

## Statement in Opposition to a National Voter Identification Card

June 29, 2005

The undersigned organizations submit this Statement to the Commission on Federal Election Reform to express our strong opposition to a national voter identification card system. For the reasons set out below, we believe that the adoption of a national voter ID card would likely result in the disfranchisement of many eligible voters. Implementation of such a system would also risk undermining the basic privacy protections that are a hallmark of American citizenship, and no doubt prove exceedingly complex, costly and burdensome. Indeed, a national voter ID card would only frustrate the advances that Congress sought to achieve with the enactment of the Help America Vote Act of 2002. We urge the Commission to forswear consideration of a national voter identification card system.

National voter ID cards are a remedy in search of a problem. Proponents of voter identification requirements routinely argue that these measures are necessary to prevent voter fraud. But the evidence of widespread identity fraud among voters personally appearing to vote does not exist. Hearsay and anecdotal tales are put forth in place of fact during critical policy deliberations. Indeed, an extensive inquiry into election fraud from 1992 to 2002 found that its incidence is minimal across the fifty states and rarely affects election outcomes.<sup>1</sup>

A more recent, exhaustive hunt for “thousands” of fraudulent voters in Washington State last year succeeded in uncovering six instances of double voting. Some in the Ohio Statehouse had alleged widespread voter fraud and abuse in 2004.<sup>2</sup> Yet, a survey of Ohio’s 88 counties released by the Coalition on Homelessness and Housing in Ohio and the League of Women Voters on June 14, 2005 unearthed just four instances of ineligible or fraudulent voting in the state’s 2002 and 2004 general elections, out of 9 million cast.<sup>3</sup>

A national voter identification card would create new barriers to voting. Indiana, Georgia and Arizona have enacted new voter identification requirements in recent months that will suppress voting, particularly by seniors, the poor, racial, ethnic and language minorities, people with disabilities and urban residents. The Arizona Attorney General has said that Arizona’s identification requirement “would prevent thousands of legally

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<sup>1</sup> L. Minnite and D. Callahan, “Securing the Vote: An Analysis of Election Fraud,” Demos: A Network for Ideas and Action (2003), at 10, <http://www.demos-usa.org/pub111.cfm>.

<sup>2</sup> “Let the People Vote - A Joint Report on Election Reform Activities in Ohio”, the Coalition on Homelessness and Housing in Ohio and the League of Women Voters (June 14, 2005), <http://www.cohio.org/alerts/Election%20Reform%20Report.pdf>.

<sup>3</sup> *Id.*

registered voters from casting ballots in the upcoming elections, lead to multiple legal challenges to [recent] elections and risk violating the federal Voting Rights Act.” These populations are least likely to own motor vehicles and possess a driver’s license -- the most commonly accepted form of identification. This fact is supported by a newly released study by the Employment and Training Institute at the University of Wisconsin-Milwaukee, which found that people of color and seniors in Wisconsin lack driver’s licenses at rates far higher than do white residents between the ages of 18 and 65.<sup>4</sup> According to disability advocates nearly 10 percent of the 40 million Americans living with disabilities do not have a driver’s license or other form of state-issued photo ID. Furthermore, many disabled Americans cannot obtain government issued identification because of transportation limitations.

These new state laws go far beyond the ID requirements enacted by Congress in the Help America Vote Act and may even conflict with several of its provisions.<sup>5</sup> A number of the undersigned organizations have opposed these enactments and at least one has filed suit to enjoin implementation.<sup>6</sup>

State residents who do not drive and now need to obtain a state ID card in order to vote confront difficult, time-consuming and expensive challenges. The same can be expected should a national voter ID card become a necessary prerequisite to voting. Under the system enacted in Indiana, residents needing to obtain a state-issued identification card by the department of motor vehicles must present a stamped or sealed birth certificate or other record like a certificate of citizenship or naturalization. Many individuals do not have originals of their birth certificates, and those seeking to obtain stamped or sealed copies will have to pay fees. Conditioning voter registration on any payment of fees for birth certificates or other documents is tantamount to imposing a poll tax and would violate the Fourteenth and Twenty-Fourth Amendments and Section 10 of the Voting Rights Act. Many people with disabilities who currently lack identification live on less than \$600 a month. These individuals would be particularly disadvantaged should a national voter ID requirement be mandated.

Adoption of a system of national voter ID cards would likely extend the obstacles to voting imposed upon voters in Indiana, Georgia and Arizona to hundreds of thousands of citizens across the country. The National Commission on Election Reform’s Task Force on the Federal Election System echoed these concerns in its August 2001 report. It found that a photo ID requirement for voting would “impose an additional expense on the

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<sup>4</sup> *The Drivers License Status of the Voting Age Population in Wisconsin*, Employment and Training Institute, University of Wisconsin-Milwaukee (June 2005), <http://www.uwm.edu/Dept/ETI/barriers/DriversLicense.pdf>.

<sup>5</sup> For example, these laws might violate HAVA’s provisional ballot protections for voters who are unable to meet HAVA’s less-stringent identification requirements. See 42 U.S.C. §§15482(a), 15483(b)(2)(B). In addition, these laws may also conflict with HAVA’s explicit exemption from identification requirements for voters who provide drivers’ license or social security numbers that the state is able to verify. See 42 U.S.C. §15483(b)(3).

<sup>6</sup> *William Crawford, et al. v. Marion County Election Board; Friendly House v. Napolitano*, No. 04-649 TUC DCB (D. Ariz. filed Nov. 30, 2004).

exercise of the franchise, a burden that would fall disproportionately on people who are poorer and urban.”<sup>7</sup>

Requiring a national voter ID card will lead to discriminatory implementation.

The National Commission on Election Reform also found that identification provisions at the polls are selectively enforced.<sup>8</sup> Even in jurisdictions that do not condition voting on ID presentation, poll workers are known to ask minority voters to prove their identity while white voters are allowed to vote without providing identification.<sup>9</sup>

Voter ID advocates at times support their position by reference to other situations where the presentation of identification is commonly required and accepted as non-discriminatory, such as contemporary air travel. These arguments fail to recognize fundamental differences between the two scenarios. Air travel requirements are administered by a full-time, trained work force with oversight from a federal agency, the Transportation Safety Administration. In contrast, elections are conducted by a volunteer work force that works just a few hours every year, with minimal training and in a remarkably decentralized system. Under these conditions, it is fanciful to expect that voter identification can be implemented with sufficient oversight to ensure non-discriminatory application.

Conditioning voting upon presentation of a national ID card is legally suspect. Voter identification requirements make it more difficult for citizens to exercise their right to vote and increase the chance that eligible, registered voters will be denied their fundamental right to cast a ballot. As such, identification requirements violate provisions of the Voting Rights Act and the U.S. Constitution.

Implementing a national voter ID card would be exceedingly complex and costly.

Introduction of a national voter ID card will replicate the extreme challenges that states now confront in implementing provisions of the new REAL ID Act.<sup>10</sup> Congress has directed that all states create a theoretically tamper-proof driver’s license card with advanced biometric features by 2008. Congress also mandated that DMVs verify the “breeder documents” used to establish one’s identity upon application for a card – a Herculean task given the thousands of offices in the United States that issue birth

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<sup>7</sup> *To Assure Pride and Confidence in the Electoral Process*, Task Force Reports to Accompany the Report of the National Commission on Election Reform; Task Force on the Federal Election System (August 2001), at 77, [http://www.tcf.org/Publications/ElectionReform/full\\_tf\\_report.pdf](http://www.tcf.org/Publications/ElectionReform/full_tf_report.pdf).

<sup>8</sup> “Poll workers with the worst of motives might deliberately use the requirement to confront and intimidate ‘strangers.’ Either way, voters who were asked to show identification when others were not might come to feel that they were singled out.” *Id.*

<sup>9</sup> See *The Asian American Vote 2004: A Report on the Multilingual Exit Poll in the 2004 Presidential Election*, Asian American Legal Defense and Education Fund (April 2005), [http://www.aaldef.org/images/04-20-05\\_exit\\_poll\\_report.pdf](http://www.aaldef.org/images/04-20-05_exit_poll_report.pdf).

<sup>10</sup> P.L. 109-13

certificates (there are an estimated 14,000 types of birth certificates in circulation), as well as the uncounted foreign jurisdictions that do so.

Implementation of the new system will likely cost billions of dollars. Once brought into existence, the database system will become an attractive target for identity thieves and others, thereby imposing unknown but significant new security and maintenance costs. Congress has appropriated no funds for this system; where that money will come from is a mystery.

Additional problems will stem from the inevitable errors in any such national database. With a voting-age population of over 200 million individuals, even an error rate of 1 percent could lead to the disenfranchisement of 2 million voters.

An ID card system will lead to a slippery slope of surveillance, citizen monitoring and “internal passports”. A national voter ID card system would create a system of internal passports that would significantly diminish the freedom and privacy of law-abiding citizens. Once put in place, it is unlikely that such a system would be restricted to its original purpose. Social Security numbers, for example, were originally intended to be used only to administer the retirement program. But that limit has been routinely ignored and steadily abandoned over the past 50 years. A national voter ID system would threaten the privacy that Americans have always enjoyed and gradually increase the control that government and business wields over everyday citizens.

A national ID card system, backed up by the full power of modern computer and database technology, could log the time and a person's specific location with every ID check. How long before office buildings, doctors' offices, gas stations, highway tolls, subways and buses incorporate the ID card into their security or payment systems for greater efficiency? The end result could be a nation where citizens' movements inside their own country are monitored and recorded through these “internal passports.”

## **Conclusion**

This Commission speaks with a unique voice in the public discussion of how the United States can build an electoral system that best responds to the will of the voters. It is therefore essential that in making recommendations, the Commission responds to the convincing evidence of pervasive problems facing American voters. In so doing, it should not simply import practices that have been successful elsewhere in the world without a searching evaluation of their necessity here, including a practical assessment of their costs and benefits when applied to the American system of elections. Although national voter identification cards have been successful in other countries, that success has often been possible due to nationally controlled, uniform election practices, structures, and safeguards that are quite different from the decentralized, federal system of election administration practiced in the United States. The undersigned organizations, which have been advocating for decades for the rights of all Americans to have equal

access to political decision making, request that this Commission focus on changes to the electoral system that will continue to improve access to the ballot by all eligible citizens, not recommendations that will chip away at the progress this country has made in expanding the franchise.

American Association of People with Disabilities  
American Civil Liberties Union  
Appleseed  
Asian Law Alliance  
Asian Pacific American Legal Center  
Association of Community Organizations for Reform Now (ACORN)  
Brennan Center for Justice at NYU Law School  
Common Cause  
Demos: A Network for Ideas and Action  
Lawyers' Committee for Civil Rights Under Law  
Leadership Conference for Civil Rights  
League of United Latin American Citizens  
Mexican American Legal Defense Education Fund  
Na Loio – Immigrant Rights and Public Interest Legal Center  
National Asian American Pacific Islander Mental Health Association  
National Asian Pacific American Legal Consortium  
National Association of Protection and Advocacy Systems  
National Conference of American Indians  
National Voting Rights Institute  
Native Vote Election Protection Program  
New York Association for Gender Rights Advocacy  
People For the American Way  
Project Vote  
Rock the Vote  
South Asian American Voting Youth