staff only, not OPM federal observers.

*These elections were held in Cochran County, Mississippi, in calendar year 2001. Only DOJ attorneys and professional staff monitored one of the three elections, held on June 5, 2001. For the remaining two elections held that year, DOJ attorneys and professional staff accompanied OPM observers in monitoring the elections.*
### Table 2: Court-Ordered Election Jurisdictions Monitored during Calendar Years 2000 through 2003

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<td>Utah</td>
<td>San Juan County</td>
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Total Jurisdictions: 6

Source: GAO's analysis of election monitoring data provided by DOJ's Voting Section.

- *This court order for Alameda County, California, was in effect until January 22, 2001.*
- *Elections were monitored by DOJ attorneys and professional staff only, not CPRM federal observers.*
- *A court order for St. Landry Parish was effective through December 31, 1975. Data from the Voting Section shows that as of August 30, 2003, the court order was still in effect but that no elections were monitored in this parish during calendar years 2000 through 2003.*
- *These elections were held in Passaic County, New Jersey, in calendar year 2003. Only DOJ attorneys and professional staff monitored one of the four elections, held on May 13, 2003. For the remaining three elections held that year, DOJ attorneys and professional staff accompanied CPRM observers in monitoring the elections.***
- *This court order for San Juan County, Utah, was in effect until December 31, 2002.*
Attachment III

Table 3: Other Election Jurisdictions Monitored during Calendar Years 2000 through 2003

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</tr>
<tr>
<td>Connecticut</td>
<td>New Haven County</td>
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<tr>
<td>Florida</td>
<td>Orange County</td>
<td>Orange County</td>
<td>Osaka County</td>
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</tr>
<tr>
<td>Georgia</td>
<td>Kershaw County</td>
<td>Kershaw County</td>
<td>Kershaw County</td>
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</tr>
<tr>
<td>Hawaii</td>
<td>Honolulu County</td>
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<td>Honolulu County</td>
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</tr>
<tr>
<td>Kentucky</td>
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</tr>
<tr>
<td>Louisiana</td>
<td>St. Martin Parish</td>
<td>St. Martin Parish</td>
<td>St. Martin Parish</td>
<td>St. Martin Parish</td>
</tr>
<tr>
<td>Massachusetts</td>
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</tr>
<tr>
<td>Michigan</td>
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<td>First Circuit County</td>
<td>First Circuit County</td>
<td>First Circuit County</td>
</tr>
<tr>
<td>Missouri</td>
<td>St. Louis County</td>
<td>St. Louis County</td>
<td>St. Louis County</td>
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</tr>
<tr>
<td>New Jersey</td>
<td>Hudson County</td>
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<td>Hudson County</td>
<td>Hudson County</td>
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<tr>
<td>New Mexico</td>
<td>McKinley County</td>
<td>McKinley County</td>
<td>McKinley County</td>
<td>McKinley County</td>
</tr>
<tr>
<td>New York</td>
<td>Queens County</td>
<td>Queens County</td>
<td>Queens County</td>
<td>Queens County</td>
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<tr>
<td>Ohio</td>
<td>Macon County</td>
<td>Macon County</td>
<td>Macon County</td>
<td>Macon County</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Cherokee County</td>
<td>Cherokee County</td>
<td>Cherokee County</td>
<td>Cherokee County</td>
</tr>
<tr>
<td>Texas</td>
<td>Bexar County</td>
<td>Bexar County</td>
<td>Bexar County</td>
<td>Bexar County</td>
</tr>
<tr>
<td>Total Jurisdictions</td>
<td>5</td>
<td>9</td>
<td>19</td>
<td>13</td>
</tr>
</tbody>
</table>

Source: GAO’s analysis of election monitoring data provided by DOJ’s Voting Section.

Note: DOJ attorneys and professional staff monitored the election jurisdictions shown in this table unless otherwise noted.

*OPII (original public interest investigation) also monitored elections in these counties even though the counties are not under the Attorney General’s certification or court order.
Attachment IV

Summaries of Election-Related Preliminary Investigation, Matters, and Cases Initiated from November 2000 to December 2000

Election-Related Closed Matters and Open Case Initiated during November or December 2000

<table>
<thead>
<tr>
<th>No</th>
<th>Matter/Case</th>
<th>Jurisdiction</th>
<th>Date matter initiated</th>
<th>DJ No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Matter</td>
<td>Florida</td>
<td>December 2000</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>Matter</td>
<td>Hillsborough County, Florida</td>
<td>November 2000</td>
<td>No</td>
</tr>
<tr>
<td>3</td>
<td>Matter</td>
<td>Palm Beach County, Florida</td>
<td>November 2000</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>Matter</td>
<td>Several counties in Florida</td>
<td>November 2000</td>
<td>Yes</td>
</tr>
<tr>
<td>5</td>
<td>Matter</td>
<td>Okaloosa County, Georgia</td>
<td>December 2000</td>
<td>Yes</td>
</tr>
<tr>
<td>6</td>
<td>Matter</td>
<td>Seminole County, Georgia</td>
<td>November 2000</td>
<td>Yes</td>
</tr>
<tr>
<td>7</td>
<td>Case</td>
<td>St. Louis, Missouri</td>
<td>November 2000 (case filed August 2000)</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Source: DOJ Civil Rights Division.

*For the matters that the Voting Section initiated in Florida after the 2000 election, the Voting Section initially used a general DJ number for all work on investigations and inquiries related to the Florida election. This number was opened in November 2000. Subsequently, the Voting Section assigned specific DJ numbers for individual matters. The 2000 matters in Florida and Hillsborough County, Florida, were not necessarily not given an individual DJ number.

Summary of Election-Related Closed Matters and Open Case Initiated during November or December 2000

<table>
<thead>
<tr>
<th>Description based on Voting Section information</th>
<th>Voting Section’s action taken to address allegation</th>
<th>Voting Section’s assessment of allegations</th>
<th>Disposition by Voting Section</th>
</tr>
</thead>
</table>
| 1. The Voting Section received a large number of complaints alleging that Florida voters were assumed to be properly registered to vote, but were told that their names were not on the voter roll. Some people who tried to vote but whose names were not on the voter roll were often told to stand in another line so an electoral official could be called to verify their registrations, but many voters alleged that they were told that their names were not on the voter roll and registrations could not be verified. Some voters apparently left and never returned to the polls to cast their votes. At such time they were supposedly told they could not vote because the polls were closed. | Voting Section staff contacted individuals mentioned in complaints that the HACCP had forwarded to determine the nature of their alleged registration problem. Voting Section staff monitored election-related hearings and lawsuits in Florida to see what steps the state was taking to correct the situation. The Voting Section reviewed election reform legislation that Florida enacted in 2001. | Interviews with Voting Section staff who were mentioned in the complaints did not reveal any pattern of registration problems in any one Florida county. Staff and witnesses at the hearing in Florida did not discuss the failure of Florida’s voter registration database to provide accurate records. | Florida enacted election reform legislation in 2001 requiring, among other things, that the state implement a statewide voter registration database, permit provisional voting, and provide hands on training for voter registration. The Voting Section received the laws under Section 3 of the Voting Rights Act and filed a complaint on March 26, 2002. With respect to this investigation, the Voting Section noted that these reforms should help address the problems alleged to have occurred in 2000. While the Voting Section found that the
| 2. The NAACP National Voter
Fund alleged (1) that on Election Day 2000, sheriff’s
deputies in marked cars in Hillsborough County, Florida,
tricked access to voting places. (2) that their presence.
Voting Section staff met with, among others, clerks
from the county sheriff’s office and several
local residents, and spoke with a pastor named to
tell them additional
The sheriff’s office
reported that the
presence of sheriff’s
deputies near the polling
place was noticed by a
burglar nearby. One of
the sheriff’s deputies
The Voting Section
closed the matter
because there
was no evidence or
any of the

| did not appear
specifically to
address all the
NVRA-related
issues, such as the
vote registration
process and
registration of motor
vehicle agency and
other state agency
employees
regarding state
election
procedures and
requirements on
federal line, such
issues could be
addressed through
design and
implementation of
the forthcoming
election procedures
in light of the
requirements of the
new law. Therefore,
the Voting Section
determined that it
would monitor
Florida’s NVRA
actions in the future
in light of the
new state
legislation and
ongoing federal
legislative efforts in
election reform
which might also
impact Florida’s
election procedures.

| The Voting Section
closed the matter
because, based on
its monitoring of the
situation and the
provisions in the
state line pertaining to
registration that had
been previously,
It concluded that the
problems which
occurred in the 2000
election were being
adequately
addressed.

| new state legislation

Attachment IV

<p>| | | | |</p>
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>3. It was alleged that the design of the butterfly ballot in Palm Beach County violated federal voting rights laws.</td>
<td>The Voting Section opened a matter related to the issue and determined federal law for which the Section had enforcement authority to determine if any action was appropriate.</td>
<td>The Voting Section determined that there was no basis for asserting federal jurisdiction.</td>
<td>The Voting Section concluded that the matter had no jurisdiction. Concerning the matter, a further action was warranted. In addition, according to the Voting Section, the new Florida election reform law should help to address the butterfly ballot design by providing for greater oversight of ballot design.</td>
</tr>
<tr>
<td>4. Four state troopers with the Florida Department of Highway Safety and Motor Vehicles set up a driver’s license checkpoint on Election Day 2000 in Leon County, Florida. This checkpoint was located near a polling place in a voting precinct. Another checkpoint was held in Tallahassee and Escambia Counties. According to a Highway patrol official, this checkpoint was not located near a voting precinct.</td>
<td>The Voting Section opened a matter to investigate this issue and requested the Florida State Attorney to investigate the checkpoint in Leon County. A Voting Section attorney also spoke with an African-American voter who was stopped at one of the other 160 other checkpoints.</td>
<td>This Voting Section investigation is based on the Florida Highway Patrol’s report that it used a traffic stop to check driver’s license requirements of voters who were not at the polling place.</td>
<td>The Voting Section did not consider this matter because there was no evidence of intimidation or racial harassment at or near the other checkpoints.</td>
</tr>
</tbody>
</table>
5. A U.S. Representative raised concerns regarding long voting delays in predominately African-American precincts in DeKalb County, Georgia during the November 2000 election. It was alleged that there were no corresponding delays in majority white precincts. In one predominately African-American precinct, several hundred voters apparently left the precinct without voting after waiting in line for several hours. In districts with a majority of white residents, voting lines apparently moved quickly with some people being able to vote in less than 15 minutes. In addition, two people complained about possible voting irregularities during the March 2001 election.

<table>
<thead>
<tr>
<th>Attachment IV</th>
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</tr>
</thead>
</table>
| A Voting Section attorney met with the following in Georgia to address these concerns: (1) the DeKalb County Elections Supervisor, (2) the Chairman of the DeKalb County Elections Board, (3) the Chairman of the DeKalb County Elections Board, (4) the Chairman of the DeKalb County Elections Board, (5) the Assistant DeKalb County Attorney, and (6) one of the representative’s staff members. The Voting Section attorney received and reviewed documents from both counties’ elections departments regarding the November 2000 election.

The Voting Section attorney requested additional documents from the Assistant DeKalb County Attorney and DeKalb County Elections Officer to determine if there was an unequal division of resources among African-American and white districts. These documents included the budget for expenses related to the elections from 1999 through 2005.

The Voting Section attorney also spoke with the chairman of the DeKalb County NAACP and the U.S. Attorney for the Northern District of Georgia.

The Voting Section attorney spoke with the two persons alleging fraud during the March 2001 election.

The Voting Section attorney’s analysis of the documents that DeKalb County provided revealed that most of the county’s polling places that stayed open past closing time were located in majority African-American precincts. The polling places were almost uniformly closed from those being large numbers of people in line as well as insufficient numbers of poll workers and voting machines. The attorney also determined that there had been no unequal division of electoral resources between majority white and minority African-American precincts.

According to investigations of the November 2000 election by the county’s elections department, the area manager and her assistant at the last polling place contacted the proper office about the long lines and insufficient voting machines. The former area manager also denied the poll workers’ requests for additional voting machines, stating more were available.

The headquarters of the DeKalb County NAACP, staff in the office of the U.S. Attorney for the Northern District of Georgia, and the DeKalb County Elections Officer did not receive complaints related to Election Day in DeKalb County.

With respect to the March 2001 allegations, the Voting Section attorney noted that the two
6. The Voting Section received information that people in Gwinnett County, Georgia, who had registered to vote via the Georgia Department of Public Safety (DPS) were not on the voter registration rolls and were not allowed to vote. DPS updated vehicle registration sites in Georgia. Subsequently, DPS began the process of transferring National Voter Registration Act (NVRA) responsibilities to the state's newly created Department of Motor Vehicles (DMV). It was alleged that when votes were turned away from the polls and were not offered provisional ballots. Some voters were told to go to the county registration office but officials there told them they were not allowed to vote.

The Voting Section spoke with staff at the Georgia Attorney General's office and the Georgia DPS and WMF, a voter who stated the allegations, and the Deputy Director of Operations in the Secretary of State's Office. The Voting Section monitored the transition of NVRA responsibilities from DPS to the new DMV from April 2007 to April 2009.

The Voting Section's investigation revealed that the problem arose from the DPS paperless system to obtain and renew a driver's license. The process seemed to result in people believing they had been registered to vote when they had not. A person who initiated the request to register to vote did not receive any confirmation at the time of the transaction.

The Voting Section's investigation revealed that since DPS implemented a paperless system in 1996, the percentage of those who registered to vote at DPS alone when they applied or renewed their license had dropped almost every year. There was also evidence that DPS officials knew of concerns regarding the agency's paperless registration system from its implementation.

The Voting Section also interviewed the St. Louis Board of Election Commissioners (hereafter the Board) on the placement of eligible voters on the rolls.

The Voting Section alleged that the state was in violation of NVRA and issued a compliant. The compliant order gives court jurisdiction over the proceeding until January 10, 2006. The compliant order

7. DOJ, on behalf of the United States, alleged that the St. Louis Board of Election Commissioners (hereafter the Board) placed eligible voters on the rolls.

Following an investigation, DOJ filed a complaint with the U.S. District Court in the Eastern District of Missouri on August 11, 2002. On the same date, the Voting Section alleged that the state was in violation of NVRA and issued a compliant.
Attachment IV

| Inactive status, when compared with election day procedures Hot inactive voters were required to follow to restore their active voter status and vote during the November 2000 and March 2007 elections, constitutes a removal of those voters from the voter registration rolls in violation of Section 8 of the Voting Rights Act of 1965. As of the November 2000 general election, more than 1,000 registered voters in St. Louis had been designated as inactive and excluded from the lists of eligible voters following a notice of polling place that was issued on the day of the election. These notices did not include the notice required by Section 8(c)(3) of the Act. The Board did not make an effort to notify inactive voters that their registration status had changed, and their names would not appear on the voter registration lists, or that they would have to register administratively. Above the election day before being permitted to vote. As a result, certain eligible, but inactive voters, were not able to vote in the November 2000 general election and March 2007 municipal primary election due to the lack of an adequate infrastructure (i.e., insufficient phone lines, staff) to allow them to contact the Board to update their registration status. In the November 2000 election, over 300 eligible inactive voters were unable to obtain authorization to vote after going to the Board’s headquarters as instructed by the election judges. |
| DOJ entering into a consent order with the city of St. Louis |
| requires the Board to adopt procedures to remedy the problem that occurred during the November 2000 election, such as improved methods of notifying voters who are eligible to vote and are removed to an inactive status, improved methods of removing, and improved methods of processing inactive voters not included on the rolls on Election Day. This will include providing that every polling place have a complete list of registered voters, including inactive voters, and a polling place leader to assist voters in finding their correct precincts. The consent decree is valid until January 31, 2005. The city reserves the right to monitor implementation of the consent order. |
### Attachment IV

**Election-Related Closed Matters and Open Cases Initiated during Calendar Year 2001**

<table>
<thead>
<tr>
<th>No.</th>
<th>Matter/Cause</th>
<th>Jurisdiction</th>
<th>Date matter initiated</th>
<th>DJ No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Matter</td>
<td>Florida</td>
<td>March 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>2</td>
<td>Matter</td>
<td>Florida</td>
<td>June 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>3</td>
<td>Matter</td>
<td>Florida</td>
<td>June 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>Matter</td>
<td>Florida</td>
<td>August 2001</td>
<td>No</td>
</tr>
<tr>
<td>5</td>
<td>Matter</td>
<td>Broward County, Florida</td>
<td>October 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>6</td>
<td>Matter</td>
<td>Miami-Dade County, Florida</td>
<td>June 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>7</td>
<td>Matter</td>
<td>Miami-Dade County, Florida</td>
<td>June 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>8</td>
<td>Matter (election violation)</td>
<td>New York, New York</td>
<td>July 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>9</td>
<td>Matter</td>
<td>Georgetown County, South Carolina</td>
<td>April 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>10</td>
<td>Matter</td>
<td>Travis County, Texas</td>
<td>July 2001</td>
<td>Yes</td>
</tr>
<tr>
<td>11</td>
<td>Case</td>
<td>Miami-Dade County, Florida</td>
<td>March 2001 (case filed in June 2002)</td>
<td>Yes</td>
</tr>
<tr>
<td>12</td>
<td>Case</td>
<td>Orange County, Florida</td>
<td>June 2001 (case filed in June 2002)</td>
<td>Yes</td>
</tr>
<tr>
<td>13</td>
<td>Case</td>
<td>Dade County, Florida</td>
<td>June 2001 (case filed in June 2002)</td>
<td>Yes</td>
</tr>
<tr>
<td>14</td>
<td>Case</td>
<td>Berks County, Pennsylvania</td>
<td>March 2001 (case filed in February 2002)</td>
<td>Yes</td>
</tr>
<tr>
<td>15</td>
<td>Case</td>
<td>Tennessee</td>
<td>April 2001 (case filed in September 2002)</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Source:** DOJ Civil Rights Division

1 Each of these Florida matters was initiated in the period shortly after the November 2000 election—e.g., in November or December 2000—and were reported under the general DJ number for Florida discussed previously (see note in the summary table for November and December 2000 and note c below). The above dates are the dates they received individual DJ numbers.

2 For the matters that the Voting Section initiated in Florida after the 2000 election, the Voting Section initially used a general DJ number for all work on investigations and troubles related to the Florida election. The number was revoked in November 2000. Subsequently, the Voting Section assigned separate DJ numbers for individual matters. This 2000 matter in Florida and Hillsborough County, Florida, was (initially) not given an individual DJ number.
### Attachment IV

#### Summary of Election-Related Client Matters and Open Cases Initiated during Calendar Year 2001

<table>
<thead>
<tr>
<th>Description of Voting Section information</th>
<th>Voting Section actions taken to address allegation</th>
<th>Voting Section’s assessment of allegations</th>
<th>Disposition of Voting Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. There were allegations made by students at Florida A&amp;M University (FAMU) in Tallahassee (Leon County), Florida, and Bethune-Cookman College in Daytona Beach, Florida, regarding discriminatory treatment of African-American students in the registration process or at the polls. These issues were openly addressed with the registrars. The students had greater difficulty registering to vote. Older students did not seem to have such difficulty.</td>
<td>The Voting Section’s investigation consisted of extensive interviews with FAMU and Bethune-Cookman students, on-campus representatives of the FAMU student government, and a review of student records. The Voting Section determined that the problems were likely attributable to voter confusion, not racial animosity. The Voting Section informed the students that the incidents of the FAMU students who allegedly voted in excess of their allowances, and two each student ultimately voted, the problem may have been due to a failure to properly mark or return the voting ballots.</td>
<td>The Voting Section concluded that the problems with the registration of students were likely due to voter confusion rather than racial animosity. The Voting Section advised the students to be more careful in marking their ballots.</td>
<td>The Voting Section closed the matter because it lacked evidence of the violations during the investigation.</td>
</tr>
</tbody>
</table>

| Voting Section attorney interviewed these students on FAMU’s campus who claimed to experience difficulty voting, but were unable to vote. The Voting Section attorney obtained contact information with the FAMU student government and was able to identify any individuals who wanted to give statements regarding voting problems but could not meet with the attorney. The attorney attempted to contact the parents of the students from Brevard County, but was only able to speak with them. The attorney sent letters to the remaining students but never received responses to this letter. The Voting Section attorney followed up with the contacts at FAMU, but the Voting Section did not receive any response from the students to its efforts to contact them. The student government association | | | |
## Attachment IV

<table>
<thead>
<tr>
<th>Description based on Voting Section information</th>
<th>Voting Section’s actions taken to address allegaion</th>
<th>Voting Section’s assessment of allegations</th>
<th>Disposition by Voting Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Voting Section levied a fine against the Florida Department of State and ordered it to cease and desist from violating the Voting Rights Act.</td>
<td>The Voting Section ordered the Florida Department of State to cease and desist from violating the Voting Rights Act.</td>
<td>The evidence gathered by the Voting Section was insufficient to prove the voting irregularities.</td>
<td>The case was dismissed by the court.</td>
</tr>
</tbody>
</table>

### 2. Beginning in 1996, under Florida law, the state contracted with a firm to compile names of registered voters with names of convicted felons who were not registered to vote. The firm later discovered that some of the names it had compiled were not accurate. The Voting Section was concerned that inaccurate names might have been used to identify voters who were not eligible to vote. The Voting Section reviewed the firm's compiled list of names and determined that the names were not accurate. The Voting Section ordered the firm to cease and desist from compiling such lists in the future. | The Voting Section reviewed the firm's compiled list of names and determined that the names were not accurate. The Voting Section ordered the firm to cease and desist from compiling such lists in the future. | The evidence gathered by the Voting Section was insufficient to prove the voting irregularities. | The case was dismissed by the court. |

### 3. In 2000, the Florida Department of State conducted a purge of voters who had not voted in the past two elections. The Voting Section was concerned that the purge was not conducted in a fair and impartial manner. The Voting Section reviewed the purge list and determined that the purge was not conducted in a fair and impartial manner. The Voting Section ordered the Florida Department of State to cease and desist from conducting such purges in the future. | The Voting Section reviewed the purge list and determined that the purge was not conducted in a fair and impartial manner. The Voting Section ordered the Florida Department of State to cease and desist from conducting such purges in the future. | The evidence gathered by the Voting Section was insufficient to prove the voting irregularities. | The case was dismissed by the court. |
### Attachment IV

<table>
<thead>
<tr>
<th>Description based on Voting Section information</th>
<th>Voting Section’s actions taken to address allegation</th>
<th>Voting Section’s assessment of allegations</th>
<th>Disposition by Voting Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>A newspaper article provided to DOJ by a member of the U.S. Senate provided information that elections in several Florida counties disclosed a feature in optical scan voting machines that allowed the November 2000 election to detect ballots spoiled for over-voting and allow voters to correct the error.</td>
<td>A Voting Section attorney analyzed data from counties that had and those that had not disclosed the spoilage detection function in their optical scan machines and compared those rates to those of ballot spoilage in counties that had not disclosed the function. The investigation found that Florida counties with optical scan machines that had disclosed the spoilage detection function had lower rates of ballot spoilage than counties that did not have or did not use the technology. Some counties that had the detection feature disabled it or its voting machines. There were also instances where the technology was either disabled or failed to function properly. The Voting Section determined that there was no evidence that the disabling of this feature was done with a discriminatory effect or purpose.</td>
<td>The Voting Section also made rules of pending litigation in the case of NAACP v. Horne, which included allegations that the voter purge was used in 2000 violated the NVRA. Subsequent to the April 2002 closing of the matter, a settlement was reached in this case which required new procedures for how the state was to implement its voter purge. The change in voter purge procedures was implemented under Section 5 of the Voting Rights Act of 2003.</td>
<td>The Voting Section concluded that there was no basis for bringing a Section 2 lawsuit against Florida.</td>
</tr>
<tr>
<td>3. The U.S. Commission on Civil Rights issued a report that posed questions regarding voter rights in Texas.</td>
<td>The Voting Section reviewed the findings of the Commission’s report regarding ballot error. Several analysts suggested patterns of racial disparity in the ballot rejection rates.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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GAO-06-104R DOJ Activities to Address Past Voting Irregularities
**Attachment IV**

| Description based on Voting Section information | Voting Section’s actions taken to address allegation | Voting Section’s assessment of allegations | Disposition by Voting Section
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>A 2000 election in Florida faced significant problems with voting returning citizens.</td>
<td>The Voting Section determined that the problems were due to a lack of accessible polling places.</td>
<td>The Voting Section determined that the problems were due to a lack of accessible polling places.</td>
<td>The Voting Section determined that the problems were due to a lack of accessible polling places.</td>
</tr>
</tbody>
</table>

The Voting Section opened a matter and issued a Notice to the county’s compliance with the Voting Accessibility for the Elderly and Handicapped Act. The Voting Section received a complaint from a voter who was denied the right to vote due to the inaccessibility of the polling place. Based on the information provided, the Voting Section found that the county conducted an accessibility survey in 1999 and concluded that the polling place was accessible to voters with disabilities. The Voting Section then conducted a survey of the polling place and found that the polling place was not accessible to voters with disabilities. The Voting Section then ordered the county to take corrective action to ensure that the polling place was accessible to voters with disabilities.

As a result of the problems identified in the 2000 election, the Florida Department of State conducted an investigation to determine the feasibility of implementing new voting systems. The department recommended that the state adopt a new system that would allow for a more accessible voting experience. The state adopted the recommendation and implemented a new voting system that was more accessible to voters with disabilities. The new system has been in place since 2001 and has been well-received by voters with disabilities. The voting system has been praised for its accessibility features, including braille labels, audio prompts, and tactile voting devices. The new system has also been praised for its ease of use, which has led to an increase in voter turnout. As a result of these changes, the state has seen a significant increase in voter turnout among voters with disabilities. The new system has also been praised for its ease of use, which has led to an increase in voter turnout. As a result of these changes, the state has seen a significant increase in voter turnout among voters with disabilities.
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<tbody>
<tr>
<td>Purchase of new voting machines. The Voting Section and Disability Rights Section attempted to purchase new voting machines and ensure accessibility through accessibility training and a list of disability contacts in the area.</td>
<td>Purchase of new voting machines and accessibility training.</td>
<td>The Voting Section determined that no further action was warranted.</td>
<td>The matter was closed.</td>
</tr>
</tbody>
</table>

### 4. It was alleged that a group of persons attempted to intimidate minority voters. During the November 2000 election, it was alleged that a group of persons attempted to intimidate minority voters. During the recount, the Florida Supreme Court ordered the canvassing board to review the evidence. The Voting Section determined that no further action was warranted. |

### 5. There were allegations made after the November 2000 election that ballots were not counted accurately. The Voting Section determined that no further action was warranted. |

### 6. There were allegations made after the November 2000 election that ballots were not counted accurately. The Voting Section determined that no further action was warranted. |

### 7. There were allegations made after the November 2000 election that ballots were not counted accurately. The Voting Section determined that no further action was warranted. |
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| Election Day, and that they were allegedly cast in the polling place. | Attorney at Mesa County, who in turn contacted the county supervisor of elections. | Inspection of ballots, the boxes that were later located in the two precincts contained election supplies, not ballots. Analysis of data from the two precincts indicated that ballots were issued from a reorder set at the election. The county’s overall turnout rate was relatively low. | Dismiss.

8. The Voting Section opened this matter in August 2001 to initiate the monitoring of an election in New York City in November 2001 on the basis of observations made during the November 2000 election. Thirty federal observers and two DOJ staff members monitored polling places and procedures during multiple general elections in 2001 in Kings County (also known as Brooklyn) and in Bronx County. The Attorney General has previously certified both counties for federal observers pursuant to Section 6 of the Voting Rights Act. Also, 17 federal observers and 5 Voting Section attorneys monitored polling place activities during the general election in 2002 in Brooklyn.

In pre-election activities, two Civil Rights Division attorneys met with officials from the New York City Board of Elections to discuss concerns about procedures to be put in place for the election, including the need for poll worker training for the election. The need was expressed by the need for voting machines to accommodate the number of registered voters, the need for minority language voter registration materials for poll workers, and language assistance for minority language assistance, and consolidation of polling places. A Voting Section attorney also attended a poll worker training class on July 19, 2001.

After the election, the Voting Section attorney met with several Board of Elections officials to address problems.

Thirtysix federal observers monitored activities at all polling places in Kings County and 12 polling places in Bronx County during the municipal general election. Of those, 17 federal officials visited both counties to observe and monitor the election. The Voting Section staff members visited the revolutionary voters to distribute Spanish-speaking voters at the polling place.

After the election, observers found that poll workers were not always present at or near the voting area. Observers also observed problems with the English-only ballots at the polling place. The Board of Elections officials were informed of this and took action. After the election, the Voting Section attorney met with several Board of Elections officials to address problems.
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<td>polling locations cited in Brooklyn, NY were discussed with Board of Election officials, however, DOJ officials found that appropriate language assistance was available in both counties. Seventeen federal observers and five attorneys from the Civil Rights Division monitored polling place procedures during the general election in Kings County. The Voting Section attorney who attended four pre-election training classes found that the classes appropriately addressed minority language assistance and certification.</td>
<td></td>
<td></td>
<td>The Voting Section closed the matter on March 9, 2006. At that time, the Voting Section had not received additional complaints concerning the treatment of African-American voters in Georgetown County or about any registration issues previously investigated. According to the complaint, the election held on June 11, 2002, was orderly.</td>
</tr>
</tbody>
</table>

9. The Voting Section received an allegation from an African-American voter that a supervisor in Georgetown County, South Carolina, discriminated against African-American voters during the 2000 presidential election. The complaint alleged that the supervisor treated African-American voters in a rude and intimidating manner. In talking to the complainant and others, it was learned that there were also allegations of voter registration problems during the 2000 election related to precinct changes and the local DMV. The Voting Section attorney interviewed officials with the Georgetown County Board of Registration and Elections, representatives of the Republican and Democratic parties, voters, and an attorney representing the county. The Voting Section attorney also interviewed an official who managed the Georgetown County DMV office regarding the second-hand allegations from a Democratic party representative regarding possible registration problems at the local DMV. After reviewing the DMV official’s data and examining the forms that the DMV provided to determine any issues, the Voting Section determined that the complaint did not appear to be substantiated. The Voting Section staff wrote to the Voter Registration and Election Commission for Georgetown County outlining the allegations concerning the treatment of the poll worker and the Voting Section’s findings and asked the commission how it planned to respond. The county’s Voter Registration and Election Commission responded in writing that the election supervisor was reprimanded by letter that she was not to assign registration to another precinct and not permitted to serve in a supervisory capacity for the June 11, 2002, election. She decided not to work the June 2002 election. Other issues examined in the investigation were not raised with the county in the letter. With respect to the precinct change allegations, the Voting Section learned that confusion arose as to proper
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<td>attorney found that the form on the DMV driver’s license application did not contain a box for people to check if they wanted to register to vote and that this might not address the NVRA provision for a streamlined process to apply for a driver’s license and register to vote. In addition, in the interview with the employee in the local DMV office, the Voting Section attorney learned that they may have taken only asking people applying for new driver’s licenses, not posing the question directly. They wanted to register to vote. Moreover, this employee further informed the Voting Section attorney that in October 2000 she received instructions from the head of the state DMV to ask every person who was applying for a driver’s license whether he or she wanted to register to vote, and she followed that instruction through the election.</td>
<td>voting procedure was likely the result of a change in the method of identifying addresses of voters. With respect to allegations about the DMV procedures, the Voting Section received no complaints from voters who indicated that the alleged problems at the DMV existed or resulted in denying them the right to vote. In addition, after the examination of the DMV forms and interviews with the local DMV employee, it was concluded that there did not appear to be a violation of the NVRA.</td>
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<tr>
<td>10. The Voting Section received a complaint alleging that the Saugus Independent School District and the City of Saugus, both in Santa Clarita, held elections without bilingual judges or bilingual ballots.</td>
<td>A Voting Section attorney visited Saugus Elementary and Saugus High School campuses, but the report was unclear regarding the number of votes cast. The Voting Section also contacted a newspaper to review published articles regarding the school board election.</td>
<td>Information in a newspaper article indicated that the allegations were untrue, and that all election materials were produced in English and Spanish. The Voting Section attorney was told that confusion existed for all voters because of the present districting system. The Saugus City Secretary wrote a letter to the Voting Section attorney stating that each year the city names a Hispanic judge who is also bilingual. The City</td>
<td>The Voting Section attorney suggested that the issue should raise an effort to educate voters of district boundaries by methods other than newspaper advertising. Subsequent to the election, the city of Saugus sent a map of district boundaries and candidates running in each district to each city household. The Voting Section closed the matter.</td>
</tr>
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| 11. During the November 2000 election, Miami-Dade County, Florida, allegedly engaged in practices that prevented the county’s Creole-speaking Haitian-American voters with limited ability to speak English from receiving assistance at the polls. In circumstances where they submitted voter registration applications, the scope of the assistance was limited (e.g., standing next to voters during poll worker demonstration) and offered value to voters once they entered the voting booth. | After a full investigation, the Voting Section initiated a complaint alleging violation of Section 203 of the Voting Rights Act. Prior to an initial hearing, the Voting Section conducted an investigation of the county’s voter assistance procedures during the 2000 election. The Voting Section found a violation of 203 of the Voting Rights Act. To address the violations identified, the Voting Section has provided assistance to voters at the polls and other locations, such as recruiting poll workers to assist voters and to provide information on how to handle requests for language assistance. | A consent order was entered into on June 7, 2002, that, in part, prohibited the county from denying Haitian-American voters assistance from persons of their choice and mandated that the county take certain steps to prevent violations of Section 203 and to address the harm caused by those violations, such as recruiting poll workers to assist voters and to provide information on how to handle requests for language assistance. The consent order is in effect through December 31, 2005. The case is open to monitor implementation of the consent order. |}

| 15. As described in DOJ’s complaint, the county allegedly engaged in practices in Orange County, Florida, that prevented the county’s Creole-speaking Haitian-American citizens from voting. The challenged practices concerned the alleged failure of the county to: (i) provide an | After investigating these allegations, DOJ filed a complaint in the U.S. District Court for the Middle District of Florida on June 28, 2002, and entered into a consent decree with Orange County on October 9, 2002. | In the complaint, the Voting Section alleged that Orange County violated Sections 203 and 205. | The case is open to monitor implementation of the consent decree. The consent decree permits DOJ to monitor elections in Orange County until January 31, 2005. The consent decree also mandates procedures that Orange County must adopt with |
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<th>Voting Section’s assessment of allegations</th>
<th>Disposition by Voting Section</th>
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<tr>
<td>A. It was alleged that, in conducting elections in Reading City, Pennsylvania, Berks County denied Hispanic citizens with limited English proficiency an equal opportunity to participate in the political process and that the representatives of their choice.</td>
<td>After extensive investigation, which included the monitoring of several elections held in the county, the Voting Section initiated litigation against Berks County because of its alleged violation of the Voting Rights Act. DOJ filed a complaint with the U.S. District Court for the Eastern District of Pennsylvania. In the complaint, the Voting Section alleged that the State contributed to the denial of Hispanic citizens with limited English proficiency an equal opportunity to participate in the political process and that the representatives of their choice included the following: 1. Poll officials directed erroneous ballots.</td>
<td></td>
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</tbody>
</table>

On July 17, 2002, DOJ filed a motion for (1) permanent injunction and entry of final judgment that sought to permanently enjoin the county’s conduct of elections using policies, practices, procedures, and methods that violate certain VRA requirements and (2) the court to issue an order authorizing GPUs to appoint federal observers. |

| 12. As described in DOJ’s complaint, DOJ alleged that Okeechobee County, Florida, engaged in various electoral practices and procedures that unreasonably denied Spanish-speaking citizens an opportunity equal to that of other citizens to vote. The challenged practices concerned (1) the failure of poll officials to communicate effectively to Spanish-speaking voters necessary information concerning their eligibility to vote, voter registration status, identification requirements, and voting place change and assignments, (2) the refusal of poll officials to allow certain Spanish-speaking voters assistance in voting by persons of their choice, and (3) failure to provide for poll officials elected towards Hispanic voters with limited English proficiency. | After investigating the matter, DOJ filed a complaint in the U.S. District Court for the Middle District of Florida on June 28, 2002, and entered into a consent decree with Okeechobee County on July 10, 2002. | In the complaint, the Voting Section alleged that Okeechobee County violated VRA Sections 2 and 5(b). The case is open to monitor implementation of the consent decree. The consent decree allows DOJ to monitor elections held in Okeechobee County from the date of the consent decree through January 31, 1993. It specifies procedures that the Okeechobee County Board of Elections must implement with regard to the treatment of Spanish-speaking voters and efforts the county must make to facilitate voting by Spanish-speaking voters. The consent decree is valid through January 31, 2005. DOJ did not contend that Okeechobee County intended to deny Spanish-speaking votes equal opportunity to participate in the political process. |
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<tr>
<td>At a housing project in Philadelphia, Hispanic voters were forced to leave the polling place and return home to vote, despite the fact that they were not notified of the change.</td>
<td>The Voting Section worked with the housing project to resolve the issue.</td>
<td>The Voting Section concluded that the actions taken were appropriate.</td>
<td>The case is closed.</td>
</tr>
</tbody>
</table>

15. As described in DOJ’s complaint, DOJ alleged that the state of Tennessee engaged in practices that unreasonably delayed voter registration and limited opportunities to register to vote in election offices. The challenged practices included: (1) requiring voters to complete a voter registration application for each election cycle; (2) delaying the processing of voter registration applications; (3) requiring voters to provide proof of residence; and (4) limiting the hours during which voter registration applications could be submitted. The state of Tennessee entered into a consent decree with DOJ. After investigating this matter, DOJ filed a complaint against the state of Tennessee in the U.S. District Court of Tennessee on September 27, 2001. On that same day, the state of Tennessee entered into a consent decree with DOJ. The case is open to monitor implementation of the consent decree. The consent decree requires the state to develop voter registration procedures that are consistent with the requirements of the Voting Rights Act and the National Voter Registration Act. The consent decree expires on August 1, 2003. | The case is open to monitor implementation of the consent decree. The consent decree requires the state to develop voter registration procedures that are consistent with the requirements of the Voting Rights Act and the National Voter Registration Act. The consent decree expires on August 1, 2003. |
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<td>of the review process; (b) distribute voter registration applications with every application for public assistance or services to persons with disabilities; and (c) ensure completed voter registration applications in a timely manner.</td>
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Election-Related Closed Preliminary Investigation and Matters and Closed Cases Initiated during Calendar Year 2002

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<tr>
<th>No.</th>
<th>Preliminary Investigation/Matter/Case</th>
<th>Jurisdiction</th>
<th>Date investigation or matter initiated</th>
<th>DJ No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Preliminary investigation</td>
<td>Hinds County, Mississippi</td>
<td>November 2002</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>Matter (election monitoring)</td>
<td>Apache and Navajo Counties, Arizona</td>
<td>September 2002</td>
<td>Yes</td>
</tr>
<tr>
<td>3</td>
<td>Matter (election monitoring)</td>
<td>Broward County, Florida</td>
<td>November 2002</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>Matter (election monitoring)</td>
<td>Scott County, Florida</td>
<td>November 2002</td>
<td>Yes</td>
</tr>
<tr>
<td>5</td>
<td>Matter</td>
<td>Georgia</td>
<td>October 2002</td>
<td>No</td>
</tr>
<tr>
<td>6</td>
<td>Matter</td>
<td>Minnesota</td>
<td>October 2002</td>
<td>Yes</td>
</tr>
<tr>
<td>7</td>
<td>Matter</td>
<td>New Jersey</td>
<td>October 2002</td>
<td>Yes</td>
</tr>
<tr>
<td>8</td>
<td>Matter</td>
<td>Bexar County, Texas</td>
<td>October 2002</td>
<td>Yes</td>
</tr>
<tr>
<td>9</td>
<td>Matter</td>
<td>Hinds County, Mississippi</td>
<td>December 2002</td>
<td>Yes</td>
</tr>
<tr>
<td>10</td>
<td>Case</td>
<td>Oklahoma</td>
<td>August 2002 (case filed in September 2003)</td>
<td>Yes</td>
</tr>
<tr>
<td>11</td>
<td>Case</td>
<td>Texas</td>
<td>March 2002 (case filed in March 2003)</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Source: DOJ Civil Rights Division

*According to the Voting Section, this matter did not receive a DJ number inconsistently.*

Summary of Election-Related Closed Preliminary Investigation and Matters and Closed Cases Initiated during Calendar Year 2002

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<td>1. The wife of a soldier from Hinds County, Mississippi, alleged that her husband and approximately four other soldiers from that county did not receive their absentee ballots in the mail. Since Hinds County acknowledged receiving their requests in late September of 2002, and the court clerk confirmed they were mailed in the first week of October 2002. The Mississippi Secretary of State’s office suggested that the soldiers were not in federal jail but was not certain the ballots would be counted. The Voting Section’s office suggested that the soldier的妻子 who convicted the soldier’s wife that she contacted the Voting Section. She reported to the Voting Section that soldiers from Madison and Rankin counties, also Hinds County, did not receive their ballots until after election. She also contacted the Assistant U.S. Attorney (AUSA) for Hinds County.</td>
<td>The AUSA told the soldier’s wife that an investigation revealed the ballots had been lost in the mail. The FBI agent concluded that the county officials had mailed the ballots to the soldiers, but they had been lost or misplaced. The private company that processed the mail for the county told the FBI agent that they were unable to check the 24 cases of mail processed at a particular facility.</td>
<td>The Voting Section closed the preliminary investigation after the AUSA concluded, and the Voting Section agreed, that there was no evidence of bring charges against anyone involved in the handling of the ballots because the ballots had been lost in the mail and no further action was needed.</td>
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<td>During the November 2002 election, the Voting Section met with the Apache County Election Director and the Navajo County Election Director to discuss the allegations of language barriers. The Voting Section also discussed the need to provide language assistance to voters in Apache and Navajo Counties.</td>
<td>2. On November 5, 2002, federal election observers and Voting Section staff monitored polling place activities at 20 locations in Apache and Navajo Counties, Arizona. The Attorney General, pursuant to VRA Section 2, had certified those counties for federal observance. Since then, federal observers have documented problems related to the counties’ inability to provide consistent and effective Navajo language assistance to voters and other related circumstances affecting the Navajo voting population.</td>
<td>The Voting Section was concerned about the following issues related to the primary held in September 10, 2002, and the general election held in November 5, 2002: (a) the courts ordered for Navajo language assistance, (b) voters being turned away at the polls, (c) crossover voting, and (d) polling sites not opening on time. During the 2000 election cycle and 2002 primary, federal observers documented several problems with the counties’ provision of Navajo language assistance to voters. The Voting Section suggested that both states provide better training for poll workers. The state agreed to provide training to all poll workers. The state also agreed to provide better translation services to voters. The Voting Section suggested that both states provide better translation services to voters. The state agreed to provide better translation services to voters.</td>
<td>A November 20, 2002, memo discussing the results of the November 5, 2002, election indicated that the Voting Section would work with the states to address the issues identified during the election. The Voting Section concluded that the state’s effort to improve and expand its training programs for Navajo voters was necessary. Some polling places provided translation services, but others did not. The Voting Section recommended that the Navajo language translation services be improved.</td>
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<td>Minority Navajo voters who live near the Navajo/Apache county line about polling place and voter registration. These voters often vote in different locations for both tribal and state/county elections. Tribal election officials do not recognize county boundaries. Box workers at polling places near the county line reportedly turned away scores of elderly voters because of voting location confusion during the 2000 primary and general elections and the 2002 primary. In 2000, poll workers gave absent ballots to older Navajo voters in the material belief that the ballots would be accepted later. However, since these votes were not registered in the counties where they voted, their votes were considered valid.</td>
<td>Section also expressed concern about polling places that opened late for the September primary. This concern was addressed in the November 2002 election.</td>
<td>Understanding the ballot (b) outreach and voter registration efforts on the reservation at various events. (c) the opening of new early voting locations on the Navajo Reservation. (d) the opening of a new online voter registration and early voting office on the reservation to streamline voter registration and early voting, and (e) greater cooperation among the counties providing Navajo language assistance.</td>
</tr>
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2. Voting Section personnel and 2 DOJ monitors at 50 polling places monitored 50 precincts in Broward County, Florida, during the November 2002 election. | Action taken by DOJ staff included: (1) the dismissal of a precinct where a white male precinct worker allegedly harassed African-American voters who complained or protested at the polling place; (2) assistance to help correct errors that arose during the polling process. An example of these types of errors are: (1) African-American voters fell on the assembly line and were slow to count their votes and wait in line to vote. They confronted county election officials about a voter who was held back could not vote because he had already cast an absentee ballot. The precinct clerk eventually verified that the voter was on the roll. | The Voting Section issued a report because the election was monitored. |

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<td>Had no absentee ballot, and the voter was allowed to cast his vote on election day.</td>
<td>With regard to the absentee ballot issue, BOS staff referred the poll worker to contact the Board of Supervisors. In addition, BOS staff (1) gave a voter the ballot number for the Voting Section; (2) asked the poll worker if they had received complaints about not having enough voting machines, and (3) spoke with two voters who complained about a printer being hard to find.</td>
<td>The Voting Section closed the matter because the election being monitored was completed.</td>
<td></td>
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</table>

4. At the request of Florida Secretary of State, the Voting Section monitored the election in November 2000 in Duval County, Florida. Voting Section attorneys monitored the election and filed these two resolution of problems that arose by communicating to the Supervisor of Elections. Prior to monitoring the election, Voting Section attorneys met with the Supervisor of Elections, minority leaders in the community, leaders of the NAACP, and representatives from the local Democratic and Republican parties. They exchanged telephone numbers and circulated each person’s or group’s contact information with details of any problems that they might help address. They also provided guidance on issues that might arise to provide a

While monitoring the election, the Voting Section found various cases of certification and improvement. One issue involved absentee ballots and Florida law allowing a person who requested an absentee ballot but did not submit it to vote at the polls. There was confusion when absentee ballots were submitted but returned as being incomplete because they lacked voters’ signature and votes being able to vote at the polls. Voters who submitted absentee ballots are considered to have voted and voted at the polls on election day if the absentee ballot is accepted. Also, poll workers had given incorrect ballots to
5. Georgia state law requires counties to have absentee ballots on hand 45 days before a general election. Georgia issued the September 30, 2002, deadline for the November 5, 2002, general election because of the compressed election schedule in 2002. The 45-day deadline was set to comply with federal mandates to mail absentee ballots to U.S. military personnel stationed outside the United States to vote. Georgia’s state law is typical of pre-election absentee ballot issuance requirements that the 45-day rule covered by the federal law for absentee ballots issued by states.

The Georgia Secretary of State ordered the counties to use a new federal absentee ballot form that made it easier for military personnel to vote in the general election. The Secretary of State’s order was issued on October 1, 2002, and was effective immediately. The order was intended to ensure that military personnel who were stationed outside the United States could vote in the general election. The order also provided that the counties would be responsible for mailing the absentee ballots to the military personnel.

The Secretary of State’s order was issued after the September 30, 2002, deadline for county absentee ballots had passed. The counties were required to submit their absentee ballot forms to the Secretary of State by October 1, 2002, and the absentee ballots were to be mailed to the military personnel by October 15, 2002.

The Secretary of State’s order was implemented by the counties, and the absentee ballots were mailed to the military personnel on time.

The Georgia Secretary of State also directed the counties to use the new federal absentee ballot form that made it easier for military personnel to vote in the general election. The new form was designed to protect the secrecy of the voter’s ballot, and it was required to be used by all counties in the state.

The Secretary of State’s order was issued after the September 30, 2002, deadline for county absentee ballots had passed. The counties were required to submit their absentee ballot forms to the Secretary of State by October 1, 2002, and the absentee ballots were to be mailed to the military personnel by October 15, 2002.

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<tr>
<td>6. The Voting Section conducted an investigation under VOTERAB and monitored a situation in Wisconsin wherein absentee ballots used in the 2002 general election. The investigation involved allegations of irregularities. tiled in, and returned between October 10 and November 5 (11 days).</td>
<td>The Voting Section reviewed state actions to address the issue.</td>
<td>The Voting Section concluded the matter after the state Supreme Court issued an order addressing the absentee ballot issue. The order specified the procedures for absentee ballots that included various options by which to vote on whether a vote should or not already received for Senator Weakening.</td>
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<td>7. A full article from the resignation of Senator Robert Torricelli from the general election and ballot for Democratic nomination to the U.S. Senate. The New Jersey Democratic party brought suit to secure a declaration that the New Jersey Democratic State Committee was permitted to select a qualified candidate to replace slain Torricelli. The New Jersey Supreme Court ruled in favor of the state Democratic party and ordered that a new ballot be printed under the direction of the state Attorney General and an order was entered to address this issue.</td>
<td>The Voting Section prepared a discussion note evaluating the impact that the New Jersey Supreme Court ruling would have on absentee ballot requirements.</td>
<td>The Voting Section noted that the law of New Jersey states that absentee ballots would not have sufficient time to receive, mark, and return their ballots to local election officials. The Voting Section staff determined that the New Jersey state law prohibited any new federal absentee ballots.</td>
<td>The Voting Section concluded that New Jersey state law prevents for several months through the general election and ballot for Democratic nomination to the U.S. Senate. The New Jersey Supreme Court ruled in favor of the state Democratic party and ordered that a new ballot be printed under the direction of the state Attorney General and an order was entered to address this issue.</td>
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## Attachment IV

<table>
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<tr>
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<td>5. An attorney for Bexar County, Texas, reported, in a letter to the Voting Section dated October 18, 2002, reported several issues in the county’s election procedures in the field general and special election on November 5, 2002. Charges included: (1) the unsealing of a ballot box containing ballots with intact party votes, and (2) the use of a single two-sided ballot for partisan contests which was accompanied by a separate sheet with multiple voting instructions for the November 5, 2002, general election. Prior to that request, the League of United Latin American Citizens filed suit in U.S. District Court for the Western District of Texas alleging that Bexar County did not implement changes to the conduct of the November general election after obtaining a temporary restraining order from DOJ.</td>
<td>The Chief of the Voting Section wrote a letter back to the attorney for Bexar County. The Voting Section had telephone discussions with various people regarding the ballot box issues.</td>
<td>In a letter dated November 1, 2002, the Voting Section advised the Attorney General to adopt the changes that were made to the Vote Tabulator. The Voting Section did not cite any objection to the specified changes, but stated that Section 5(a) of the Voting Rights Act provides that failure to issue the Attorney General a notice of the object does not mean that an enforcement or action to require compliance with the changes.</td>
<td>The Voting Section closed the matter because it granted an injunction for the changes.</td>
</tr>
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Attachment IV

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<td>A U.S. Representative sent a letter to the Attorney General regarding possible voter suppression in Alabama, Arkansas, Florida, Indiana, Louisiana, Maryland, Michigan, New Jersey, New Mexico, Tennessee, and Texas. In Arizona, Louisiana, and Maryland, it was alleged that African Americans were victims of voter suppression. In New Jersey and Texas, allegations of voter suppression involved Hispanics. The victims of voter suppression in the other states were not specified.</td>
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<td>According to the Voting Section, many of the matters referred to in the letter were resolved under the jurisdiction of the Criminal Division and were being investigated by that Division when the letter was received. The Voting Section investigated two of the allegations referred to in the letter, including one in Hidalgo County, Texas, where it was alleged that the Republican party intimidated Hispanic voters. The Voting Section also investigated two other allegations involving Hispanic voters. The Voting Section examined and reviewed documents provided in this attachment for 2002.</td>
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<td>The Voting Section investigated two of the allegations referred to in the letter, including one in Hidalgo County, Texas, where it was alleged that the Republican party intimidated Hispanic voters. The Voting Section also investigated two other allegations involving Hispanic voters. The Voting Section examined and reviewed documents provided in this attachment for 2002.</td>
<td></td>
<td></td>
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<tr>
<td>The Voting Section reviewed the letter and the allegations referred to in it. The Voting Section determined that the allegations were not substantiated. The Voting Section did not take any action in response to the letter.</td>
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</table>

The most direct form of alleged intimidation in Hidalgo County was reported to have occurred when two poll watchers for a Republican candidate challenged Hispanic voters at voting sites on the basis that many of these voters were not registered. The Voting Section did not take any action in response to these allegations. The Voting Section recommended that these allegations be investigated by the State Department of Justice.

16. As discussed in DOJ’s complaint, DOJ alleged that the state of Oklahoma was not in compliance with VCCAVA. Election officials argued that the state of Oklahoma was not in compliance with VCCAVA. The Voting Section agreed with DOJ’s assessment and recommended that the state of Oklahoma be required to take corrective action to address the alleged violations.
### Attachment IV

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<tr>
<td>The Voting Section allegations were that poll workers in Oklahoma could not mail absentee ballots to military and civilian overseas voters on a date sufficiently in advance of the September 17, 2002, primary runoff election to allow voters to receive the ballot, cast a vote, and return the ballot to election officials by the deadlines established by state law.</td>
<td>Western District of Oklahoma on September 12, 2002, and entered into a consent decree with the state of Oklahoma on September 17, 2002.</td>
<td>USCAGA.</td>
<td>sentenced mail key personnel and carriers bringing overseas absentee ballots to jail and fined a former employee who failed to return an absentee ballot to new opportunity to vote. The state did not appeal among other things the passage of USCAGA compliance legislation in July 2003.</td>
</tr>
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</table>

11. As described in DOJ’s complaint, DOJ alleged that as a result of the compressed period of time between the Texas primary and runoff elections, election officials in the state of Texas failed to mail absentee ballots to military and civilian overseas voters on a date sufficiently in advance of the April 6, 2002, federal primary runoff election to allow such voters to receive the ballot, cast a vote, and return the ballot to election officials by the deadlines established by state law. | After an expedited investigation, DOJ filed a complaint and motion for a temporary restraining order and preliminary injunction in the U.S. District Court for the Western District of Texas on March 20, 2002. | In the complaint, the Voting Section alleged that the state of Texas violated USCAGA. | The court entered a temporary restraining order and preliminary injunction on March 25, 2002, preventing qualified Texas voters to use federal write-in absentee ballots for the April 6, 2002, election. According to the terms of the court order, the state was required to take actions to remedy absentee ballot issues in the future. The court included provisions that voting officials to submit voter information to the state officials if they were not included in time and counting the write-in ballots as votes cast as long as the voters voting outside the United States are qualified to vote in Texas. A stipulation of settlement was entered in February 2003 requiring passage by the state legislature of legislation covering the United States complaint. |
## Attachment IV

### Election-Related Closed Matter Initiated during Calendar Year 2003

<table>
<thead>
<tr>
<th>No.</th>
<th>Matter</th>
<th>Jurisdiction</th>
<th>Date matter initiated</th>
<th>DJ No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>New Jersey</td>
<td>January 2003</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Source: DOJ Civil Rights Division

### Summary of Election-Related Closed Matter Initiated during Calendar Year 2003

<table>
<thead>
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<td>The Voting Section attorney contacted a Latino political activist in the New York metropolitan area, the Treasurer of the New Jersey Hispanic War Foundation, and a community activist and attorney based in Newark, New Jersey.</td>
<td>The purpose of the Voting Section attorney contacted were not aware of the e-mail or any other threats or intimidation tactics against Latino voters. The Voting Section noted that its investigation yielded results similar to the judge’s findings—what the court business plan mentioned in the e-mail did not raise concerns about Latino voter intimidation during the November 2003 general election.</td>
<td>The Voting Section closed the matter because it lacked merit.</td>
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</table>
Attachment V

Comments from the Department of Justice

U.S. Department of Justice
Civil Rights Division

Office of the Deputy Attorney General
Washington, D.C. 20530

August 27, 2004

William O. Jankowicz, Jr.
Director
Homeland Security and Justice Issues
United States Government Accountability Office
Washington, D.C. 20548

Re: Department of Justice's Activities in Addressing Past Election-Related Voting Irregularities - Draft Report GAO-04-1041R

Dear Mr. Jankowicz:

Thank you for providing the Department of Justice with a copy of a draft of the Government Accountability Office (GAO) report entitled "Department of Justice Activities in Addressing Past Election-Related Voting Irregularities." This letter contains the Justice Department's oral comments, and I request that it be included in the final report.

The Department appreciates the GAO's, and the reporting members', interest in this very important issue. Indeed, all of the areas of responsibility charged to the Civil Rights Division, near and far, are highly relevant in preserving the franchise.

Since 2000, the Division has worked steadfastly to protect federal voting rights. We have directed substantial resources to implementing the internal reforms of the Voting Rights Act of 2002 ("VRAA"), including working with all states and territories to design their procedures to comply with the VRAA's provisional voter list reform effective January 1, 2004. We also have taken unprecedented steps to protect the rights of language minority voters. And we have moved aggressively to ensure that all American citizens, including men and women in uniform, have an opportunity to participate in the democratic process.

Finally, as your draft report acknowledges, the Division has significantly increased the number of lawsuits and absenteeship cases to ensure compliance with federal voting rights. In short, that Division has been fully attentive to the objectives of protecting federal voting rights, and we are grateful to see our narrative more refined in your draft report.

With regard to the specific recommendations your draft report has made, we are pleased to accept both. In the Division's view, each will be a salutary addition to the many steps already taken to improve protections of federal voting rights. For that reason, the Assistant Attorney
Attachment V

   Demand for Civil Rights has already directed implementation of your recommendations.

   With regard to the balance of the draft report, we appreciate the opportunity to have
   worked with GAO personnel on this audit. As with any report on an issue of such critical
   import, it is vital that the report be both complete and accurate. Accordingly, we also
   appreciate the opportunity to provide comments. We must, however, register our
   disappointment that, while GAO has some time during the review process to revisit and
   reexamine draft report, you offered the Civil Rights Division only one week to review and
   reexamine the draft report. Moreover, since the Division anticipated the difficulties and
   potential for error raised by such an abbreviated review, GAO offered just one additional
   week. This

   1. Tracking History Monitoring Activities

   First, the GAO recommends establishing within the Department’s EJM system a
   mechanism for tracking and reporting election monitoring activities. As noted, the
   Assistant

   Attorney General has already taken steps to implement the recommendations, and the
   Division

   will implement an electronic means of tracking such data.

   As the same time, however, it is important that the draft report not leave the reader with
   the impression that the Division presently lacks any system for tracking election

   monitoring activities. See Letter, Civil Rights Division, April 17, 2006. This would be
   incorrect. The Voting Section does

   currently have procedures that effectively track election monitoring activities. Since the
   mid

   1990s, the Voting Section has maintained logs detailing this information. As your
   rounds should
   show, the Division provided your investigations with a full explanation of these procedures
   in its

   May 20 response to your inquiry. The Division also provided you with the audit results
   and

   for this tracking for the years 2000-2004. These data provide detailed information about
   the

   election, the nature of the participation observed, the type of election, and the number of

   observers and DOJ personnel who resisted the election. The Voting Section has found

   these

   spurious and effective. Moreover, the existing logs are accurate and easily

   accessible.

   2. Summary and Detailed Data Reporting Section 203 Work

   It is also important that the final report reflect the most up-to-date information possible
   about the Voting Section’s achievement activities. Specifically, with regard to the

   Division’s

   review of Section 203 of the Voting Rights Act, while the draft report purports to have

   reviewed data through March 15, 2004, it discusses enforcement of Section 203 only through

   2002. See Draft Report at 75. We have previously noted to you that the Division undertook a

   significant amount of additional work related to Section 203 and language minority issues
   in
3. Updated Information on OUCAVA Work

On page 28 of the draft report, the italicized portion about the lawsuit filed in Georgia under the Uniformed and Overseas Citizens Absentee Voting Act of 1986 should be corrected to reflect that a court order was granted.

"Plaintiffs obtained a court order in an OUCAVA lawsuit in favor of the state of Georgia requiring the state to take steps to allow overseas voters to vote in the general election."

4. Updated Information on HAVA Work

On page 29 of the draft report, the summary of the Division's activities under the Help America Vote Act of 2002 refers to the first HAVA enforcement action filed by the Voting Section. We respectfully request that the following italicized portion be added:

Plaintiffs filed suit for enforcement action in California against a county for failing to fully implement HAVA.
Attachment V

The case is United States v. San Bruno County, California (N.D. Cal.). A complaint was filed on May 26, 2004, along with an amended version of Section 301, a violation of the voter information provisions of the Voting Rights Act. A court order requiring actions by the county to remedy the violations is pending review and approval by the court.

5. Documentation of Complaints of Alleged Election 2000 Voting Irregularities

As the GAO draft report indicates, "[c]onducting an election in a democracy is of utmost importance." (Draft Report, 8). Moreover, confidence is enhanced by "accurately recording and documenting election-related activities in as near a manner as possible." (Id. at 8). This is the same type of prescription used for our report on the 2000 election. Accordingly, it is imperative that the final report accurately capture the full force and impact of the Division's efforts during the 2000 election. At present, the draft report fails to do so.

Your draft letter to Congress and draft report repeatedly references the Division's documentation of public telephone calls during the 2000 Presidential election. These references may be construed to imply that an alternate means of documenting such activities would have enabled the Division to identify the existence of violations of Section 301 for warranting further investigation. It is important that the GAO report be clear that it is working on such conclusions, because such a conclusion simply would not be accurate.

The chief difficulty in the draft report's analysis is its nearly exclusive focus on telephone logs maintained by contractors hired by the Department to record calls coming into the Division's main switchboard in the days after the 2000 election. The draft report contends that these logs were insufficiently detailed. However, the draft report fails to note that these logs make up only a small fraction of all the calls received during the Division.

Therefore, any shortcomings of these logs are extremely unlikely to have changed the course of subsequent investigations.

As we previously advised GAO, (DOJ Response to April 7 Information Request), these contractors were hired to take phone calls from the public only during the weekend following the election, when the Division's efforts would normally otherwise have been closed. The Division decided to afford the public this extra service after the Division's main switchboard received thousands of calls, thus assuring the agency inputting into the situation in Hertel. In addition, the Voting Section's telephone lines received an elevated number of calls.

In focusing exclusively on the contractor logs, the draft report overlooks the call logs maintained by the Voting Section itself in 2000. These provided extensive documentation about calls and a description of the callers' complaints, and were provided reliable and accurate. Moreover, the vast majority of calls received were input through these logs. Therefore, the Division repeatedly notes that during the 2000 election it did have effective means of tracking telephone related phone calls.
Attachment V

In our April 2004 report, we provided you substantial data regarding this additional means for making public election-related inquiries. Specifically, the Director's 800 number system was modified to provide an easy means or access to program their issues. It was frequently acknowledged that a series of 800 number options to: (1) provide specific information about the election (which represented the overwhelming majority of the calls), (2) provide specific information about voting-related issues outside Florida, (3) provide specific information about voting-related issues inside Florida, or (4) provide specific information about non-voting-related matters.

This modified system took effect late in the day on Thursday, November 5, 2000, and was discontinued following invasion of the Presidental Election. The calls coming into the temporary 800 system were monitored regularly by Voting Section personnel beginning on November 13, 2000. Return calls were made when there was some indication that the caller had substantive information about a specific voting rights violation. Separate logs tracked each of the 800 number options. Calls reporting general issues without conveying specific information about voting rights violations were recorded in a single log.

In addition, we invited OAO staff to meet with Voting Section staff involved in dealing with the public during the 2000 election. Regrettably, OAO declined this invitation.

8. **Status of the Calls Received After the 2000 Election**

In addition to focusing on only a subsection of the calls received, the draft report also fails to properly note the substantive and the vast majority of phone calls received by the Department following its November 2000 election.

First, the draft report fails to note the fact that the vast majority of calls received by the Department in the period following November 2000 were not of substantial or concern. Over 75 percent of the calls received during this period were not substantive or of concern. This is consistent with the nature of the calls received.

Moreover, in the majority of these cases, the topics were not related to the Department's election activities. In many cases, the calls were not substantive or of concern. In others, the topics were not related to the Department's election activities. In many cases, the calls were not substantive or of concern. In others, the topics were not related to the Department's election activities.
Attachment V

Second, the draft report fails to note that the vast majority of the calls received by the contractor (those from New York and California) are the number of calls from Florida was relatively small. The vast majority of those expressed concern over the situation in Florida, and some based on reports from friends and family. 

The case also demonstrates the majority of the calls originating from Florida. Voting Section personnel followed up with callers from Florida to determine whether they had substantial information about the Florida situation. Again, however, the vast majority of these calls were calling to report violations at the early voting locations and that the specific information about alleged violations. In addition, following up with these callers, Voting Section personnel also pursued other avenues of complaint (e.g., contact by voters directly to the Voting Section). Complaints were generated by the NAACP Voter Voice, hearings conducted by the U.S. Commission on Civil Rights and the NAACP, incidents occurring a large number of them, etc.).

As noted in the report, it is important that the draft report accurately reflect these facts. At the same time, the Division fully concurs in the GAO's recommendation that an expanded follow-up system be implemented. For the 2006 election, the Division will continue to refine its draft for sampling issues and to allow the public access to the Voting Section’s complaint process.

7. Criminal Investigations

As you are aware, the GAO clearly demonstrated the work done by the Criminal Division’s Public Integrity Section, which is responsible, along with United States Attorneys’ Offices, for investigating and prosecuting federal election crimes. The Chief of the Public Integrity Section, Neal Harris, has asked us to include this statement in the portion of the draft report that pertains to work of the Criminal Division. The first paragraph on page 27 of the draft report provides background information about the matters referred by Assistant U.S. Attorneys. There are annual public corruption training events held by the Justice Department for Assistant United States Attorneys (AUSAs), and these include presentations on federal election crimes. These conferences are available to all AUSAs, including the AUSAs who are the designated election election offices. Some, but not all, of the 50 AUSAs who are likely to be designated election election offices may attend these conferences. In addition to these public corruption conferences, the district election offices are now attending the annual Federal Election and Voting Integrity Conference, the first of which was held in 2002, to receive training on both civil rights issues important to federal action as well as voting integrity issues important to election crimes. Please note that the name of this annual conference is the "Federal Election and Voting Integrity Conference," not the "Voting Integrity Conference." For example, we appreciate the opportunity to work with your staff concerning the significant work of the Voting Section in enforcing federal voting rights. We are hopeful that the
Attachment V

The statements and inclusions highlighted in this draft report will be corrected prior to its release.

Sincerely,

[Signature]

Deputy Assistant Attorney General