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ISSUE ANALYSIS

Voter Fraud: Protecting the Integrity of Our Democratic System

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Election officials who have come to the United States from other countries to observe our elections are often amazed and chagrined to learn that no identification is required to register to vote or to cast a ballot. Many of these visitors are from countries plagued by extensive voter fraud. The biggest lesson they often learn from the United States is how *not* to structure a voting system. The irony is that the greatest democracy in the history of the world is so cavalierly undermining the integrity of the most fundamental right its citizens have – their right to vote in fair elections.

Many voters do not believe voter fraud occurs in the United States; they believe it happens only in third-world countries or places like the former Soviet Union. The United States, however, has a long history of voter fraud, from a New York City election in 1844 in which 135 percent of the eligible voters turned out, to a 1993 state senatorial election in Philadelphia in which extensive absentee ballot fraud occurred.¹ In 1996, a Superior Court in Dodge County, Georgia, threw out elections for the county commission and the sheriff's office because of numerous voting irregularities, including ballots cast by convicted felons and a voter who had been dead for six months, absentee ballots that amounted to 20 percent of the total vote, and "the wholesale marketing" of voter assistance by political activists.²

Most people are surprised to learn that state and federal laws governing voter registration and voting are full of gaps that make it possible for fraud to occur, and that recent federal laws have made the potential for abuse even worse. For example, the federal law now allows a person to register without showing identification of any kind; in fact, requiring identification is illegal. Inadequate safeguards exist to prevent the registration of noncitizens, the registration of a single person under numerous false names, or individuals voting in multiple precincts under different names. Although these activities are illegal, more could and should be done to prevent them from happening to begin with.

Keeping ineligible voters off registration lists is the first step in limiting fraud. Today many candidates and campaign professionals use sophisticated computer software that is more advanced than the software used by

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county and state election officials. When combined with the names and addresses of residents (information that is readily available to the public), this software allows candidates to determine which registered voters are no longer present to vote in an election. This also creates the potential for sending impostors to vote, to request absentee ballots, or to otherwise generate fraudulent votes. Yet Georgia, like most other states, does not efficiently purge names from voter lists, such as persons who have moved, are deceased or are ineligible to vote because they are felons or noncitizens. Given this situation, voter fraud is easier to commit and is more likely to occur.

Recent changes in the federal law, intended to increase voter turnout, are based on the mistaken belief that low turnout is due to the difficulty or complexity of the registration process. In reality, large numbers of Americans do not vote for reasons ranging from apathy to satisfaction with the status quo, with the majority of nonvoters being young, college-educated professionals in their 20s and 30s for whom registration poses no problem. If difficulty in registering were in fact the culprit, one would likely have seen higher turnouts in recent elections since registering to vote has been made increasingly easier, yet election turnouts have steadily declined, with some exceptions.

Prior to these changes in the law, citizens in Georgia, as in most states, could register to vote at county election offices, at libraries and schools, and at various locations during voter registration drives. Georgia required citizens to present identification when registering, although no official picture identification was required. Somehow Congress was persuaded that even modest requirements were too much to ask of registrants and set out to ease existing restrictions. As a result, Georgia can no longer require any form of identification when an individual is registering to vote. Ironically, the same Congress that banned such common sense requirements as identification for registration itself requires identification to receive certain government benefits. Without identification, the potential for abuse is enormous, especially given that Georgia does not even confirm that the name on a voter registration form is that of a real person.³

These recent changes in the law were mandated by Congress in the National Voter Registration Act of 1993, known euphemistically as Motor Voter. Many of Motor Voter's provisions, such as allowing individuals to register to vote when they obtain a driver's license or government social benefits, were positive changes. However, other aspects of Motor Voter and certain state laws may potentially destroy the security and integrity of the voter registration system and undermine public confidence in elections.

Motor Voter transfers primary responsibility for voter registration from local governments (counties) to the state; the Georgia Secretary of State now provides each county with its official list of registered voters. Also under Motor Voter, states must allow mail-in registration but are precluded from requiring "notarization or other formal authentication."⁴ Previously, only qualified deputy registrars could register voters, and county election boards kept a strict accounting of blank registration forms picked up by organizations for voter registration drives. With mail-in registration now available, anyone can obtain as many blank voter registration forms as they want, making it very easy to commit fraud since, without the supervision of a deputy registrar, a person (or organization) could complete numerous forms using multiple false names. The fact that Motor Voter has overridden state laws to mandate such haphazard results is reckless given the threat it poses to the security of the entire election process.

Although Motor Voter allows states to make "a reasonable effort to remove names of ineligible voters from the official lists," it restricts them in their methods of doing so.⁵ The federal law authorizes states to utilize the Postal Service's National Change-of-Address System (NCOA), which, however, has never been implemented in Georgia by the Secretary of State. States should not be confined to just this system for deleting voters who have changed residence. Before Motor Voter, if a county had reason to believe a voter had moved, it could send a certified letter notifying the voter that he would be dropped from the rolls unless he contacted the county. Now, a voter can be dropped only if he affirmatively confirms in writing that he has moved, or does not vote for two consecutive federal general elections after not responding to a written notice. The presumption is that the voter should stay registered unless the county writes the voter and the voter actually confirms that he has moved.

The underlying assumption that a voter who has moved will receive such notice at his new address is tenuous since the Postal Service only forwards mail for a limited period of time. Hence, notice may never be received by the voter who therefore cannot confirm the move and be dropped from the voter registration list for several years. The result is a large number of ineligible persons remaining on the voter registration list, increasing the possibility that fraudulent ballots will be cast in their names.⁶

Moreover, if a county election board or the state actually receives information that a particular voter registration is fraudulent, it is not clear under Motor Voter whether that name can be deleted without following the procedure described above. States should have the ability to delete voter registrations once they are able to determine that the individual is not at the address used for registration purposes.

A summary of current problems and some suggested approaches are as follows:

1. Deceased voters remaining on the voter registration list

The *Atlanta Journal-Constitution* reported on August 25, 1996, that in the July 1996 primary election in Dodge County, Georgia, a ballot was cast (with the "assistance" of a campaign worker for a county commission candidate) under the name of a woman who had died in December 1995.

Although there is no legal impediment to removing the deceased from voter lists, administrative procedures must be established to promptly and routinely purge such persons. This could be done by the Secretary of State through automatic monthly comparisons of official voter registration lists with records of decedents maintained by the Georgia Vital Records division. Under current procedures, instead of deleting names of deceased voters directly, the Secretary of State sends reports of deaths to the counties for them to delete the names from the master list. This process poses no problem in larger counties where deletions are done on a monthly basis; however, such follow-ups are not being done at all in some counties.

Even utilizing the preventative action described above, total accuracy would be virtually impossible as Georgia's death records do not include the names of persons who died outside of the state. But Georgia is not alone. Every state is faced with the problem of timely deletion of decedents from voter rolls. This problem could be addressed fairly easily if states would set up a central death registry, similar in function to the Medical Information Bureau (MIB), a nonprofit corporation that provides an information exchange for insurance carriers from the U.S. and Canada. When a person applies for insurance with an MIB member carrier, MIB provides that carrier with medical and insurance information gathered on the applicant from applications submitted to other member carriers. Utilizing this concept, a central death registry could be used by each state to purge registered voters who may have died in other states. Notably, MIB has been able to provide its information at a low cost while maintaining the registry's confidentiality.

2. Voters moving to other jurisdictions

As discussed above, Motor Voter seriously restricts the ability of states to delete voters who have moved, and should be amended to allow purging of voter lists under the pre-Motor Voter rules. This would allow Georgia to return to a system which notifies voters who do not vote at least once in a presidential election cycle that their name will be removed from the voter registration list unless they contact election officials. States should also be allowed to use commercial software and mailing lists to check the legitimacy of registered voter rolls. For the present, Georgia's Secretary of State should immediately implement the NCOA system.

3. Noncitizens voting

Under current law, there are no procedures in place to prevent illegal aliens or permanent resident aliens from registering to vote. No proof of identification is required now and mail-in registration is allowed. There are even

some who openly advocate that noncitizens be permitted to vote. Richard Clowar, executive director of Human Serve, an organization that led the fight for passage of Motor Voter, has stated that "everybody who lives here should have the right to vote," including noncitizens.⁷ The *Los Angeles Times* reported that a Latino organization registered more than 600 legal immigrants (noncitizens), 407 of whom voted in the November 5, 1996, election. An additional 166 illegal aliens registered to vote — 105 voted in the election, while 61 requested absentee ballots but failed to return them.⁸

Initially, a way to prevent registrations by illegal aliens (or anyone registering under a false name) is to require registrants to show either birth certificates or naturalization papers, the same as is required when an individual applies for a passport. Many voting rights activists assert that this would be too burdensome; however, the integrity of the election system should be a high priority. The relatively low burden of verifying identity in order to maintain the integrity of elections, especially in light of the growing incidence of voter fraud, is well worth the effort and minimal inconvenience to the registrant.

Alternatively, states should require registrants to provide a Social Security number. Currently, there is a space provided for this information on the registration form in Georgia, but applications are not rejected if this information is missing. When two persons try to register with the same Social Security number, one number is simply voided so that both individuals may be added to the rolls; the Social Security number is not checked with the Social Security Administration to ensure authenticity.⁹

4. Felons voting

The Secretary of State's office should run a monthly computer comparison of the voter registration lists with the records of the Georgia Department of Corrections. This would ensure that felons who are legally prohibited from voting are promptly deleted from the voter registration lists. In the Dodge County primary, at least 30 convicted felons illegally cast ballots.

5. Voting under false names or by individuals other than the registrant

In order to reduce the incidence of illicit voting, Motor Voter should be amended to ban mail-in registrations, and states should be allowed to check identification prior to registration. Administratively, the Secretary of State should check for authenticity if an extraordinary number of registrations are made from the same address.

Although Motor Voter does not allow states to check identification at the time of registration, it does *not* prevent states from requiring identification prior to actually voting. Georgia should require all potential voters to present reliable photo identification at their polling location to help prevent impostors from voting. Currently, an impostor knowing the name and address of a registered voter can simply walk in and vote; likewise, a dishonest poll worker could vote ballots at off-peak times, or after the polls close by simply checking off the names of persons on the voter registration list who did not cast a ballot, making it appear as if they had. Requiring poll workers to record the registration number of the identification presented by the registered voter would prevent the poll worker from engaging in such actions.

6. Absentee ballot abuse

Absentee ballots may represent the biggest source of potential voter fraud because of the way they are obtained and voted. The Dodge County primary was described as "a wide-open, illegal campaign by both sides to sign up absentee voters."¹⁰ One woman was not permitted to vote at her polling place because an absentee ballot had already been cast in her name. Over 20 percent of the total votes were cast absentee — a much higher-than-average percentage. Any time the absentee voting rate exceeds 5 percent, officials should immediately be concerned that fraud may have occurred. When the Dodge County election was reheld, the number of absentee ballots cast decreased by two-thirds.¹¹

In addition, Georgia's current law allows close family members to request absentee ballots for each other, making it impossible for a county election department to compare the signature on an absentee ballot request form with the voter's signature on file. This law should be changed so that absentee ballots could only be obtained by the registered voter himself. Georgia should also require absentee ballots to be either notarized or signed in the presence of two witnesses, and not simply signed by the voter.¹²

Requiring witnesses or the notarization of absentee ballots would not completely stop the abuse, but it would help by giving authorities a means of investigating absentee ballot fraud since doing so would produce persons who could be questioned regarding the circumstances under which the ballot in question was cast.

7. Investigation of election fraud

Historically, election officials have relied too heavily on candidates themselves to identify election irregularities. Election officials should pursue *all* instances of voter fraud, no matter how minor. County election boards (and the state) should be given investigative authority, including the ability to subpoena witnesses and investigators. The State Election Board does have subpoena power, but it is only available when there are formal hearings by the Board. Arguably, the Board's subpoena power does not extend to investigative subpoenas that are not incident to a hearing before the full Board. A statewide grand jury system would give the Secretary of State the ability to prosecute election fraud.

Also key to fair elections is having equal representation of the major political parties on both the State Election Board and all county election boards. Georgia law should also be amended to require all counties to have election boards. Accountability is only achieved amidst a truly representative system and meaningful checks and balances.

8. Security of the election counting process

Georgia should conduct a feasibility study to determine whether it should require every county to have an independent audit of its vote tabulation software and election security at least once every presidential election cycle. At present, no such audits are required.

9. Detecting fraud

Many counties and the state use computers to tabulate votes, yet fail to use similar technology to detect possible fraud. Before an election, all counties and the state (as a check on the counties) should: 1) monitor the number of absentee ballots requested; 2) watch for multiple ballot requests from the same individual; and 3) watch for suspicious activities, such as numerous absentee ballots being returned from the same address or the address of candidates or political parties—all indicators of possible fraudulent activity.

After the election, additional steps should be taken to detect fraud. For instance, an unusually high turnout for a particular election may be an indication of fraud. This could be investigated by simply calling a random sampling of voters and asking them whether they actually voted. Using this process, it could quickly be determined whether ballot stuffing or other fraud occurred.

High "under-voting" is another indicator of fraud. Under-votes occur when a ballot has been cast, but not fully completed, i.e., a response has not been recorded for every contested race. Certainly, voters do not always cast votes in every contest on a ballot; however, an unusually high number of under-voted ballots may indicate that ballots have been fraudulently punched for only one contest. Precincts with extraordinarily high levels of under-voted ballots should be investigated and have observers placed in them during following elections to deter and detect possible fraud.

Unfortunately, there is a pervasive attitude that if voting irregularities are not of such a magnitude that they would change the outcome of an election, then their solutions are not worth pursuing. However, a thorough investigation of every case is essential to deter fraud and maintain the integrity of the election system. Fraud that goes undetected, uninvestigated or unprosecuted will only make things worse as perpetrators become emboldened by their success.

Our right to vote is perhaps our most precious right and the foundation for our constitutional form of representative government. Although we do not want to set up needless barriers that may discourage citizens from exercising their franchise, we must protect the security of our voting system if we are to maintain confidence in elections. It is obvious that administrative procedures and statutory requirements to prevent fraud can be instituted without infringing on the rights of citizens. Fraud can be prevented without diminishing voter turnout.

Endnotes:

- ¹ *Vote Fraud, Campaigns & Elections*, June, 1996: see also *Early and Often*, *National Review*, June 17, 1996, and generally *Dirty Little Secrets*, Larry Sabato and Glenn R. Simpson, Times Books, 1996.
- ² *Dodge Scandal Voids Election*, *The Atlanta Journal-Constitution*, August 25, 1996.
- ³ To illustrate this problem, Jeff Jacoby, a columnist, registered his cat to vote in Ohio, Illinois, and Massachusetts. He then mailed in absentee ballots in all three states. *How to Stuff the Ballot Box*, *St. Louis Post-Dispatch*, November 13, 1996, Page 7B.
- ⁴ 42 U.S.C.S. Section 1973gg-7(b)(3).
- ⁵ 42 U.S.C. Section 1973gg-6.
- ⁶ At least 15% to 25% of the individuals currently registered in Georgia are probably ineligible but remain registered due to the lack of a purge since Motor Voter became effective. Since there were 3.8 million registered voters as of November 1996 there are 500,000 to 1 million names that should be purged.
- ⁷ *One Man, Three Votes*, *The Wall Street Journal*, August 23, 1996.
- ⁸ *The Los Angeles Times*, February 8, 1997, Part A, page 1. The Fair Elections Group, a nonpartisan research group, found that a random sample of just 10 percent of 3,000 new voters registered in California's 39th Assembly District by one group contained phony addresses and many registrants who later admitted they were not U.S. citizens. *The Motor Voter Myth*, *National Review*, November 11, 1996, page 42.
- ⁹ An analysis of registered voters in Los Angeles County found 78,000 duplicate names, along with erroneous entries such as "God", household pets, and Mario Aburto Martinez, the Mexican who assassinated Mexico's presidential candidate Luis Donaldo Colosio in 1994. See *The Dead Live on in Voter Rolls*, *Investor's Business Daily*, August 16, 1996, *Vote Fraud in America*, *National Review*, June 17, 1996, and *The Wall Street Journal*, August 23, 1996. Unfortunately, Motor Voter has codified, on a national level, the state system that has been in place in California for years.
- ¹⁰ *Dodge Scandal Voids Election*, *The Atlanta Journal-Constitution*, August 25, 1996.
- ¹¹ *The Atlanta Journal-Constitution*, February 20, 1997.
- ¹² In 1996, Alabama changed its law to enact such a requirement. See Alabama Code Sections 17-10-7 and 17-10-9.