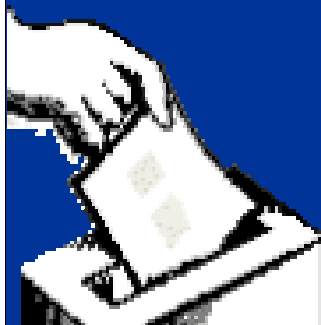




Brennan Center for Justice
at NYU School of Law

CAST OUT

New Voter Suppression
Strategies 2006 and Beyond



October 2006

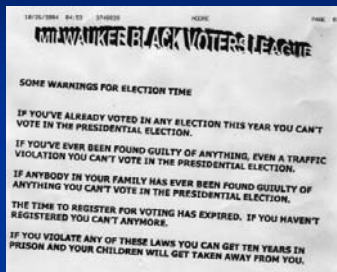
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There's a lot of focus on Election Day problems



Long lines
at the polls



Misleading
flyers and other
misinformation

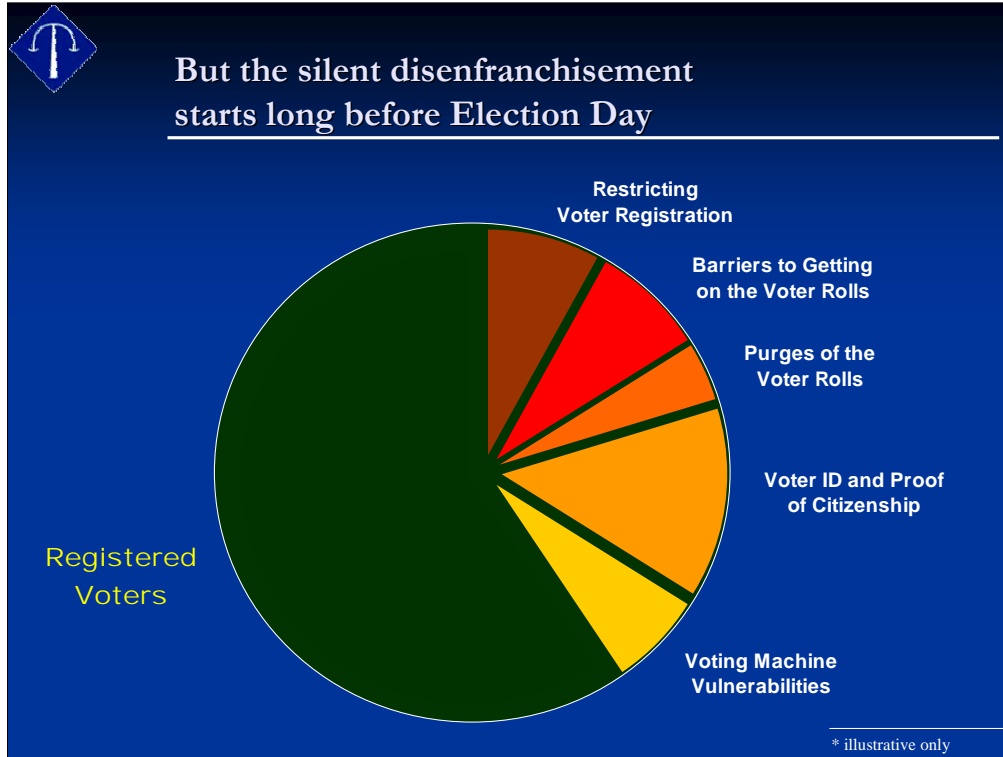
Voter intimidation
and challenges



Hanging chads
and recounts



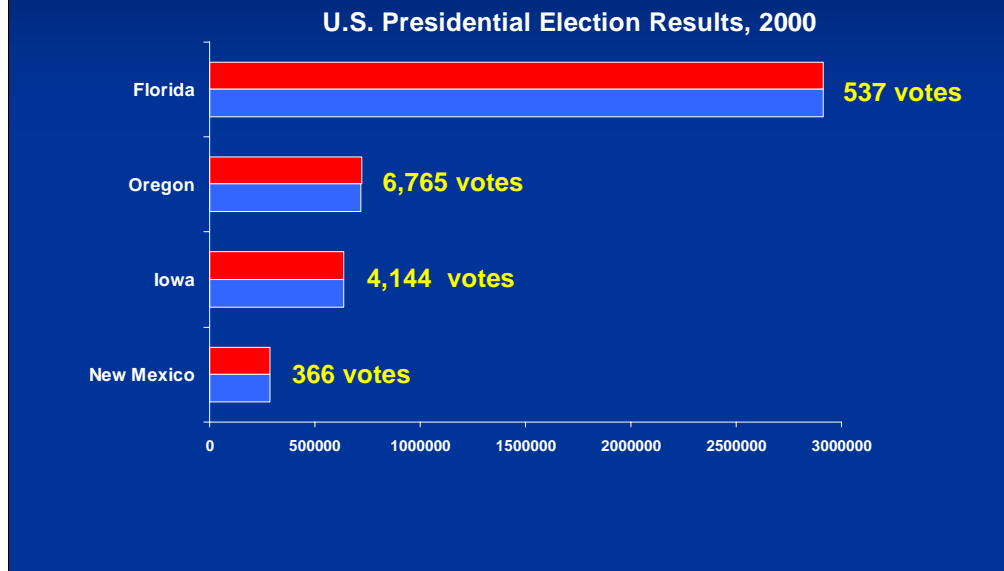
- In 2000 and 2004, the curtain was pulled back and the nation learned about the myriad problems on and around Election Day itself that can and do deprive many Americans of the franchise.



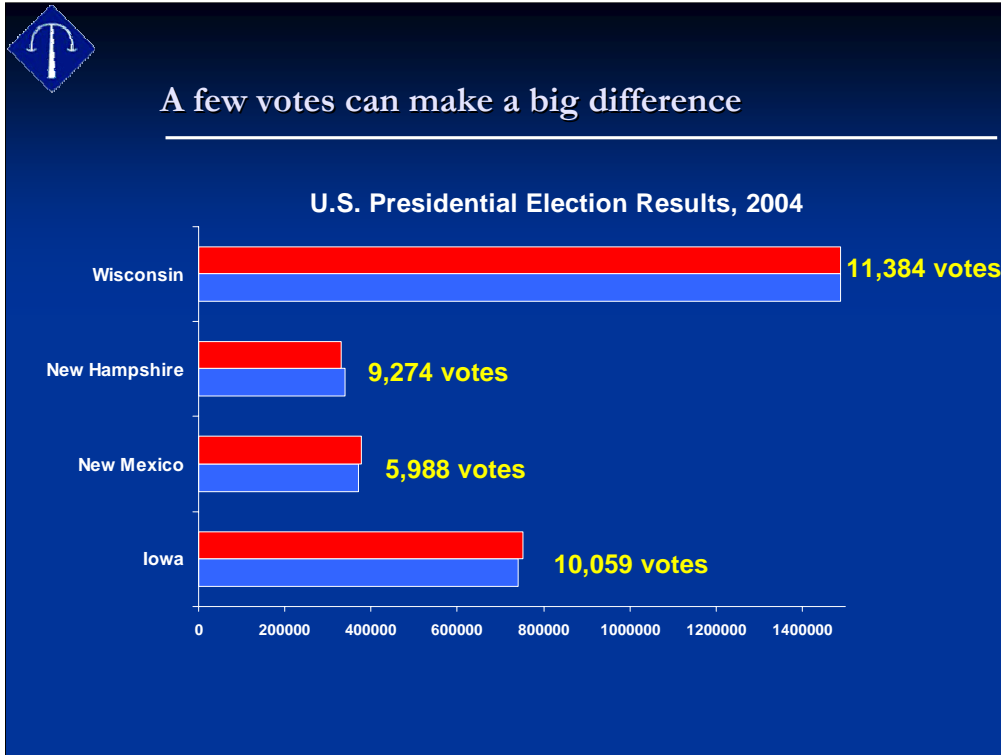
- Most of the voter disenfranchisement, however, happens long before Election Day, in the halls of state legislatures, election officials’ offices, and even in the federal government.
- In 2002, in the wake of the tumultuous 2000 election, Congress passed the Help America Vote Act (“HAVA”) to modernize the nation’s election processes and to help ensure that eligible voters are no longer deprived of the franchise due to administrative errors. If implemented properly, HAVA can and will improve the administration of elections and make it easier for Americans to exercise their fundamental right to vote. Unfortunately, however, many are treating this reform movement as an opportunity to restrict rather than enhance the franchise.
- Those who seek to erect barriers and restrict access to voting have seized on this uncertain moment with a flurry of activity, imposing:
 - new rules forcing voter registration groups out of business;
 - database-predicated barriers to getting registered in the first place;
 - sweeping purges of the voter rolls that disenfranchise eligible voters;
 - restrictive voter ID and proof of citizenship bills in almost 30 states; and
 - unnecessary security and reliability vulnerabilities in voting systems.
- These measures could disenfranchise far more American citizens than any of the problems we see on Election Day.



A few votes can make a big difference



- These new policies harm not only the hundreds of thousands of Americans who will be unfairly deprived of their votes, but also the integrity of our elections.
- In an era in which elections are increasingly decided by razor-thin margins, these disenfranchising policies can alter election results.
- In 2000, there were several close election results – and not just in Florida, where Bush had less than a 0.01% margin of victory, winning by a mere 537 votes. The presidential elections were close across the country:
 - in Oregon, the presidential election was decided by 6,745 votes, a 0.44% margin of victory;
 - in Iowa, by 4,144 votes, a 0.31% margin of victory;
 - in Wisconsin, by 5,708 votes, a 0.22% margin of victory; and
 - in New Mexico, by 366 votes, a 0.06% margin of victory.



- We saw even more razor-thin margins in 2004:
 - in Wisconsin, the presidential election was decided by 11,384 votes, a 0.38% margin of victory;
 - in New Hampshire, by 9,274 votes, a 1.37% margin of victory;
 - again, in New Mexico, by 5,988 votes, a 0.79% margin of victory; and
 - again, in Iowa, by 10,059 votes, a 0.67% margin of victory.
- These margins are smaller than the number of votes that could be lost by any one of these new vote suppression strategies.



There are at least five new threats to eligible voters

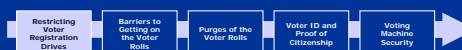






In 2004, record numbers of voters were registered by nonprofit voter registration drives

- **49.6 million new registrations in 2004**
 - 4 million more than in 2000
- **10 million registered by large nonprofits**
 - More than 20% of total new registrations



- Community and civic groups have played an increasingly important role in increasing voter registration and turnout rates, especially among citizens that have long been left out of the process, including those with low incomes, people of color, and youth.
- A large percentage of new voter registrations in the 2004 election cycle were made possible by community voter registration drives. Large voter registration groups reported assisting almost 10 million voters to register in 2004. Many more voter registration forms were also submitted through smaller groups.
- Although states do not typically keep track of the number of voter registration forms turned in by nonprofit groups, one county in Florida reported that over 40% of the new registrations it received in 2004 were from private voter registration drives. Statewide, the number was between half a million and a million.
- These voter registration groups help empower communities and invigorate democracy. Their efforts contributed significantly to the increase in voter participation in 2004. Overall, 64% of voting-age citizens voted in 2004, a 4% increase over 2000. By the 2004 presidential election, 86% of the voting-age citizen population was registered to vote, a total of 169 million Americans.
- Enabling more people to vote is usually seen as a good thing, but instead of praising voter registration groups, many states responded to all these new voters they had to process in 2004 by passing laws that limited voter registration drives.



Florida shut down the League of Women Voters



“I’m the first and only president of the League of Women Voters of Florida to have to tell my volunteers that they can no longer register voters”

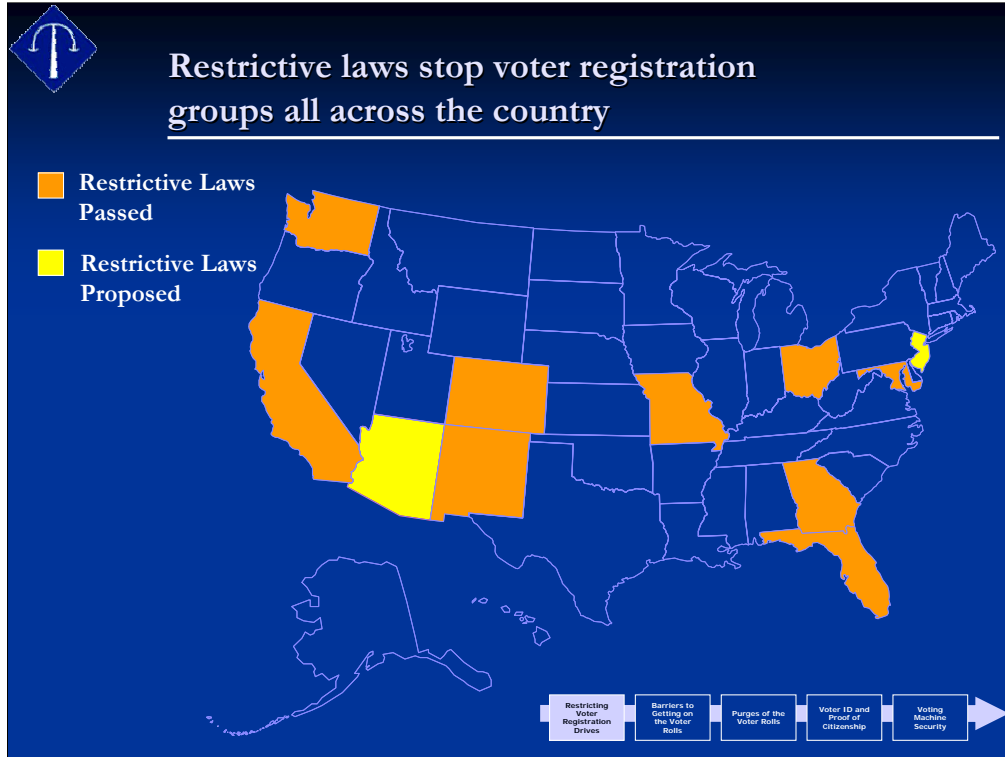
-- Dianne Wheatley-Giliotti, President

14 lost forms x \$5000 = \$70,000

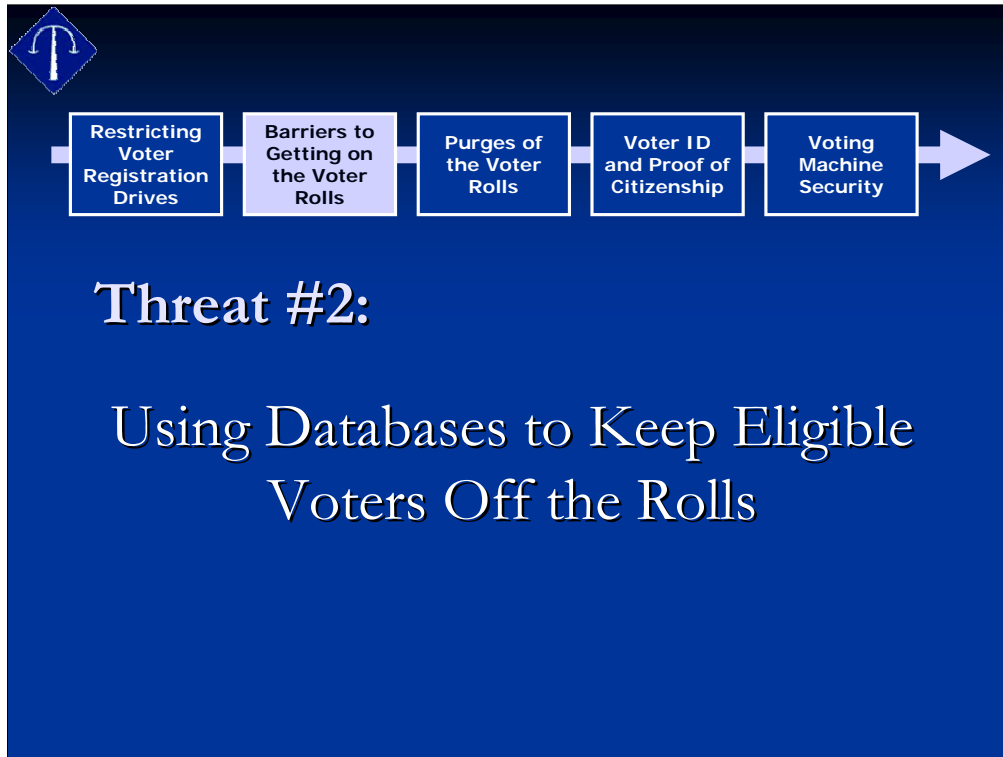
Political parties exempt from restrictions



- In 2005, for example, Florida passed a draconian new law that had the effect of completely shutting down most voter registration groups including the League of Women Voters which had been registering voters in Florida for 67 years.
- The new Florida law imposed serious fines on voter registration groups, their workers, their volunteers, their supervisors, and their board members for each form turned in more than 10 days after it was collected, turned in late, or lost:
 - \$250 for each application submitted to election officials more than ten days after the form was collected.
 - \$500 for each application collected before the registration deadline but submitted to election officials after the deadline.
 - \$5,000 for each application collected but not submitted to election officials.
- These fines applied even if the individuals or groups were not at fault in any way.
- If a League member lost only 14 forms in a hurricane or a car accident, the resulting fines would have wiped out the organization’s entire annual budget of \$70,000.
- The law simply made it too risky for most voter registration groups to operate in Florida. Political parties, on the other hand, were exempted from the law’s onerous requirements.



- Florida is not alone in cracking down on this democratic political activity. In the past few years, Ohio, New Mexico, Colorado, Missouri, Maryland, and Georgia also enacted new laws and regulations that have seriously cut back on and even shut down voter registration drives.
- Similar rules have been proposed in New Jersey and Arizona. Washington and California have had restrictive laws on their books since before 2004.
- The specific restrictions vary from state to state, but they all have the same effect: cutting down voter registration.
- For example, in Ohio, voter registration groups were not allowed to have one individual turn in all the forms collected in a drive; each and every volunteer and worker had to personally travel to elections offices to turn in the forms she collected, even if she only staffed a voter registration table for a few hours – on pain of criminal penalties. Registration workers were also subject to criminal penalties unless they completed a training that is available only online – a challenge for low-budget groups without computers. They also had to pre-register with the Secretary of State, who is himself a candidate for political office, and to have a range of personal information made public.
- In New Mexico, groups are given only 48 hours to submit the forms they collect to the state board of elections or else face criminal charges. Even if groups are willing to face the serious risks this creates, it makes it impossible for them to check the accuracy of the forms or even to conduct drives that last longer than two days.
- Fortunately, the courts are recognizing the damage these new laws inflict on democracy. On August 28, 2006, in response to a lawsuit brought by the Brennan Center and co-counsel, a federal judge in Miami blocked enforcement of Florida’s restrictive voter registration law. Civic groups are now free to assist their members and neighbors to register as before. Unfortunately, this ruling came after the registration deadline for the primary elections, thus losing valuable months of voter registration. The State is appealing the ruling.
- Just four days later, in another suit brought by the Brennan Center and others, a federal judge in Cleveland followed suit, enjoining the burdensome Ohio state law. Shortly afterwards, a federal judge blocked the Georgia law. These decisions will help to head off comparable voter-suppression statutes in other states.



- Each state has an official list of registered voters: if you are not on the list, you cannot vote.
- As a result of HAVA, each state's voter list should now be in a statewide computerized voter registration database.
- While these new databases have the potential to dramatically improve the administration of elections, like any other tool, they can also be misused to the detriment of voters.
- One way in which databases have been misused in some states is as a barrier to voter registration.
- A number of states have adopted policies under which they refuse to add registrants to the voter rolls unless their voter registration information has been "matched" to information in other government databases, including the state's motor vehicle database or the federal Social Security database. Unfortunately, the "matching" process is full of errors, and these policies result in the disenfranchisement of eligible voters through no fault of their own.



Simple errors in the “matching” process: Kimberly Elizabeth Dierick-Gray

	On Form	In Database
Typos	Dierick-Gray	Deirick-Gray
Misspellings	Dierick-Gray	Dierick-Grey
Nickname	Kim	Kimberly
Marriage	Kimberly E. Dierick-Gray	Kimberly E. Dierick
Transposed Field	Kimberly Elizabeth	Elizabeth Kimberly
Double Names	“Kimberly Elizabeth” “Gray”	“Kimberly” “Elizabeth” “Gray”
Hyphenated Name	“Kimberly” “Dierick-Gray”	“Kimberly” “Dierick” “Gray”
Punctuation	Dierick-Gray	Dierick Gray



- There are a number of reasons why an eligible voter’s registration information may not match her information in other state records.
- Take, for example, Kimberly Elizabeth Dierick-Gray. She is a real person whose name appeared on a list of registrants in Washington whose information the state was unable to “match” this year. Under the law in effect in Washington at the time, Kimberly and others like her could not become registered and thus would have been unable to cast a ballot that would count.
- We do not know why her name appeared on the problem list, but there are a number of common errors that could have occurred when Washington state tried to match her information against other records, none of which affect her eligibility to vote, but any one of which would have denied her the franchise.
- The absence of a match between data on a registration form and data held in another government database occurs for many reasons having nothing to do with voter eligibility, including human error by election workers, computer glitches, misspelling of names, and transposing digits in Social Security or driver’s license numbers.
- Asian Americans, American Indians, Alaska Natives, and member of other ethnic groups with names that are especially prone to multiple English spellings, or flipping of first and last names; married women who have taken hyphenated names or their husbands’ names but have not yet changed all their past government records; and people with names containing apostrophes or hyphens are especially likely to be harmed by laws making access to the franchise turn on computer matching.



But we catch our mistakes, don't we?

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The Honorable **RICHARDO** MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON ASSOCIATION OF
CHURCHES, et al.,

Plaintiffs,

v.

SAM REED, in his official capacity as
Secretary of State for the State of
Washington,

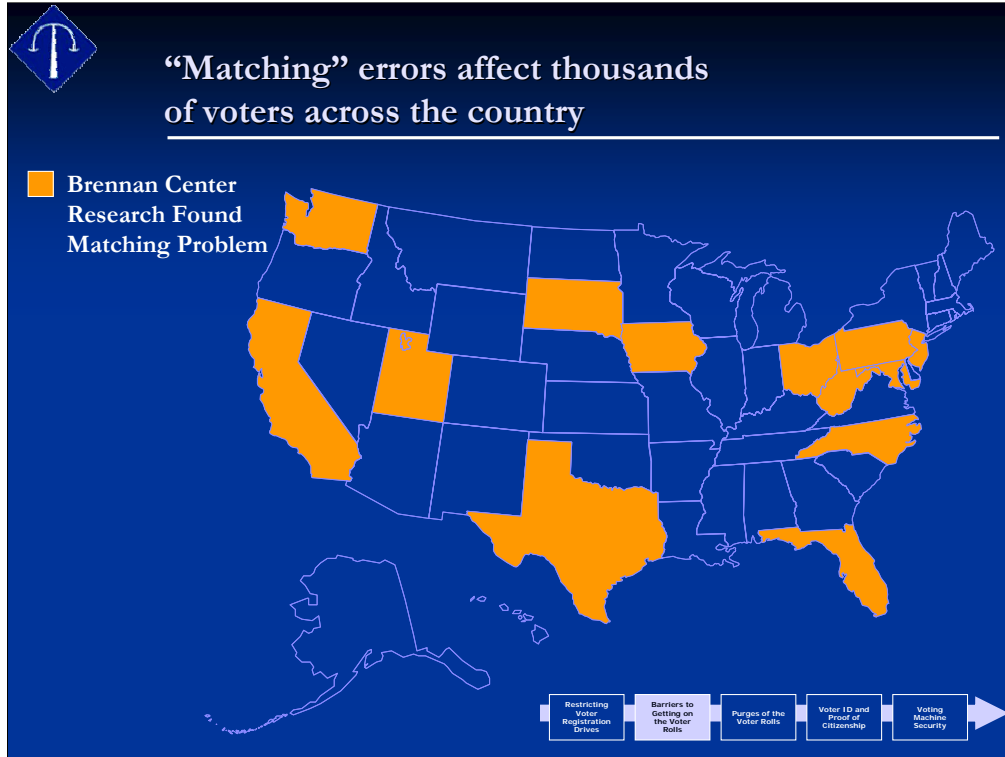
Defendant.

NO. CV06-0726 RSM

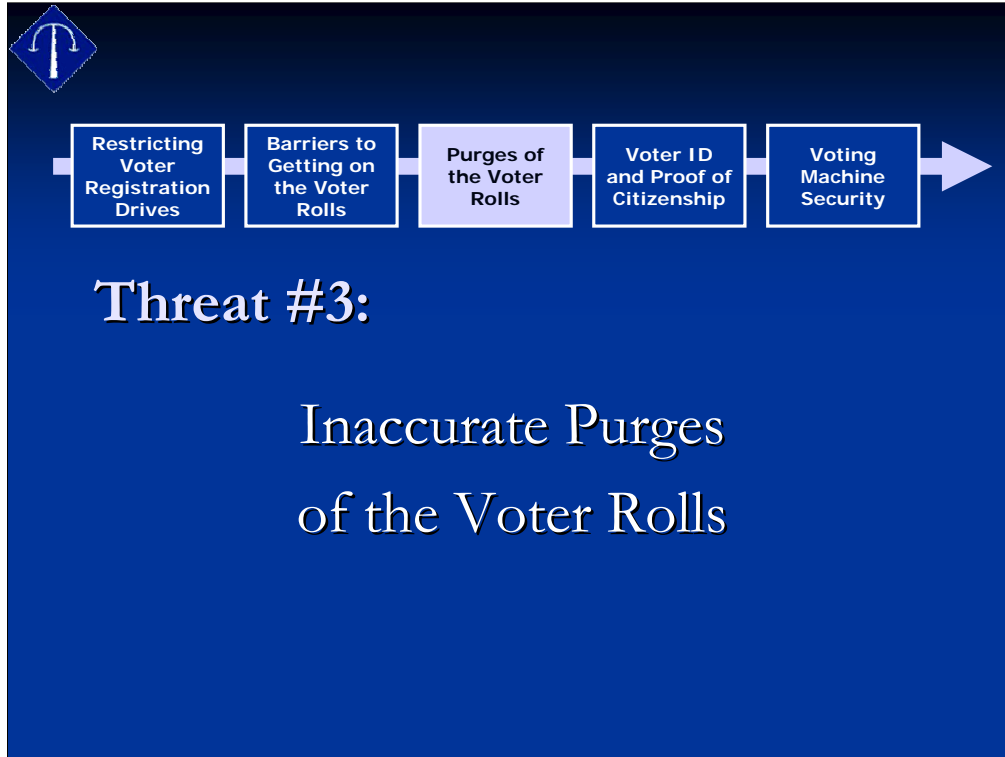
DEFENDANT REED'S
RESPONSE TO MOTION FOR
PRELIMINARY INJUNCTION



- Some defend this “matching” barrier by claiming that eligible voters will not be disenfranchised because election officials can catch these errors. Indeed, in the lawsuit brought by the Brennan Center against the state of Washington, the state argued that it is careful, it will double-check the records, and thus no one will be harmed.
- But even in a well-proofread document, even in a case about typos disenfranchising voters, these simple errors can happen, as demonstrated in the State’s filing. In the very first words of the document, the State misspelled the judge’s name: “Richardo” instead of “Ricardo.”
- While this typo did not cause the State any problems in court, a typo so insignificant as this could keep eligible voters off the rolls under a policy that makes matching a pre-condition to registration.
- The number of eligible voters who could be excluded by a “no match, no vote” policy is staggeringly high:
 - A trial run in New York City showed that 20% of eligible registrants could have been disenfranchised because of typos by election officials in driver’s license numbers.
 - In Los Angeles County, almost 20% of eligible registrants were excluded from the rolls this year because of matching problems before the state revised its voter registration policies.
 - In Pennsylvania, the number of eligible registrants excluded was as high as 30%.
 - In January of this year, the Social Security Administration reported that 28.5% of the voter registration records checked against its database produced no match.



- Earlier this year, the Brennan Center issued a comprehensive report, “Making the List,” detailing this problem and how the states were handling it. We continue to update our state-by-state reports as states change their policies in the months and weeks leading up to the election. For more information, see <http://www.brennancenter.org/makingthelist.html>.
- The states highlighted on this map are the ones where we found database “matching” rules that could disenfranchise hundreds of thousands of eligible Americans through typos and other administrative inconsistencies. These states had implemented versions of a “no match, no vote” rule, keeping eligible citizens off the rolls as full-fledged voters through no fault of their own.
- On August 1, 2006, a federal judge in Seattle blocked enforcement of the Washington state law that would have barred citizens from voting this fall unless the Secretary of State first succeeded in matching their names, birth dates, and driver’s license or Social Security numbers as listed on their voter registration forms with the same information in records kept in other government databases.
- Immediately after this ruling, Pennsylvania revised its voter registration rules to remove matching as a barrier to voting. Shortly afterward, California followed suit. Maryland has also reformed its practices since “Making the List” was issued. Unfortunately, in a number of states, this misguided rule is still in effect.



- Not only is it hard to get on the voter list, but it is also easy to be thrown off the list. Today, because of the new voter registration databases, it is easier than ever to purge voters from the voter rolls with the touch of a button.
- Both HAVA and the National Voter Registration Act of 1993 (“NVRA”) require states to perform regular list maintenance activities to keep their voter registration databases current.
- In order to purge voter rolls, states have taken to comparing their voter lists with electronic lists of people with felony convictions, people who have moved, people who have died, and even people who live in other states.
- But the same kind of matching problems that make it hard to get on the list in some states can also cause huge problems when it comes to database purges. In the purge context, problems arise when states use loose matching criteria that significantly increase the chances that a record of an eligible voter will “match” a record on a list of ineligible voters. One common example of an inappropriate match is when a state treats two records as though they belong to the same person merely because they show the same name. For a detailed examination of common “false positives” and why they lead to unfair purges, *see* <http://www.brennancenter.org/programs/downloads/NJ%20Fraud%20Final%20response.pdf>.

Eligible voters are being purged from the rolls

Kathleen Sullivan
"double voting"
PURGED?

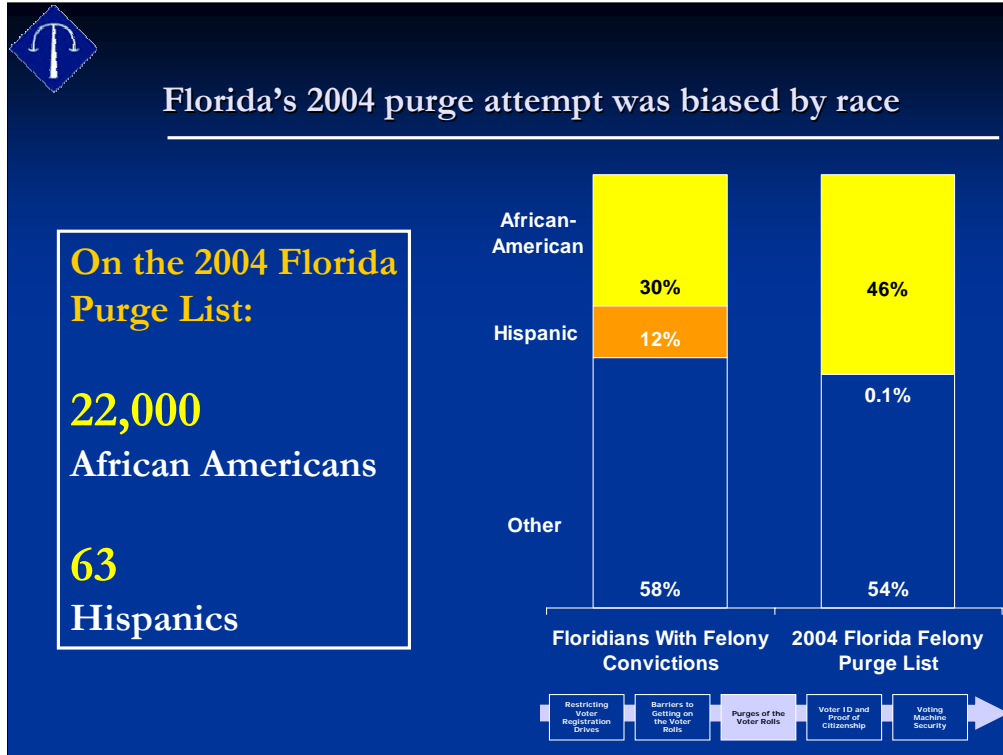
Barbara Taylor
"business address"
PURGED!

Wallace McDonald
"felony conviction"
PURGED!

Rev. Willie Dixon
"ineligible felon"
PURGED!

Restricting Voter Registration Drives → Barriers to Getting on the Voter Rolls → Purges of the Voter Rolls → Voter ID and Proof of Citizenship → Voting Machine Security

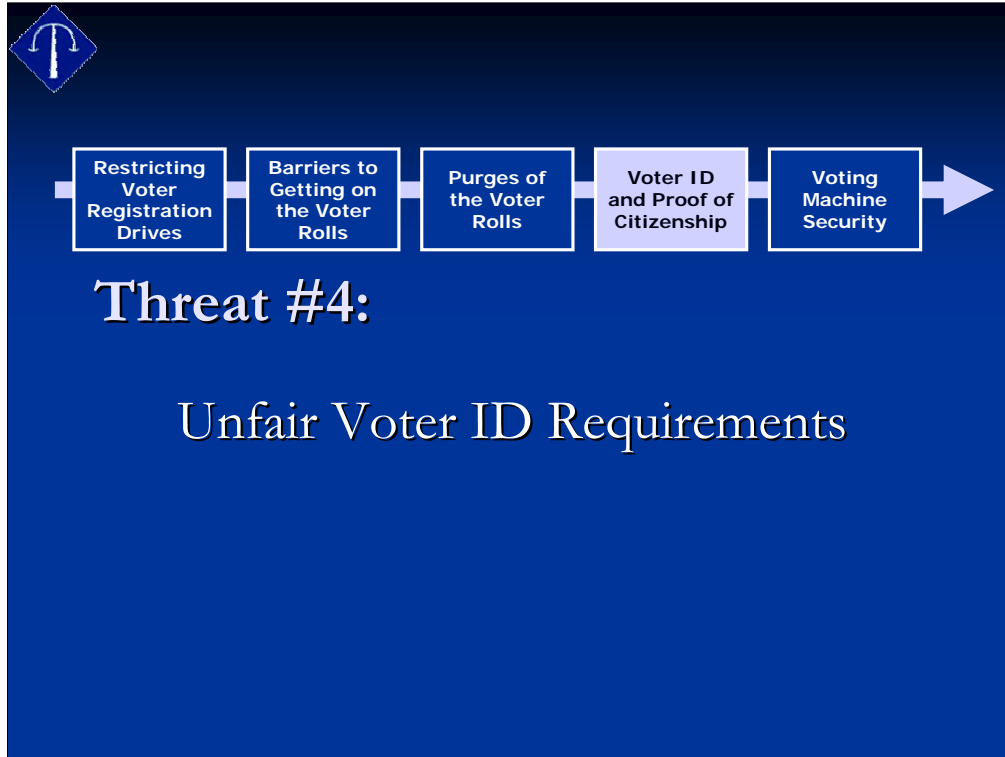
- When election officials use loose standards for developing purge lists, eligible voters will invariably be disenfranchised. Here are some examples of eligible voters who were erroneously purged or singled out for purging from state voter rolls:
- Kathleen Sullivan is a 63-year-old woman who, according to a report submitted to (and tacitly rejected by) the New Jersey Attorney General, allegedly voted twice in New Jersey, once in Bergen County and once 161 miles away in Cape May County. What really happened? There is more than one registered Kathleen Sullivan with the same birthday in the state.
- Barbara Taylor was purged from Washington’s voter list because her registration form listed what the Republican party leaders thought was a business address. What really happened? Ms. Taylor owns and manages a storage facility in Seattle, Washington and in fact lives in an apartment onsite.
- Reverend Willie Dixon was purged from the Florida rolls in 2000 because of a felony conviction. What really happened? Reverend Dixon had been pardoned for his crime and had his voting rights restored. The state did not check for voters whose rights had been restored.
- Wallace McDonald was purged from the Florida voter rolls in 2000 because of a conviction. What really happened? In Florida, felony convictions result in the loss of voting rights, while Mr. McDonald had only been convicted of a misdemeanor for falling asleep on a bench. He never should have lost the right to vote.



- Beyond the impact that purges have on individual citizens, improper purges can systematically exclude members of certain groups and unfairly influence the outcome of elections.
- In 2004, the Brennan Center uncovered evidence of yet another erroneous “suspected felon” purge list in Florida. There were 47,000 names on this flawed purge list; of those, several *thousand* people were actually eligible to vote. For example, 2,500 of the people on the list had had their voting rights restored under Florida law.
- African Americans account for 13% of Florida’s voting-age population, yet were four times more likely than whites to be incorrectly singled out under the state’s database matching methodology.
- The contractor that compiled that list did so by matching names on the voter list against records maintained by the state department of corrections. For a match to be found, the contractor required matches in a variety of fields, including a field for race. One database had a category for Hispanics and the other did not. The result was a list that systematically excluded Hispanics.
- While nearly half of the list was African-American, only 0.1% of the people on the list were Hispanic, even though in Florida, 12% of the disenfranchised population, or one in eight citizens, is Hispanic. Unlike Hispanics, African Americans were overrepresented on the list, comprising 46% of the purge list, but only 30% of the disenfranchised population.
- Regardless of Florida’s motivation in creating this list, it demonstrates that purges can be manipulated for partisan purposes. The danger is made more acute by the partisanship of many election officials and the fact that purges are done in secret.
- Due to advocacy by the Brennan Center and other groups, Florida eventually ceased using this purge list statewide, but there is evidence that several counties still used it to purge their voter lists.



- Purges are regularly conducted across the country, impacting the voting rights of millions of Americans. They occur in every state, probably every year.
- Improper purges wreak more havoc now because statewide databases enable the purging of a larger number of people than before with the push of a button. Many records purged from a database represent individuals who have moved or have become ineligible to vote, but many others are mistakes.
- In 2006, we know:
 - In Kentucky, 8,000 people were purged because their names matched those of people registered in Tennessee or South Carolina in an attempt to identify voters who had moved. A lawsuit brought by the Kentucky Attorney General has already shown that this purge may have affected eligible voters whose names happened to be the same as others in neighboring states.
 - In Indiana, 4,500 people were purged, and 36,000 more might be purged. This purge was touted as partisan.
 - In Washington, 55,000 people were purged earlier this year.
 - In Milwaukee, Wisconsin, 105,000 people were purged from the city voter rolls.
 - In Churchill County, Nevada, the number of registered voters decreased from 12,537 to 11,880 due to purges.
 - In Ohio, there were 175,000 purged voters in Cuyahoga County and 133,000 purged voters in Hamilton and Lucas Counties.
- Also this year, the Department of Justice has sued Missouri and threatened other states for failing to purge their voter rolls.
- We have not conducted a systematic analysis of each of these purges to determine how many eligible voters were erroneously deleted from the rolls, but we do know that most states do not have adequate legal and procedural protections in place to guard against erroneous or malicious purges.
- The purges described above are merely the ones we know about because they have come to public light. Unfortunately, most of the time, the public does not know that a purge has occurred. Worse yet, because most purges happen in secret, voters usually do not know that their names have been purged from the voter rolls until they show up at the polls on Election Day and are unable to cast a regular ballot.



- The proposals currently being debated in Congress and the states are not actually voter ID proposals, but rather strict documentation requirements that limit the forms of ID accepted for voting to a small number of documents that a significant percentage of citizens do not have. One bill, H.R. 4844, was just passed by the House of Representatives. It would ban citizens from voting if they are not able to show either a U.S. passport, which only 27% of citizens have and which does not list citizens' addresses, or a form of photo ID that exists only in three states.
- Although many countries have universal identification systems, the United States does not have the infrastructure for such a system, and many citizens simply lack the kinds of ID required by new voter ID proposals and laws.
- So what's wrong with these voter ID requirements?



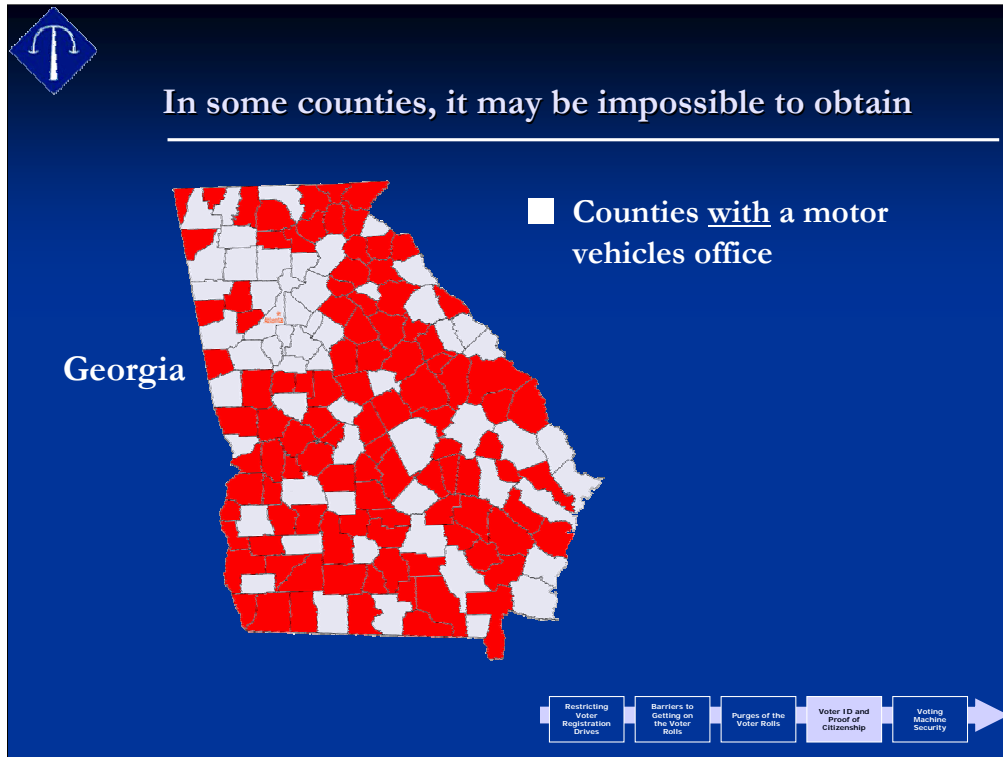
Identification can be expensive to get



- Birth Certificate: up to **\$45**
- Driver's License (or State-Issued ID): up to **\$65**
- Passport: up to **\$97**
- Citizenship Documentation: more than **\$200**



- The identification required by many new voter ID laws is expensive for voters to obtain, not only because of the cost of identification itself, but also because of the cost of the underlying documents required to obtain voter identification.
- In Colorado, for example, not even a passport is sufficient to get a driver's license or non-driver's state ID; another document, such as a state-issued birth certificate or Social Security card is needed.
- Naturalization papers are especially expensive, costing over \$200 and taking more than one year to obtain.
- Adjusting for inflation, any cost over \$8.79 is more than the \$1.50 poll tax that the Supreme Court found unconstitutional in 1966. In other words, voter ID requirements amount to a hidden poll tax.
- Also, not everyone can obtain these types of documents. For example, persons born at home, under the care of midwives, including Native Americans and elderly African Americans in certain parts of the country, often were never issued birth certificates.



- State-issued photo IDs are not only too expensive for many voters, they are also often difficult – and for some, impossible – to obtain.
- Take, for example, Georgia, which has enacted strict photo ID requirements without any fail-safe for voters without such ID.
- Although Georgia waived the \$20 photo ID fee it originally charged voters who declare indigence, residents of the state still face considerable obstacles to obtaining this state-issued photo ID. The Department of Driver Services (DDS), which issues driver’s licenses and non-driver’s IDs, does not operate any offices in any of the counties marked in red on this map.
- Citizens seeking ID from this department must travel as far as 25 miles – not to vote, but just to obtain the documents required to vote.
- This is on top of the time and money required of voters who must first obtain the birth certificate or citizenship documents required to obtain the state-issued photo ID.
- Voter ID requirements are justified as a measure against voter fraud, but voter ID does not address real threats to election integrity, like deceptive practices aimed at suppressing votes, ballot tampering or stuffing, absentee ballot fraud, double voting, or official misconduct – the kinds of fraud that actually do occur, even if rarely.
- Voter ID laws only guard against one type of fraud that is extraordinarily rare and risky: efforts to impersonate a registered voter at the polls. This is documented to occur less than one time for every 100,000 votes cast.

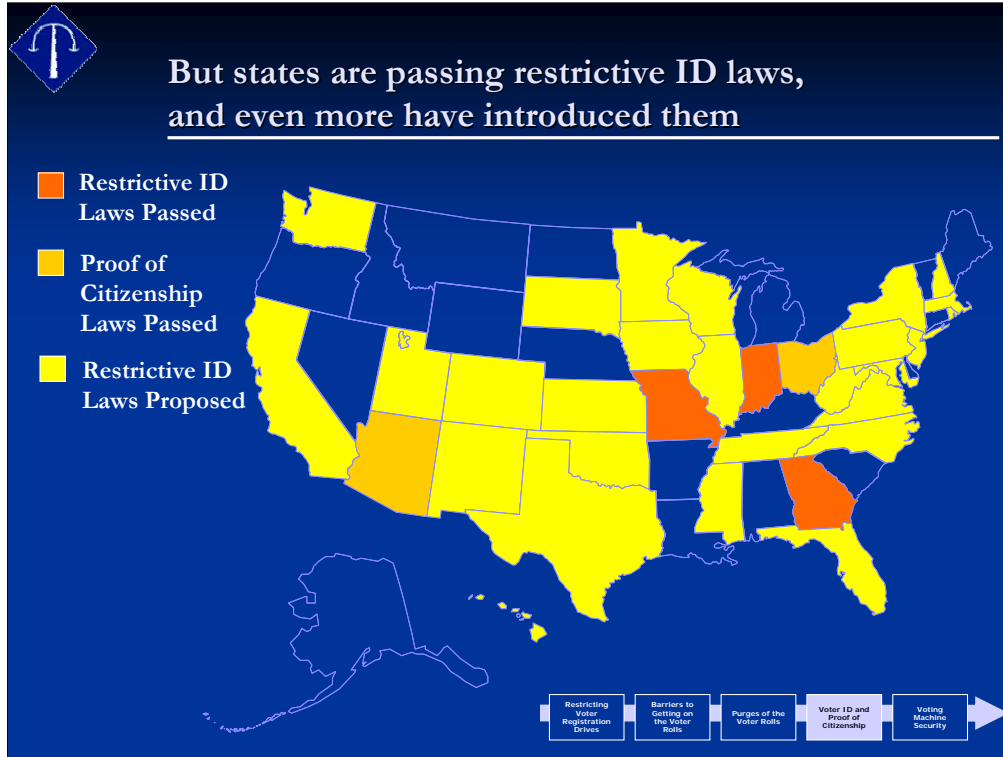


As a result, a lot of people don't have the right ID

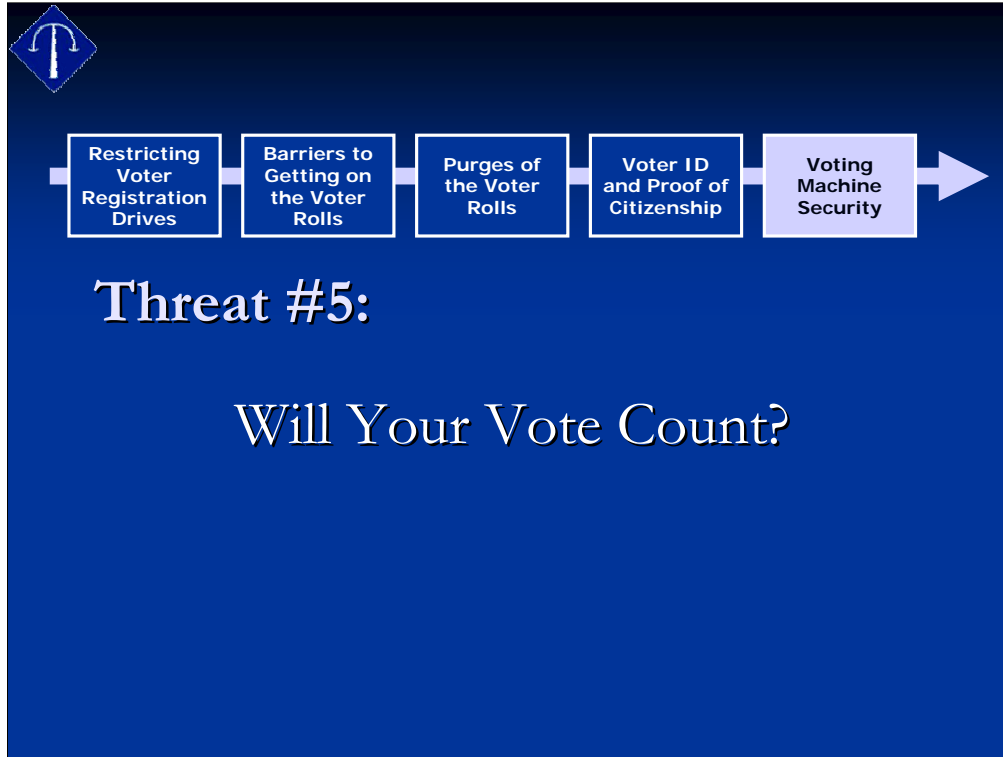
- **10 %** of the total voting-age population
no government photo ID (> 20 million voters)
- **36 %** of voters over 75
no driver's license in Georgia
- **78 %** of African-American men 18-24
no valid driver's license in Wisconsin
- **97 %** of students
no current address on a Wisconsin driver's license



- Ten percent of the voting-age population does not have state-issued photo IDs. This translates to more than 20 million eligible voters nationwide potentially excluded by photo ID requirements at the polls.
- Voter ID requirements disproportionately affect the elderly, the disabled, the poor, and people of color. Those left behind after Hurricane Katrina are painful reminders of the many Americans without driver's licenses.
- According to the AARP, 36% of citizens in Georgia over the age of 75 do not have driver's licenses.
- More than three million people with disabilities do not have government-issued ID.
- Americans move more frequently than they renew their driver's or non-driver's photo IDs. As a result, eligible voters may not be allowed to vote because the address printed on their photo IDs may not be current when they go to the polls.
- This especially affects young people – fewer than 3% of Wisconsin students have their current addresses on their driver's licenses.
- Minority voters are less likely to possess photo ID, but are more likely than white voters to be selectively asked for ID at the polls.
- A June 2005 study in Wisconsin found that the rate of driver's license possession among African Americans was half that of whites. This disparity is even more acute among younger citizens; three times as many white adults aged 18-24 have driver's licenses than black adults in the same age group. In fact, 78% of blacks aged 18-24 in Wisconsin do not have a driver's license.
- In the five counties in South Dakota with the highest Native American populations, voters in the 2004 primary were two to eight times more likely not to bring ID to the polls than other voters in the state.



- No state required a voter ID document of all citizens as an absolute pre-requisite to voting before last year.
- Since the 2004 election, however, restrictive voter ID bills have cropped up in a majority of states. The most restrictive laws limiting the forms of state-issued photo ID acceptable for voting passed in Georgia; Indiana; Missouri; and Albuquerque, New Mexico. While courts have blocked enforcement of laws in Georgia, Missouri, Arizona, and Ohio, many other states passed less restrictive voter ID bills that will still exclude many voters, and the battles in the highlighted states are not yet over. Even before the 2006 election, we expect more states to join their ranks.
- In addition to photo ID proposals, states have also seen a wave of proposals to require voters to show documentary proof of citizenship.
- The most restrictive version of this was passed last year in Arizona, which now requires proof of citizenship in order to register to vote. The results have been catastrophic: when the new Arizona law first went into effect, election officials in the state's largest county rejected 75% of registrations. Although the rate has improved given two years of intense voter education, county officials still rejected 17% of new voter registration applications in 2006.
- In Ohio, the state passed an especially pernicious law that requires proof of citizenship from naturalized citizens only. Under this discriminatory measure, if a voter's citizenship is challenged at the polls, she may vote a regular ballot if she swears she was born in the United States; if she is a naturalized citizen, she must present her naturalization papers in order to receive a regular ballot.
- On October 4, 2006, in a lawsuit brought by the Brennan Center and co-counsel, a federal judge in Ohio issued a preliminary injunction barring enforcement of the discriminatory Ohio state law.



- In 2006, 80% of Americans will cast their ballots on some form of electronic voting system. With this transition in voting system technology come new security risks.
- The Brennan Center brought together leading scientists and security experts to perform the first systematic analysis of the nation's most commonly purchased electronic voting systems.
- The Task Force on Voting System Security included Howard Schmidt, former White House Cyber Security Advisor to President George W. Bush and former CSO of Microsoft, as well as scientists from NIST, the Lawrence Livermore National Laboratory, MIT, Stanford, Rice, and UC Berkeley.
- In June 2006, the Brennan Center released its report "The Machinery of Democracy: Protecting Elections in an Electronic World" which detailed vulnerabilities in electronic voting systems. The report is available at http://www.brennancenter.org/programs/dem_vr_hava_machineryofdemocracy.html.



Wireless components create the biggest risk for voting machines

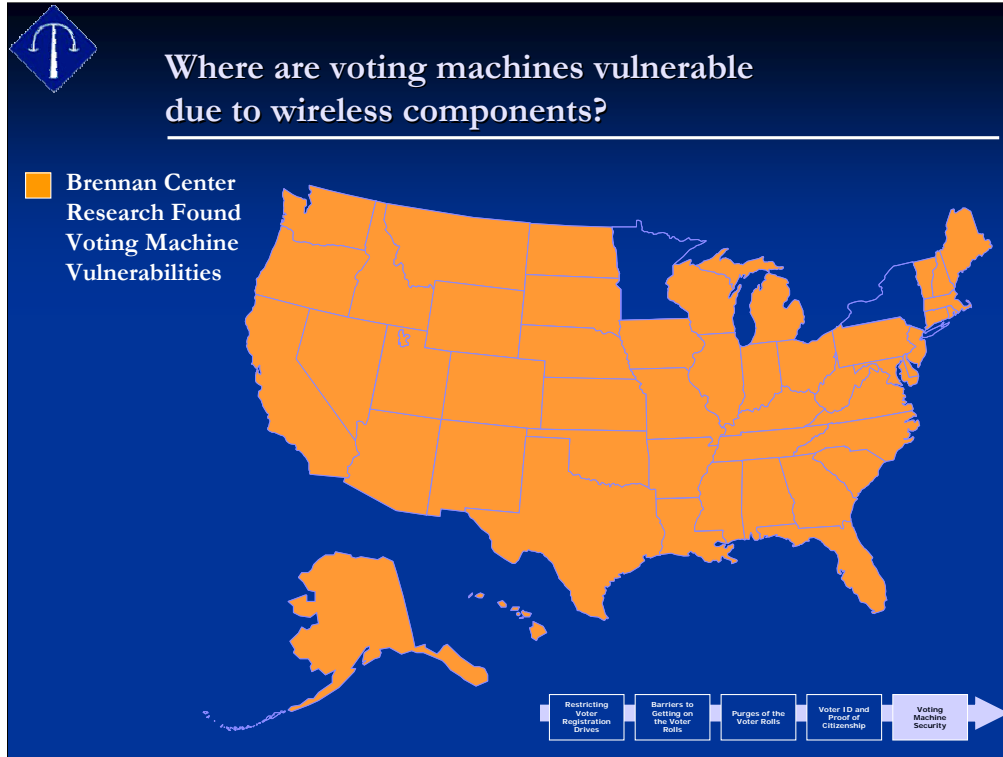
- Most commonly purchased systems have significant security vulnerabilities



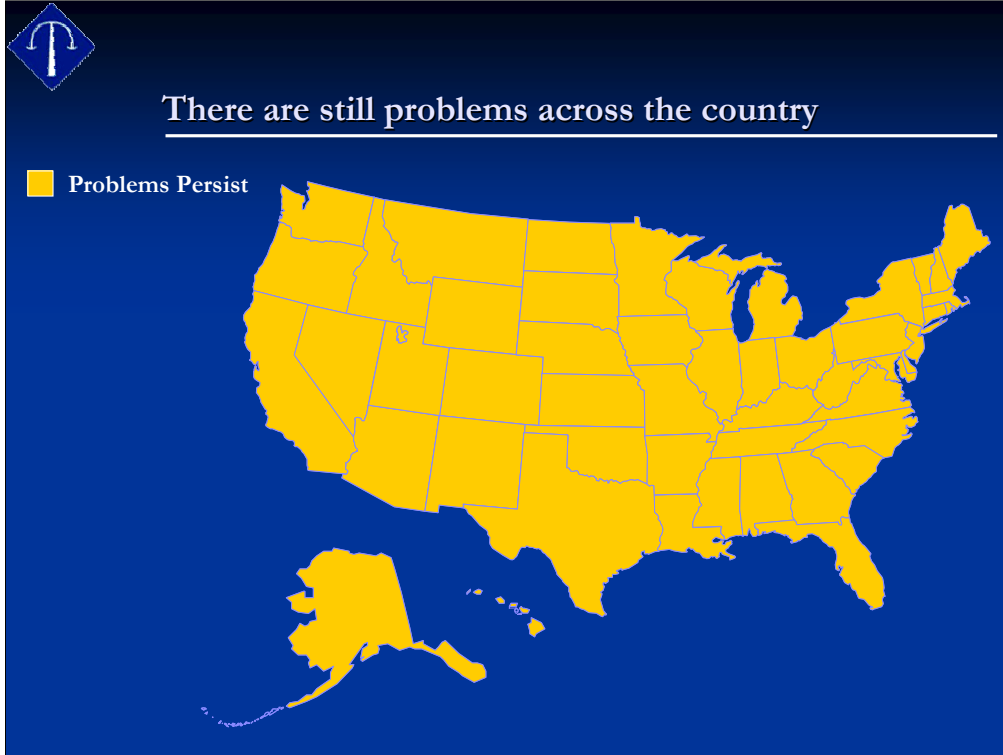
- It's easiest to simply insert corrupt software
- With some software knowledge – and a Palm Pilot – *virtually anyone can attack*



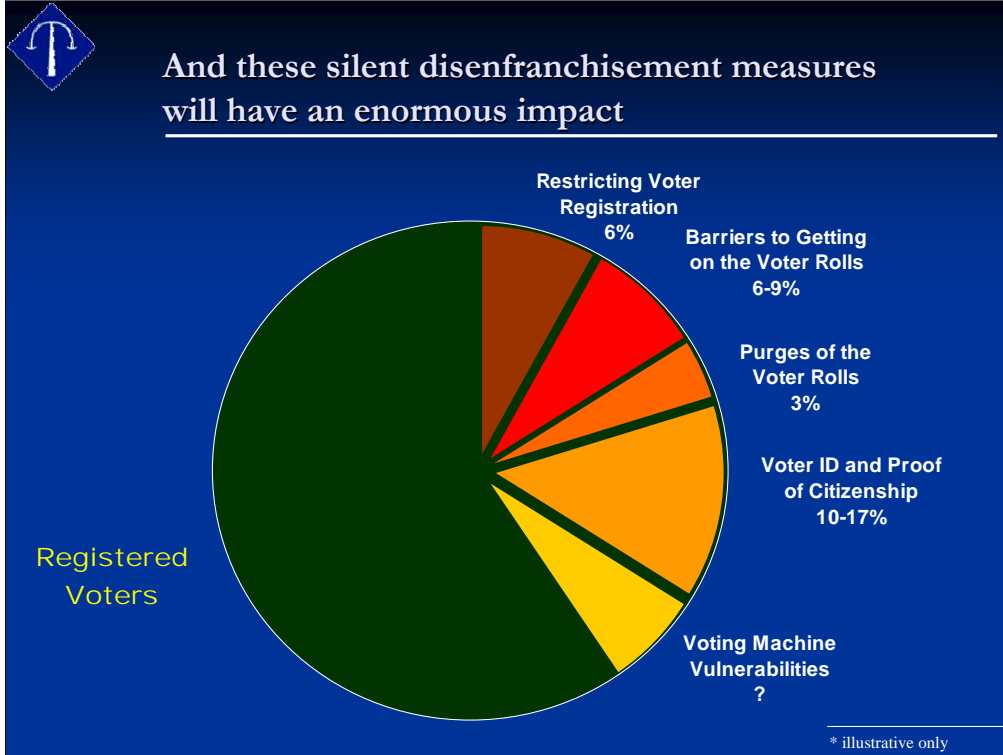
- The Task Force found that all of the most commonly purchased electronic voting systems have significant security and reliability vulnerabilities which pose a real danger to the integrity of national, state, and local elections.
- The least difficult way to attack elections is to insert corrupt software into voting machines.
- Wireless components in voting machines pose a particularly significant security risk, yet vendors continue to manufacture and sell machines with wireless components, and such components are not banned under current federal voting system guidelines.
- Among the many types of attacks made possible by wireless components are attacks that exploit an unplanned vulnerability in the software or hardware to get a Trojan horse (or other software attack program) into the machine.
- For this type of attack, an attacker could merely show up at a polling station on Election Day and beam her Trojan horse into the machine using a wireless enabled personal digital assistant (PDA) such as a Palm Pilot.



- Minnesota and New York are the only two states where wireless components in voting machines are banned. Elsewhere, voting machines are unnecessarily at risk.
- Wireless components are only one of many major security and reliability vulnerabilities of new electronic voting systems.
- The Brennan Center Task Force on Voting System Security made six recommendations to make voting systems more secure:
 1. Conduct routine audits of paper records.
 2. Conduct parallel testing of voting machines.
 3. Ban wireless components on all voting machines.
 4. Mandate transparent and random selection procedures for auditing and parallel testing.
 5. Ensure local control of election administration.
 6. Implement effective procedures for addressing evidence of fraud or error.



- Considering all of the problems discussed in the previous several slides, there are new election administration policies that could unnecessarily disenfranchise eligible voters in all 50 states.
- The five threats discussed in this presentation are not the only policies that suppress votes. Others include poor provisional balloting mechanisms, misallocation of election resources, and discriminatory witch hunts for voter fraud. Efforts to spread these vote suppression tactics – and to invent new ones – are likely to escalate over the next two years.



- Any one of these vote suppression strategies can have an enormous impact, disenfranchising 3-17% of registered voters. In combination, the effect can be much larger, even adjusting for the fact that they tend to target many of the same populations.
- This vote suppression is “silent” because it happens long before Election Day, when people are not paying attention to elections. In addition to breaking this silence, Americans can and should take steps to protect their most cherished and fundamental right.



What can be done in the short term?

- Congress should pass legislation mandating much-needed security protections for voting systems
- Elected officials, the press, and citizens should stand up against new vote suppression measures in the states *before* they are enacted
- Elected officials, the press, and citizens should demand transparency in all aspects of election administration – including public disclosure of all purges
- Courts should continue to strike down anti-democratic vote suppression measures



What can be done in the long term?

- Increase federal protection for the right to vote
- Increase funds for elections
- Further the development of constitutional law protecting the right to vote
- Implement universal voter registration
- Protect the integrity of elections against partisanship in election administration and election law



The Brennan Center for Justice at NYU School of Law

Recent victories:

- Florida
- Ohio
- Washington
- Pennsylvania
- California
- Georgia
- Maryland
- New York



- Over the past three years, the Brennan Center played a leading role across the country in the fight against voter suppression strategies. In the past few months alone, we achieved the following victories, among others:
 - We won a preliminary injunction in federal court blocking a Florida law that shut down voter registration groups.
 - Less than a week later, we won a preliminary injunction in Ohio blocking another law crippling voter registration groups.
 - Together with the ACLU and the Lawyers Committee for Civil Rights Under Law, we won a preliminary injunction in Ohio against a law demanding proof of citizenship from naturalized citizens.
 - We won a preliminary injunction in federal court blocking a Washington law keeping voters off the rolls due to typos.
 - We convinced Pennsylvania and California to stop blocking eligible citizens from getting on the rolls due to misguided database rules.
 - Following up on our successful national report on the security of voting systems, we issued comprehensive national reports on voting system usability, accessibility, and cost.
- The Brennan Center works toward both the short-term and long-term goals for the American electoral system and is happy to collaborate with government officials, community and advocacy groups, and members of the press interested in furthering these goals.



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Americans have a window of opportunity to help avert another electoral meltdown and head off these growing threats, but that window is closing quickly. Those seeking to restrict voting rights and reduce voter participation have a wide array of regulatory devices at their disposal. Some tactics are subtle and sophisticated; often they are brazen and blatant. In either case, underrepresented populations and even ordinary citizens are finding increasing obstacles to effectuating their right to vote and to having their votes accurately counted.

We cannot wait to respond – and we cannot rely on states to do their part alone. The law and policy made today will affect not only the elections of 2006 and 2008, but the electorate of the next 30 years. The citizens who would be left behind need strong and effective champions. The Brennan Center for Justice at NYU School of Law will continue to work to ensure that each citizen can vote and have her vote counted.

For more information, go to www.brennancenter.org or contact Wendy Weiser at wendy.weiser@nyu.edu or Justin Levitt at justin.levitt@nyu.edu.