

**MAXINE WATERS**

MEMBER OF CONGRESS  
35TH DISTRICT, CALIFORNIA

CHIEF DEPUTY WHIP

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SUBCOMMITTEE ON IMMIGRATION,  
BORDER SECURITY AND CLAIMS

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0535**

October 16, 2008

PLEASE REPLY TO:

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6033 WEST CENTURY BOULEVARD  
SUITE 807  
 LOS ANGELES, CA 90045  
PHONE: (310) 642-4610  
FAX: (310) 642-9160

The Honorable Michael B. Mukasey  
Attorney General of the United States  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Mr. Attorney General:

I am writing to urge you to fully carry out your responsibilities under the Constitution and the laws of the United States to ensure that no eligible American is prevented from exercising his or her right to vote. I am very concerned about the growing number of reports in numerous states indicating that the ability of eligible citizens to exercise their right to vote in the upcoming elections might be at risk. I request that you share with me the status of any investigations that the Department of Justice has undertaken to prevent election crimes or other efforts to suppress or interfere with the right of eligible individuals to vote. Credible complaints must be investigated in a timely and thorough manner by the Department of Justice when these complaints are brought to the Department's attention and not after the upcoming elections.

On September 16<sup>th</sup>, during a House Judiciary Committee Oversight Hearing, I commended the Director of the Federal Bureau of Investigation on work done this year to investigate and prosecute some of the institutions and individuals who have been involved in mortgage fraud and other activities that have contributed to the financial crisis that our nation is currently experiencing. I have been particularly concerned about those who have engaged in predatory lending because this illegal practice disproportionately impacts the most vulnerable in this country, including the elderly, the poor and minorities. I asked the Director whether or not he was aware of a widely reported scheme in Michigan to use foreclosure lists to challenge voters at their polling places. Because the Director was not familiar with the particulars of this problem, I requested that this matter be investigated by the appropriate entities at the Department of Justice as soon as possible. The excerpt of the transcript of this discussion is attached.

On September 18th, I joined Chairman Conyers and other Members of the Judiciary Committee in sending a letter to you requesting a prompt investigation of the complaints regarding the use of foreclosure lists to challenge voters in Michigan. A copy of that letter is attached.

Letter to the Attorney General  
October 16, 2008  
Page 2

On September 23<sup>rd</sup>, I was joined by 29 colleagues in introducing House Concurrent Resolution 424, which urges the Department of Justice to protect the right to vote of every eligible person in the United States by promptly and thoroughly investigating possible violations of federal law. The Resolution enumerates some of the most serious complaints of problems and possible violations of federal law, including voter caging, deceptive practices, and improper list purges. If unaddressed, they could interfere with the right to vote of citizens in Michigan, Virginia, Mississippi, Maryland, Florida and other states affected by recent hurricanes or natural disasters. This Resolution, which currently has 61 co-sponsors, is attached for your information.

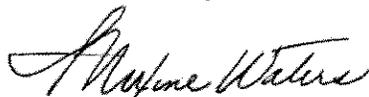
On October 7<sup>th</sup>, several Members of the Florida Congressional Delegation, who are also cosponsors of H. Con. Res. 424, sent a letter to the Governor of Florida expressing very specific concerns about the potential disenfranchisement of thousands of voters as a result of the implementation of a new "No Match, No Vote" state law. A copy of their letter is attached.

On October 9<sup>th</sup>, the *New York Times* published an investigative report that describes in some detail possible violations of federal law in several states. It appears that media organizations have conducted more investigations into these allegations than the Department of Justice. However, if the Department of Justice is, in fact, investigating these complaints, I would like an update on the status of such investigations and where injunctions have been sought to prevent the violation of federal law.

Given the growing number of reports of problems that could result in the disenfranchisement of countless voters in several states, I believe it is imperative for the Department of Justice to accelerate the investigation of these complaints immediately. I am deeply concerned that failure to act could result in the irreversible loss of the exercise of the right to vote in the upcoming election. Investigations after the elections will not cure the damage of a lost vote in what has been described as the most important election in a generation.

I appreciate your prompt and thorough attention to this matter. If you have questions or need additional information about this request, please contact me or Andrea Martin in my Washington, DC office at (202) 225-2201.

Sincerely,



Maxine Waters  
Member of Congress

MW/am  
Attachments

CC: R. Mueller

## EXCERPT JUDICIARY OVERSIGHT HEARING TRANSCRIPT – SEPTEMBER 16, 2008

CONYERS: The chair recognizes the Subcommittee Chairwoman Oversight of the Finance Committee and a civil-rights and voter-rights champion on Judiciary Committee Maxine Waters.

WATERS: Thank you very much, Mr. Chairman. I'm sorry I could not be here for the entire hearing. I've been running between several committees here, but I'm very pleased that you're holding this hearing.

And I would like to welcome our FBI Director Mr. Mueller today.

I wish I had time to talk more about mortgage fraud, but I'd like to just say, from the information that I have, I'm very pleased to see that the FBI has been doing a rather good job in dealing with this issue, and I hope to be able to talk with -- with Mr. Mueller at some time in the near future.

I -- I have to bring up another very, very urgent issue at this time that deals with what is happening, not only in my district in one of the small cities there, the city of Inglewood -- and I don't know if he's been brief on this -- but what appears to be happening in too many places around the country.

You may be aware of the problem in the city of Inglewood, California, where in the last four months four residents have been shot and killed by Inglewood police officers under what can be described as questionable circumstances. I asked the Department of Justice to investigate these incidents to determine whether there is a pattern or practice of discrimination or other police misconduct that could result in the violation of civil rights or other federal criminal statutes.

I've not received an answer yet about my specific request, but I'd like to know from you whether there are other investigations looking in to these kinds of problems? Have you been made aware of the problems in the city? I know you probably hear a lot about -- complaints about police misconduct all over the country, but Inglewood emerges pretty much on the radar screen of many of the people who watch these issues all over the country because each month for the past four months an African-American male has been killed by this police department.

MUELLER: I am not familiar with the specifics of Inglewood. I -- I will tell you that, when we receive allegations or patterns of what appear to be -- suspicious patterns which may raise to the level of a violation of the civil-rights laws, we -- we do investigate along with the Department of Justice. I would have to get back to you on that particular set of allegations.

WATERS: Do you know of any investigations that may be going on on this time in any cities in the country around police misconduct? MUELLER: Oh, I'm -- I'm sure we...

WATERS: The pattern...

MUELLER: I'm sure we have numerous investigations. I can get you the numbers. I don't know it off the top of my head. But at any point in time we have a -- a -- a number of investigations into police brutality in a -- in a variety of forms.

WATERS: All right. Well, I appreciate that, and your offer to get back to us with information about Inglewood would be very helpful.

And since I have just a few more minutes left here on the time that I have to raise questions, let me just ask you a little bit about the mortgage-fraud work that you have been doing.

As you know, aside from just the regular operation of the new products that were put on the market, like the A.R.M.'s -- the adjustable rate mortgages -- and the resets and all that caused part of the subprime meltdown, we have a lot of allegations of people who actually did not know what they were signing or somebody else signed for them, they were misled about the ability to refinance and other things that look as if there was mortgage fraud.

Have you discovered any specific operation or operations that you could safely say were involved with -- with mortgage fraud?

MUELLER: Yes. We've had a number of -- of prosecutions over the last two years, I think, in excess of 500 of a variety of mortgage- fraud schemes that preyed on unwitting consumers and -- and others. So, yes, around the

country, particularly in those pockets where the subprime mortgage crisis is most -- is affecting the community is where many of these investigations reside.

We also, as I indicated earlier, have a -- a number of investigations going against financial institutions who may well have misrepresented their assets in the course of filings and otherwise. And so we're looking at it from both the top, as well as those schemes, at what would be the bottom of the pyramid.

And we're doing it in 42 task forces around the country, and in those -- on those 42 task forces will be agents and specialists and experts from a variety of federal agencies, as well as from state and local law enforcement, and then we will choose the particular jurisdiction in which to file the -- the case depending on the -- the circumstances of the case.

WATERS: Well, just to alert you -- you probably read the newspapers about it already -- the foreclosure problem that we have is not simply a problem where people are losing their homes. It's not simply a problem where the value of homes and communities is being driven down. Because those homes that are not foreclosed are losing value because they are next door to or on the same block as houses that are not being kept up, and we tried to do something about this in the housing legislation that we passed. But the latest scheme -- the latest scheme is that we hear that people are going to be challenged at the polling place, whose addresses match up with the homes that have been foreclosed. For example, we are told and information is being revealed that there will be lists of foreclosed homes and people will be asked at the polling place who represent that this is their voting address, this is their home, and it's very, very serious. And I never dreamed that foreclosure would bring us even this additional problem.

But whether we're talking about people whose homes have been foreclosed on or people maybe who have lost their homes through storms and hurricanes and damage -- all of that -- this business of challenging people at the poll about whether or not they're a resident of the state because they're address appears to be a foreclosed property is something that we all are going to have to deal with. Have you heard about this?

MUELLER: I had not heard about it, but I can understand it. But I am not a -- I must confess, I am not that familiar with the election laws as they apply to circumstances such as this and particular -- and particularly different...

(CROSSTALK)

WATERS: Who enforces the Voting Rights Act?

MUELLER: We would do the investigation. The Justice Department would be doing the prosecution.

WATERS: OK. So I'm bringing it to your attention in this hearing today that there are allegations and newspaper reports of foreclosure lists being used as a way to challenge voters at the polls. I'm adding to that people who are the victims of storms and hurricanes and natural disasters because they would fall in the same category. And I'm asking you to get in front of it and ask the appropriate entities in the Department of Justice to take a look at this, and let's not have this fight on election day at the polling places.

CONYERS: Would the gentlelady yield?

WATERS: Yes. I will yield to the chairman.

CONYERS: Who -- who's in charge of this in the Department of Justice, sir?

MUELLER: I -- I would have to look. I'm not -- hold on just a sec. It is the Civil Rights Division.

CONYERS: Uh-huh. And that's...

MUELLER: I will follow up on it.

CONYERS: OK. Do -- do you have -- do you know who's in charge of the Civil Rights Division?

MUELLER: I must confess, off the top of my head, I do not at this juncture.

It's acting AAG Grace Chung Becker.

CONYERS: Ms. Becker is coming over...

WATERS: She is coming over?

CONYERS: Yes, Ms. Waters. We -- we have a hearing scheduled with her.

WATERS: Well, I guess one of the things that I'm taking the opportunity to do is find -- sound the alarm so that we are not talking about it after the election what happened and investigating. This can be stopped now. We believe it's unconstitutional, it's a violation of the Voting Rights Act, and we shouldn't linger with this. We got an election coming up. And we don't want to see these challenges based on foreclosure or natural disasters. OK?

CONYERS: The chair's pleased now to recognize Bill Delahunt, the former Massachusetts prosecutor and a member of the Foreign Affairs Committee, as well as Judiciary Committee.

DELAHUNT: Thank you, Mr. Chairman.

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CHAIRMAN

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ONE HUNDRED TENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

September 18, 2008

The Honorable Michael B. Mukasey  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Mr. Attorney General:

We are deeply troubled by recent media reports that the Chairman of the Republican Party in Macomb County, James Carabelli, is planning to use a list of foreclosed homes as a basis to challenge voters and block them from participating in the November 2008 election.<sup>1</sup> We are writing to request that the Department of Justice launch a full scale investigation into the matter. At a time when the country is facing a major economic crisis, with home prices continuing to spiral downward, rising unemployment, soaring gas and food prices, plummeting stock values, and increasing unemployment, it is inconceivable how anyone could exploit the misfortune of citizens who have lost their homes for political gain.

Given the number of voting rights complaints filed after the 2004 election, it is critical that the Department take proactive steps now to prevent voting rights violations in November. Voter suppression tactics similar to the plan to challenge voters based on the foreclosure status of their homes remain a serious concern for the upcoming election.

A Center for Responsible Lending report estimates that the highest default rates are expected to be in cities in California, Nevada, Michigan, New Jersey and Washington, D.C. The report projects that 10 percent of African-American borrowers and 8 percent of Hispanic borrowers will be affected by foreclosure. In contrast, only 4 percent of white borrowers are expected to be affected. The Macomb County party's plan to challenge voters who have defaulted on their home loans would disproportionately affect African Americans who are overwhelmingly Democratic voters. The plan, therefore, should be investigated as a possible violation of the Voting Rights Act.

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<sup>1</sup> Eartha Jane Mezler, *Lose Your House, Lose Your Vote*, Michigan Messenger, Sept. 10, 2008.

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While Mr. Carabelli now disputes reports of his plan to use foreclosure lists to challenge the residency of voters, other Republican officials in Michigan who described this same strategy have not. Denise Graves, Party Chair for Republicans in Genessee County and Kelly Harrigan, Deputy Director of the GOP's voter programs, also articulated comprehensive voter challenge campaigns.<sup>2</sup> Outside of Michigan, a Republican official from Franklin County, Ohio, Doug Preisse, was quoted in a recent article making consistent representations about the party's intent to block voters based on home foreclosures.<sup>3</sup>

Notably, in 1981 a federal court condemned the Republican National Committee (RNC) for using vote caging tactics similar to the foreclosure list plan. Since the federal court's decision in 1981 in New Jersey, the RNC has been under a federal consent decree to refrain from engaging in this practice.<sup>4</sup> It is important to note that the Department, under President George H.W. Bush filed suit in 1990 to stop a vote caging effort by those associated with Senator Jesse Helms' re-election campaign.<sup>5</sup>

Please keep us informed regarding any development surrounding this requested investigation. Specifically, we would like to know what actions the Department intends to take to ensure that Americans will not lose their right to vote because their homes have gone into foreclosure. During an oversight hearing on the Federal Bureau of Investigation on September 16<sup>th</sup>, Members of the Judiciary Committee raised concerns about vote caging efforts in Michigan and requested that Director Mueller look into the foreclosure issue. Director Mueller explained that he would need to check with the Department and would work to get a response to Chairman Conyers. By way of this letter, we are requesting that you respond directly to the Committee about the agency's plans to address this matter. Responses and questions should be directed to the Judiciary Committee office, 2138 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-3951; fax: 202-225-7680). We thank you in advance for your cooperation in this important matter.

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<sup>2</sup> *Id.*

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

<sup>4</sup> *Democratic National Committee v. Republican National Committee*, CA No.81-3876 (D.N.J., entered Nov. 1, 1982).

<sup>5</sup> *Oversight Hearing on the Department of Justice Efforts to Combat Voter Suppression Before the H. Subcomm. on the Constitution, Civil Rights, and Civil Liberties of the H. Comm. On the Judiciary*, 110<sup>th</sup> Cong. (2008) (statement of J. Gerald Hebert, Executive Director & Director of Litigation, The Campaign Legal Center).

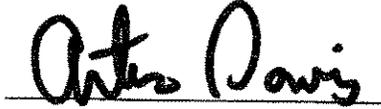
Sincerely,



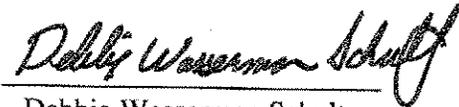
John Conyers,  
Chairman



Keith Ellison  
Member of Congress



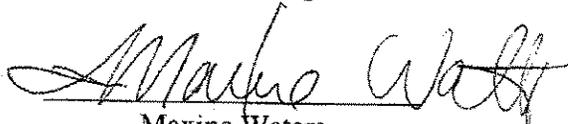
Artur Davis  
Member of Congress



Debbie Wasserman Schultz  
Member of Congress



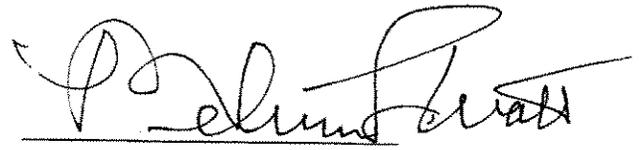
Steve Cohen  
Member of Congress



Maxine Waters  
Member of Congress



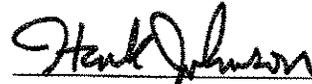
Robert Wexler  
Member of Congress



Melvin L. Watt  
Member of Congress



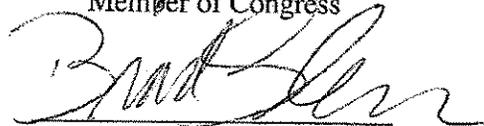
Betty Sutton  
Member of Congress



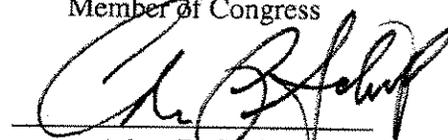
Henry C. "Hank" Johnson, Jr.  
Member of Congress



Tammy Baldwin  
Member of Congress



Brad Sherman  
Member of Congress



Adam B. Schiff  
Member of Congress

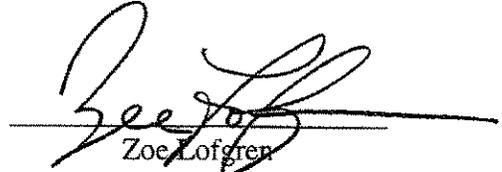


William D. Delahunt  
Member of Congress

The Honorable Michael B. Mukasey  
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September 18, 2008



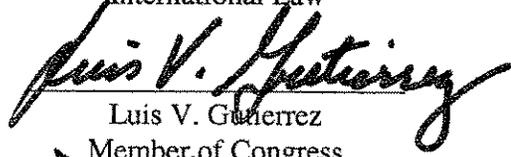
Jerold Nadler  
Chairman, Subcommittee on the  
Constitution, Civil Rights, and Civil  
Liberties



Zoe Lofgren  
Chair, Subcommittee on Immigration,  
Citizenship, Refugees, Border Security, and  
International Law



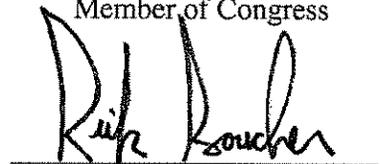
Robert C. "Bobby" Scott  
Chairman, Subcommittee on Crime,  
Terrorism, and Homeland Security



Luis V. Guterrez  
Member of Congress



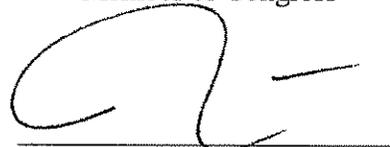
Linda T. Sanchez  
Chair, Subcommittee on Commercial and  
Administrative Law



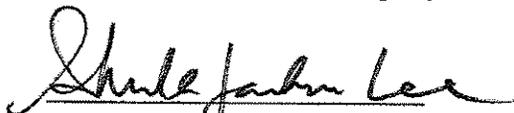
Rick Boucher  
Member of Congress



Howard L. Berman  
Chair, Subcommittee on Courts, the  
Internet, and Intellectual Property



Anthony D. Weiner  
Member of Congress



Sheila Jackson Lee  
Member of Congress

cc: The Honorable Lamar Smith

110TH CONGRESS  
2D SESSION

# H. CON. RES. 424

Calling on the Attorney General to protect the right to vote of every person in the United States by promptly and thoroughly investigating complaints of violations of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2008

Ms. WATERS (for herself, Mr. CONYERS, Mr. WATT, Mr. SCOTT of Virginia, Ms. CORRINE BROWN of Florida, Ms. JACKSON-LEE of Texas, Ms. LEE, Mr. BUTTERFIELD, Mr. PAYNE, Mr. GRIJALVA, Ms. WASSERMAN SCHULTZ, Mr. MEEKS of New York, Ms. MOORE of Wisconsin, Ms. NORTON, Mr. SERRANO, Mr. CLAY, Mr. CLEAVER, Mr. JACKSON of Illinois, Mr. DAVIS of Illinois, Mrs. CAPPs, Mr. FARR, Mr. LEWIS of Georgia, Ms. WOOLSEY, Mr. RUSH, Mrs. CHRISTENSEN, Mr. JOHNSON of Georgia, Mr. ELLISON, Mr. MCGOVERN, Ms. ZOE LOFGREN of California, and Mr. AL GREEN of Texas) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

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## CONCURRENT RESOLUTION

Calling on the Attorney General to protect the right to vote of every person in the United States by promptly and thoroughly investigating complaints of violations of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002.

Whereas the 15th amendment to the Constitution provides the right to vote to citizens and prohibits the denial or

abridgement of this right based on race, color, or previous condition of servitude;

Whereas section 11(b) of the Voting Rights Act of 1965 provides that no person, acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote or otherwise intimidating or denying any eligible person from voting;

Whereas the Voting Rights Act of 1965 forbids any State or political subdivision to enact any election law to deny or abridge voting rights based on race or color;

Whereas the Voting Rights Act of 1965 prohibits any person, whether acting under color of law or otherwise, from failing or refusing to permit any qualified person from voting in general, special, or primary Federal elections, refusing to count the vote of a qualified person, or intimidating anyone attempting to vote or any one who is assisting a person in voting under provisions of the Voting Rights Act;

Whereas the Voting Rights Act of 1965, as amended in 1970, provides that a person otherwise qualified to vote shall not be denied the right to vote in a presidential election because of an extended duration residency requirement;

Whereas the Voting Rights Act of 1965, as amended in 1975, added section 203 to increase the participation of language minorities by requiring bilingual elections in certain circumstances;

Whereas as originally enacted, section 2 forbade any jurisdiction in the country to enact an election law that denies or abridges voting rights on account of race or color;

Whereas the 1975 amendments added minorities to this section as a protected class;

Whereas the Voting Rights Act of 1965, as amended in 1982, effectively overturned a 1980 United States Supreme Court ruling in *Mobile v. Bolden*, and modified the standard of legal review to allow certain voting rights violations under section 2 of the Voting Rights Act of 1965 to be proven by showing that an election law or procedure was adopted with a discriminatory purpose or had a discriminatory effect;

Whereas the National Voter Registration Act of 1993 prohibits voters from being removed from rolls of registered voters as an election is approaching and also prohibits States from engaging in any effort to systematically remove voters from the list of eligible voters unless that action was completed more than 90 days before the date of a Federal election and is applied in a nondiscriminatory manner that complies with the Voting Rights Act of 1965;

Whereas the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Reauthorization and Amendments Act of 2006 affirmed the existing statutory requirements and also prohibited any person, whether acting under color of law or otherwise, from failing or refusing to permit any qualified person from voting in general, special, or primary Federal elections, refusing to count the vote of a qualified person, or intimidating anyone attempting to vote or anyone who is assisting a person who is voting under provisions of the Act;

Whereas the Voting Rights Reauthorization and Amendments Act of 2006 clarified the standard under section 5 for determining whether certain covered States or jurisdictions

have enacted or seek to administer any voting qualification or prerequisite to voting, or standard, or practice, or procedure with respect to voting that either has the purpose or will have the effect of denying or diminishing the voting rights of United States citizens on account of race or color;

Whereas the revision also instituted a cause of action in the United States District Court for the District of Columbia for declaratory judgment;

Whereas under the Help America Vote Act of 2002, failure to provide a ballot to a voter seeking to exercise the right to vote is a violation of Federal law;

Whereas reports from throughout the United States indicate organized, systematic efforts targeting vulnerable populations, including residents displaced by foreclosure and victims of natural disasters, are underway to attempt to exclude, prevent, deter, and discourage eligible voters from exercising his or her right to vote;

Whereas complaints have been reported in Virginia, a State that is covered, in part, under section 5, alleging voter suppression schemes that have disseminated erroneous information regarding the impact of voter registration on students' eligibility for financial aid where they are enrolled in school;

Whereas such a systematic scheme by party or local officials to frustrate voters' ability to exercise his or her right to vote runs afoul of the goals of the Voting Rights Act of 1965;

Whereas complaints have been reported in Michigan of a plan to systematically challenge voters whose names appear on State lists of foreclosed properties in a voter suppression

scheme referred to as “Lose Your Home, Lose Your Vote”;

Whereas such a scheme would harass voters and potentially impair the rights of thousands of voters, many of whom are racial minorities;

Whereas evidence shows that a disproportionate number of persons impacted by the current foreclosure and housing crisis are African-American, Latino, minority, and low-income;

Whereas in 2008, there have been at least 739,000 people in the United States who have entered foreclosure proceedings that may have affected their residential status;

Whereas many of these people were targeted for predatory loans that loan originators knew or should have known were unaffordable to them over the life of the loan, particularly where the rate on the loan was scheduled to adjust after an initial teaser rate;

Whereas others, particularly the elderly, were targeted for reverse mortgages and refinancings that threatened the ownership of the homes in which they have resided for many years;

Whereas in 2008, thousands of people in the United States have had their residential status affected by Hurricanes and Tropical Storms Bertha, Dolly, Edouard, Fay, Gustav, Hanna, and Ike, as well as related floods and other natural disasters;

Whereas the payment of insurance claims and delivery of government assistance are often delayed for months, even years, and leaves displaced residents unable to return to their homes;

Whereas in Mississippi, efforts were made to place the selection for the special election for a United States Senate race near the bottom of the ballot among candidates for local office rather than near the top among the Federal races such as President and the other United States Senate race as required by State law in an attempt to cause the special election race to be overlooked;

Whereas a State judge has ruled that the race be placed higher on the ballot, in order to not disenfranchise voters, but that decision was appealed to the State Supreme Court, which subsequently ruled such ballot placement did not comply with the law;

Whereas complaints were reported in Maryland of fliers distributed in minority communities with erroneous election information, including incorrect election dates, for the purpose of suppressing minority voting participation;

Whereas numerous complaints of deceptive practices and voter intimidation have been reported in Florida in recent presidential elections, including—

(1) purging the names, disproportionately of African-Americans, from certain county voting lists;

(2) eliminating, in error, thousands of individuals from registration lists on grounds that they were felons;

(3) failing to provide bilingual ballots or access to translators and language assistance;

(4) intimidating voters on their way to the polls by using unauthorized traffic checkpoints near a voting precinct;

(5) intimidating voters with inaccurate information that if they have not paid taxes or child support that they cannot vote;

(6) changing designated polling places without advance notice or without adequate notice to the community;

(7) sending voters from one precinct to another only for the individuals to find they were not on the registration lists or that it was too late to vote; and

(8) failing to send requested absentee ballots to individuals and then refusing to let these same individuals vote when they appeared at the precinct to vote;

Whereas in 2008, new complaints have been reported in Florida of a “No Match, No Vote” law which requires election officials to verify applicants’ drivers license numbers or the last four digits of their Social Security numbers by using government data bases and any errors, including simple typos, clerical errors, or even middle name changes, could lead to identification mismatches resulting in the invalidation of votes;

Whereas press reports indicate that this new Florida “No Match, No Vote” law will be enforced less than 30 days prior to the State’s October 6, 2008, registration deadline for the November 4, 2008, elections, and because Florida is subject to section 5 of the Voting Rights Act of 1965, a pre-clearance review under section 5 should be undertaken by the Department of Justice before this new law is enforced to ensure that thousands of voters, including minorities and the working poor, are not adversely affected or disenfranchised by this new law; and

Whereas, voter caging, or the selection of lists or databases of voters compiled for the purpose or intent of challenging voters, and other schemes relying on inaccurate, incomplete, incorrect, or otherwise misleading subject matter used to systematically challenge voters, when done

in a discriminatory manner, is a violation of section 2 of the Voting Rights Act of 1965: Now, therefore, be it

1       *Resolved by the House of Representatives (the Senate*  
2 *concurring)*, That Congress calls on the Attorney General  
3 to—

4           (1) protect the right to vote of every person in  
5 the United States by promptly and thoroughly inves-  
6 tigating complaints of violations of the Voting  
7 Rights Act of 1965, the National Voter Registration  
8 Act of 1993, and the Help America Vote Act of  
9 2002;

10          (2) exercise all the authorities and utilize all the  
11 resources provided by Congress to fully enforce Fed-  
12 eral voting and civil rights statutes;

13          (3) enjoin any efforts by individuals or organi-  
14 zations to violate Federal voting and civil rights  
15 statutes by means of intimidation, suppression, or  
16 deceptive practices and to ensure that no eligible  
17 voter is denied the right to vote on November 4,  
18 2008, or in any early voting periods prior to Novem-  
19 ber 4, 2008, including voting by mail and absentee  
20 ballots; and

21          (4) prosecute those who violate Federal voting  
22 and civil rights statutes to the fullest extent of the  
23 law.



**Congress of the United States**  
Washington, DC 20515

October 7<sup>th</sup>, 2008

Office of Governor Charlie Crist  
State of Florida  
The Capitol  
400 South Monroe Street  
Tallahassee, FL 32399-0001

Dear Governor Crist:

We write to you to urge you to take immediate action to protect Florida's voters from a rule that will disenfranchise thousands of citizens who want to vote on November 4<sup>th</sup>, 2008. Florida must change its reputation from one that thwarts democracy to one that protects it. As Governor, you must take steps to make this happen by suspending enforcement of the "no-match" voter registration statute until the federal lawsuit brought to challenge the statute, *Florida State Conference of the NAACP v. Browning*, has been resolved. In this last month of voter registration, voters should not meet significant and unnecessary barriers to voting in November such as that erected by the "no-match" law.

As you know, the "no-match" law prevents voter applicants from becoming registered to vote if the state cannot match their driver's license number, Florida identification number, or the last four digits of their Social Security number with government databases. This matching process is often unsuccessful due to typographical errors by county election staff, or errors within the government databases. Last year, the Social Security Administration reported that 46% of attempted matches of voter registration information with records in its database were unsuccessful.

While applicants are notified of a non-match and an opportunity to provide a copy of the identification, this is another onerous step to voting. If the applicant does not receive or understand the notice, and appears at the polls to vote on Election Day, s/he will be forced to cast a provisional ballot. Even if the voter has produced photo ID on Election Day as required by Florida law, the voter's provisional ballot will only be counted if s/he submits a copy of his or her driver's license or social security card within 48 hours after the election.

During 2006 and 2007, when the "no-match" law was in effect, the law prevented 16,000 voter applicants from being added to the rolls. The citizens affected came disproportionately from minority communities—65% of the no-matches were African-American or Latino applicants. While Latino applicants were 15% of the applicant pool,

they were 39% of those blocked by the law; and though African-American applicants were 13% of the applicant pool, they were 26% of those blocked by the law.

In September 2007, the Florida State Conference of the NAACP, the Haitian-American Grassroots Coalition, and the Southwest Voter Registration Education Project sued the Secretary to challenge the “no-match” law. In December 2007, a federal court in Gainesville issued a preliminary ruling blocking enforcement of the law, but an appellate court reversed that ruling in April 2008. Although the plaintiffs’ subsequent efforts to obtain preliminary injunctive relief were unsuccessful, the case is currently ongoing and will not be decided before the November 4, 2008.

On September 8, 2008, less than four weeks before the voter registration deadline, Secretary Browning announced his intention to enforce the “no-match” law. The Secretary’s ill-advised decision to enforce this law on the eve of a presidential election will pose a significant hurdle to eligible Florida citizens hoping to register and vote in November. During the ten-day period following Secretary Browning’s decision to enforce the law, nearly 1,000 voter applicants were blocked from the rolls in Miami-Dade County alone.

If this trend continues until the registration deadline of October 6, many thousands of additional applicants will be unsuccessful in registering to vote due to “matching” problems. Those unmatched applicants may not receive notice from their supervisor of elections (who will be overburdened with processing voter registration applications, administering early and absentee voting, and preparing for Election Day) or may not understand the notice. If these would-be voters attempt to vote, they will be forced to cast a provisional ballot. These ballots will not be counted, unless they provide a copy of their driver’s license or social security card to their supervisor of elections within 48 hours. Under these circumstances, enforcement of the “no-match” law will inevitably disenfranchise eligible voters.<sup>1</sup>

Given the threat that the “no-match” law poses to Floridians’ voting rights, and the adverse impact that the law has already had on eligible voter applicants, we are confident that you will direct Secretary Browning to suspend enforcement of the “no-match” law until *Florida State Conference of the NAACP v. Browning* is resolved. Last minute enforcement of this law right before the presidential election will stand to add to our abysmal history of protecting the voting rights of our citizens.

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<sup>1</sup> While the “no-match” law has kept thousands of eligible Floridians off the voter rolls, it serves no useful purpose. Evidence of voter registration fraud is scant to non-existent in Florida, and to the extent that fictitious applicants attempted to vote on Election Day, Florida’s ID law would prevent such voters from casting a ballot.

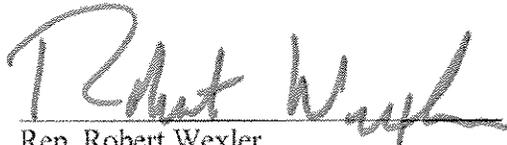
Sincerely,

  
Rep. Corrine Brown

  
Rep. Alcee Hastings

  
Rep. Kathy Castor

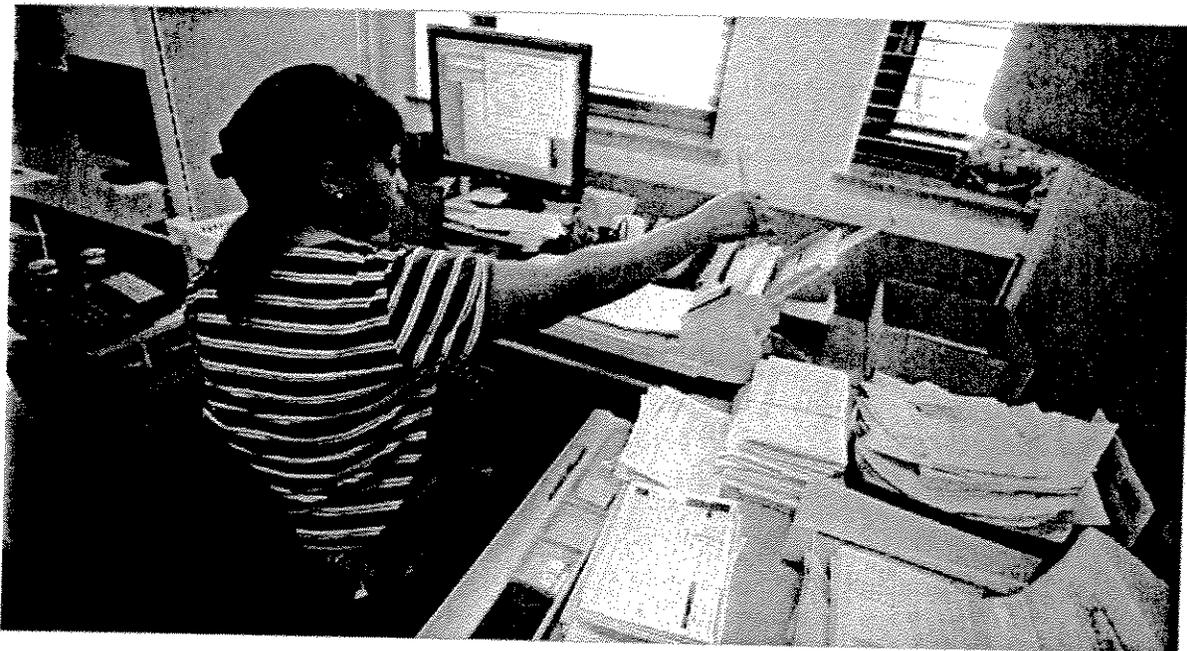
  
Rep. Debbie Wasserman-Schultz

  
Rep. Robert Wexler

October 9, 2008

## **States' Actions to Block Voters Appear Illegal**

By **IAN URBINA**



Chris Livingston for The New York Times

Jennifer Wilson a Florida elections specialist in Volusia County, scans voter documents into a computer.

Tens of thousands of eligible voters in at least six swing states have been removed from the rolls or have been blocked from registering in ways that appear to violate federal law, according to a review of state records and Social Security data by The New York Times.



Chris Livingston for The New York Times

Ann McFall, the Volusia County supervisor of elections.

The actions do not seem to be coordinated by one party or the other, nor do they appear to be the result of election officials intentionally breaking rules, but are apparently the result of mistakes in the handling of the registrations and voter files as the states tried to comply with a 2002 federal law, intended to overhaul the way elections are run.

Still, because Democrats have been more aggressive at registering new voters this year, according to state election officials, any heightened screening of new applications may affect their party's supporters disproportionately. The screening or trimming of voter registration lists in the six states — Colorado, Indiana, Ohio, Michigan, Nevada and North Carolina — could also result in problems at the polls on Election Day: people who have been removed from the rolls are likely to show up only to be challenged by political party officials or election workers, resulting in confusion, long lines and heated tempers.

Some states allow such voters to cast provisional ballots. But they are often not counted because they require added verification.

Although much attention this year has been focused on the millions of new voters being added to the rolls by the candidacy of Senator Barack Obama, there has been far less notice given to the number of voters being dropped from those same rolls.

States have been trying to follow the Help America Vote Act of 2002 and remove the names of voters who should no longer be listed; but for every voter added to the rolls in the past two months in some states, election officials have removed two, a review of the records shows.

The six swing states seem to be in violation of federal law in two ways. Michigan and Colorado are removing voters from the rolls within 90 days of a federal election, which is not allowed except when voters die, notify the authorities that they have moved out of state, or have been declared unfit to vote.

Indiana, Nevada, North Carolina and Ohio seem to be improperly using Social Security data to verify registration applications for new voters.

In addition to the six swing states, three more states appear to be violating federal law. Alabama and Georgia seem to be improperly using Social Security information to screen registration applications from new voters. And Louisiana appears to have removed thousands of voters after the federal deadline for taking such action.

Under federal law, election officials are supposed to use the Social Security database to check a registration application only as a last resort, if no record of the applicant is found on state databases, like those for driver's licenses or identification cards.

The requirement exists because using the federal database is less reliable than the state lists, and is more likely to incorrectly flag applications as invalid. Many state officials seem to be using the Social Security lists first.

In the year ending Sept. 30, election officials in Nevada, for example, used the Social Security database more than 740,000 times to check voter files or registration applications and found more than 715,000 nonmatches, federal records show. Election officials in Georgia ran more than 1.9 million checks on voter files or voter registration applications and found more than 260,000 nonmatches.

Officials of the Social Security Administration, presented with those numbers, said they were far too high to be cases where names were not in state databases. They said the data seem to represent a violation of federal law and the contract the states signed with the agency to use the database.

Last week, after the inquiry by The Times, Michael J. Astrue, the commissioner of the Social Security Administration, alerted the Justice Department to the problem and sent letters to election officials in Alabama, Georgia, Indiana, Nevada, North Carolina and Ohio. The letters ask the officials to ensure that they are complying with federal law.

“It is absolutely essential that people entitled to register to vote are allowed to do so,” Mr. Astrue said in a press release.

In three states — Colorado, Louisiana and Michigan — the number of people purged from the election rolls since Aug. 1 far exceeds the number who may have died or relocated during that period.

States may be improperly removing voters who have moved within the state, election experts said, or who are considered inactive because they have failed to vote in two consecutive federal elections. For example, major voter registration drives have been held this year in Colorado, which has also had a significant population increase since the last presidential election, but the state has recorded a net loss of nearly 100,000 voters from its rolls since 2004.

Asked about the appearance of voter law violations, Rosemary E. Rodriguez, the chairwoman of the federal Election Assistance Commission, which oversees elections, said they could present “extremely serious problems.”

“The law is pretty clear about how states can use Social Security information to screen registrations and when states can purge their rolls,” Ms. Rodriguez said.

Nevada officials said the large number of Social Security checks had resulted from county clerks entering Social Security numbers and driver’s

license numbers in the wrong fields before records were sent to the state. They could not estimate how many records might have been affected by the problem, but they said it was corrected several weeks ago.

Other states described similar problems in entering data.

Under the Help America Vote Act, all states were required to build statewide electronic voter registration lists to standardize and centralize voter records that had been kept on the local level. To prevent ineligible voters from casting a ballot, states were also required to clear the electronic lists of duplicates, people who had died or moved out of state, or who had become ineligible for other reasons.

Voting rights groups and federal election officials have raised concerns that the methods used to add or remove names vary by state and are conducted with little oversight or transparency. Many states are purging their lists for the first time and appear to be unfamiliar with the 2002 federal law.

“Just as voting machines were the major issue that came out of the 2000 presidential election and provisional ballots were the big issue from 2004, voter registration and these statewide lists will be the top concern this year,” said Daniel P. Tokaji, a law professor at Ohio State University.

Voting rights groups have urged voters to check their registrations with local officials.

In Michigan, some 33,000 voters were removed from the rolls in August, a figure that is far higher than the number of deaths in the state during the same period — about 7,100 — or the number of people who moved out of the state — about 4,400, according to data from the Postal Service.

In Colorado, some 37,000 people were removed from the rolls in the three weeks after July 21. During that time, about 5,100 people moved out of the state and about 2,400 died, according to postal data and death records.

In Louisiana, at least 18,000 people were dropped from the rolls in the five weeks after July 23. Over the same period, at least 1,600 people moved out of state and at least 3,300 died.

The secretaries of state in Michigan and Colorado did not respond to requests for comment. A spokesman for the Louisiana secretary of state said that about half of the numbers of the voters removed from the rolls were people who moved within the state or who died. The remaining 11,000 or so people seem to have been removed by local officials for other reasons that were not clear, the spokesman said.

The purge estimates were calculated using data from state election officials, who produce a snapshot every month or so of the voter rolls with details about each registered voter on record, making it possible to determine how many have been removed.

The Times's methodology for calculating the purge estimates was reviewed by two voting experts, Kimball Brace, the director of Election Data Services, a Washington consulting firm that tracks voting trends, and R. Michael Alvarez, a political science professor at the California Institute of Technology.

By using the Social Security database so extensively, states are flagging extra registrations and creating extra work for local officials who are already struggling to process all the registration applications by Election Day.

"I simply don't have the staff to keep up," said Ann McFall, the supervisor of elections in Volusia County, Fla.

It takes 10 minutes to process a normal registration and up to a week to deal with a flagged one, said Ms. McFall, a Republican, adding that she was receiving 100 or so flagged registrations a week.

Usually, when state election officials check a registration and find that it does not match a database entry, they alert local election officials to contact the voter and request further proof of identification. If that is not possible,

most states flag the voter file and require identification from the voter at the polling place.

In Florida, Iowa, Louisiana and South Dakota, the problem is more serious because voters are not added to the rolls until the states remove the flags.

Ms. McFall said she was angry to learn from the state recently that it was her responsibility to contact each flagged voter to clear up the discrepancies before Election Day. "This situation with voter registrations is going to land us in court," she said.

In fact, it already has.

In Michigan and Florida, rights groups are suing state officials, accusing them of being too aggressive in purging voter rolls and of preventing people from registering.

In Georgia, the Justice Department is considering legal action against the state because officials in Cobb and Cherokee Counties sent letters to hundreds of voters stating that their voter registrations had been flagged and telling them they cannot vote until they clear up the discrepancy.

On Monday, the Ohio Republican Party filed a motion in federal court against the secretary of state to get the list of all names that have been flagged by the Social Security database since Jan. 1. The motion seeks to require that any voter who does not clear up a discrepancy be required to vote using a provisional ballot.

Republicans said in the motion that it is central to American democracy that nonqualified voters be forbidden from voting.

The Ohio secretary of state, Jennifer Brunner, a Democrat, said in court papers that she believes the Republicans are seeking grounds to challenge voters and get them removed from the rolls.

Considering that in the past year the state received nearly 290,000 nonmatches, such a plan could have significant impact at the polls.

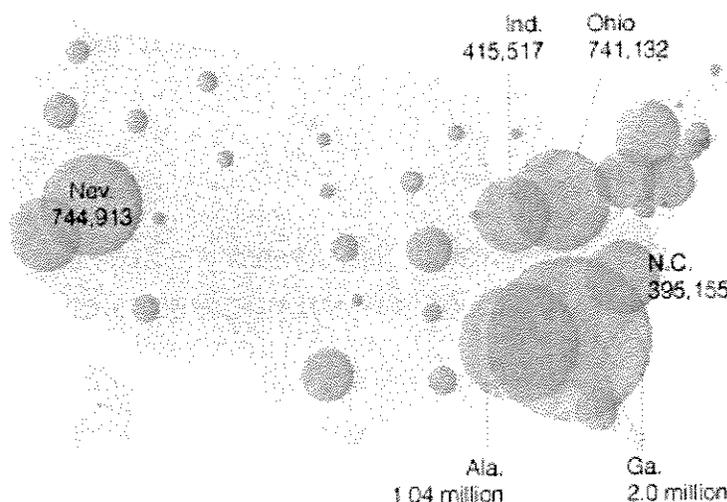
More Articles in US » A version of this article appeared in print on October 9, 2008, on page A1 of the New York edition.

## Challenge to Voter Registration

### Use of Social Security Database

At least six states (labeled on the map) may have improperly used the Social Security Administration database to verify the validity of voter registration applications. Federal law allows officials to use the database as a last resort, after checking state lists like motor vehicle records first. But in the 11 months ending Sept. 30, state officials seem to have used the Social Security lists first. If the name, birthdate and social security number do not match, the voter may not be added to the roll.

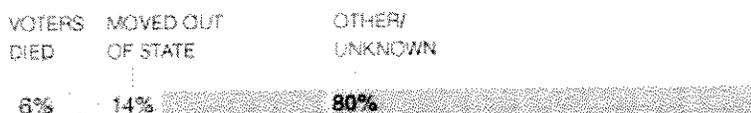
Number of times Social Security lists were checked



### Purging of Voter Registrations in Colorado

Under federal law, states cannot remove voters from the rolls 90 days before a federal election unless voters die, move out of the state or have been declared unfit to vote for legal or mental health reasons. But in some states like Colorado, the number of purged voter registrations far exceeds the number who have died or relocated. Since Aug. 1, more than 37,000 registrations have been purged. A larger share of voters removed were Democrats, and more than half of them were active voters who had voted in the last two elections.

#### Reason for removal



#### Party affiliation of all registered voters



#### Party affiliation of purged voters



#### Voter participation of purged voters



Source: Social Security Administration; Colorado Secretary of State's Office