



## The **Dirty 30** of Election Fraud

### *Call to Action on:* **Provisional Ballots**

#### **Provisional Ballots Rejected**

The provisional ballot was introduced as part of the 2002 Help America Vote Act (HAVA). The idea was initially proposed by the Congressional Black Caucus to save the rights of those wrongly purged from voter rolls. Under HAVA,<sup>1</sup> election officials are allowed to give provisional ballots to any persons who show up at the polls on Election Day and:

- find that, for whatever reason, their names are not on the voter rolls, or
- have their right to vote legally challenged by an election official

Unlike regular ballots, provisional ballots are not required to be counted. Rather, the decision whether or not to count provisional ballots is determined by each state's Secretary of State.

In the 2004 election, a total of **3,107,490 voters nationwide** were moved into provisional ballots. **The number of provisional ballots rejected was a stunning 1,090,729 (35.1%).**<sup>2</sup> As a result, provisional ballots came to be known as "placebo ballots."

The following are examples of how provisional ballots were used to thwart the will of the American people in the 2004 election.

#### Ohio

Secretary of State J. Kenneth Blackwell announced just days before the 2004 election that if voters cast their ballot in the "wrong" precinct, the vote would not be counted. In many cases, voters were told by election officials not to bother going to the right precinct because they could vote on a provisional ballot. Often, the "right" precinct was simply another table in the same room at the polling location. Furthermore, some Democratic voters received phone calls, flyers, door hangers, and even partisan workers going to their home directing them to the wrong polling location, where they were then required to complete a provisional ballot.<sup>3</sup> If it was later determined the voter was legitimately registered but voted in the "wrong" precinct, Blackwell ordered their provisional ballot to be rejected.<sup>4</sup>

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<sup>1</sup> To review HAVA provisional ballot requirements, see Sec. 302. Provisional Voting and Voting Information Requirements of Public Law 107-252, at <[http://www.usdoj.gov/crt/voting/hava/HAVA\\_2002.html](http://www.usdoj.gov/crt/voting/hava/HAVA_2002.html)>.

<sup>2</sup> Palast, Greg. *Armed Madhouse*. New York, Penguin Group, 2006, p. 208.

<sup>3</sup> Miller, Mark Crispin. *Foiled Again: How the Right Stole the 2004 Election and Why They'll Steal the Next One Too (Unless We Stop Them)*. New York, Basic Books, 2005, p. 32.

<sup>4</sup> Palast, Greg, p. 209.

In Ohio, at least 33,998 provisional ballots were tossed out in the 2004 election.<sup>5</sup> Blackwell also disenfranchised an additional 100,000 voters by limiting the use of provisional ballots.<sup>6</sup>

### Florida

In 2003, the Florida state legislature passed the Provisional Ballot Statute, which severely restricts the usefulness of provisional ballots by requiring that they must be cast *only* in the voter's precinct.<sup>7</sup> On January 3, 2005, the AP reported that almost two-thirds of Florida's provisional ballots in the 2004 election had been discarded. Of 27,742 provisional ballots cast, 9,915 were counted and 17,827 (64.3%) were rejected.<sup>8</sup>

### Colorado

Poll watchers in Colorado noted the extraordinarily high number of Hispanic voters being directed to the "provisional" booth. A decision by Colorado's Secretary of State resulted in 12,000 provisional ballots being rejected.<sup>9</sup>

### Nevada

In Nevada, Native American and Latino citizens were deluged with provisional ballots and an astonishing 60% of these ballots were rejected by the Secretary of State. Some Nevada voters were required to use provisional ballots because their registration forms had simply not been recorded by the elections office — and then had their votes voided. Many had their provisional ballots collected by an organization called Voter Outreach, a group funded by Arizona operatives of Sproul & Associates, which in turn was funded by the RNC. An insider in a sworn affidavit stated that Voter Outreach recorded the Republican votes only.<sup>10</sup>

### Various States

Despite a consent decree against caging tactics signed 25 years earlier, the Republican Party launched a multimillion-dollar campaign for the 2004 election of mass challenges of voters in minority and urban areas using "caging" lists of newly registered voters. Targeted voters were sent registered letters and were effectively "caged" if the letter was returned. Partisan operatives then challenged the 35,000 caged voters at the polls based on an address change accusation and the voters were moved to provisional ballots.<sup>11</sup>

## **Strategies to Combat Provisional Ballot Use and Rejection**

1. Employ a media information campaign, with particular focus on minority populations, to caution voters against accepting a provisional ballot.
2. Encourage all voters to check the status of their voter registration, polling location, and Election Day identification requirements. Voters also need to ensure that their name on their

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<sup>5</sup> Palast, Greg, p. 209.

<sup>6</sup> Miller, Mark Crispin, p. 27.

<sup>7</sup> Miller, p. 204.

<sup>8</sup> "Two thirds of Florida's Provisional Ballots Rejected", AP, 1/3/05.

<sup>9</sup> Palast, p. 210.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid, p. 28.

ID and their voter registration match exactly. Voters can be challenged over minor things, such as a middle initial on their ID and a full middle name listed on their voter registration.

3. Provide volunteer assistance at polling places to assist voters in finding their proper precinct location.
4. Target the African-American, Latino, and Native American communities to educate them on their voting rights and potential voter suppression tactics such as those used to block their vote in 2004.
5. Have observers in place in minority precincts to identify where large-scale voter challenges (use of provisional ballots) are occurring.
6. Set up a provisional ballot alert hotline for observers to immediately report provisional ballot use. Lawyers should be on-call to assist in stopping the practice of unnecessarily moving voters into provisional ballots.
7. Have volunteers in place to observe and videotape the custody of provisional ballots with the same rigor as for regular ballots.