

**STATE'S  
EXHIBIT No. 1**



# Building Confidence in U.S. Elections



Case 1:05-cv-00634-SJB-VSS Document 52-2 Filed 12/01/2005 Page 2 of 9

SEPTEMBER 2005

**ORGANIZED BY**  
Center for Democracy and Election Management  
American University

**SUPPORTED BY**  
Carnegie Corporation of New York  
The Ford Foundation  
John S. and James L. Knight Foundation  
Omidyar Network

**RESEARCH BY**  
Electionline.org/The Pew Charitable Trusts



# Building Confidence in U.S. Elections

## REPORT OF THE COMMISSION ON FEDERAL ELECTION REFORM

SEPTEMBER 2005

Case 1:05-cv-00634-SEB-VSS Document 82-2 Filed 12/01/2005 Page 3 of 9

**ORGANIZED BY**  
Center for Democracy and Election Management  
American University

**SUPPORTED BY**  
Carnegie Corporation of New York  
The Ford Foundation  
John S. and James L. Knight Foundation  
Omidyar Network

**RESEARCH BY**  
Electionline.org/The Pew Charitable Trusts

# Building Confidence in U.S. Elections

REPORT OF THE COMMISSION ON FEDERAL ELECTION REFORM

## Table of Contents

Letter from the Co-Chairs .....	ii	5: Improving Ballot Integrity .....	45
Preface by the Executive Director .....	iii	5.1 Investigation and Prosecution of Election Fraud .....	45
Executive Summary .....	iv	5.2 Absentee Ballot and Voter Registration Fraud .....	46
<b>1: Goals and Challenges of Election Reform .....</b>	<b>1</b>	<b>6: Election Administration .....</b>	<b>49</b>
1.1 Help America Vote Act: Strengths and Limitations .....	2	6.1 Institutions .....	49
1.2 Learning from the World .....	5	6.2 Poll Worker Recruitment .....	54
1.3 Transforming the Electoral System – Five Pillars .....	6	6.3 Polling Station Operations .....	56
1.4 Urgency of Reform .....	7	6.4 Research on Election Management .....	57
<b>2: Voter Registration and Identification .....</b>	<b>9</b>	6.5 Cost of Elections .....	59
2.1 Uniformity Within States – Top-Down Registration Systems .....	10	<b>7: Responsible Media Coverage .....</b>	<b>61</b>
2.2 Interoperability Among States .....	12	7.1 Media Access for Candidates .....	61
2.3 Provisional Ballots .....	15	7.2 Media Projections of Election Results .....	62
2.4 Communicating Registration Information .....	16	<b>8: Election Observation .....</b>	<b>65</b>
2.5 Voter Identification .....	18	<b>9: Presidential Primary and Post-Election Schedules .....</b>	<b>67</b>
2.6 Quality in Voter Registration Lists .....	22	9.1 Presidential Primary Schedule .....	67
<b>3: Voting Technology .....</b>	<b>25</b>	9.2 Post-Election Timeline .....	68
3.1 Voting Machines .....	25	Conclusion .....	69
3.2 Audits .....	28	Appendix .....	71
3.3 Security for Voting Systems .....	28	Estimated Costs of Recommended Improvements .....	
3.4 Internet Voting .....	32	Endnotes .....	72
<b>4: Expanding Access to Elections .....</b>	<b>33</b>	Summary of Recommendations .....	79
4.1 Assured Access to Elections .....	33	Additional Statements .....	88
4.2 Vote by Mail .....	35	About the Commission on Federal Election Reform .....	92
4.3 Vote Centers .....	36		
4.4 Military and Overseas Voting .....	37		
4.5 Access for Voters with Disabilities .....	39		
4.6 Re-Enfranchisement of Ex-Felons .....	40		
4.7 Voter and Civic Education .....	41		

## LETTER FROM THE CO-CHAIRS

Elections are the heart of democracy. They are the instrument for the people to choose leaders and hold them accountable. At the same time, elections are a core public function upon which all other government responsibilities depend. If elections are defective, the entire democratic system is at risk.

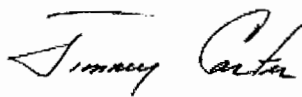
Americans are losing confidence in the fairness of elections, and while we do not face a crisis today, we need to address the problems of our electoral system.

Our Commission on Federal Election Reform was formed to recommend ways to raise confidence in the electoral system. Many Americans thought that one report — the Carter-Ford Commission — and one law — the Help America Vote Act of 2002 (HAVA) — would be enough to fix the system. It isn't. In this report, we seek to build on the historic achievement of HAVA and put forward a bold set of proposals to modernize our electoral system.

Some Americans will prefer some of our proposals to others. Indeed, while all of the Commission members endorse the judgments and general policy thrust of the report in its entirety, they do not necessarily support every word and recommendation. Benefitting from Commission members with diverse perspectives, we have proposed, for example, a formula for transcending the sterile debate between integrity and access. Twenty-four states now require identification for voters, with some systems likely to restrict registration. We are recommending a photo ID system for voters designed to increase registration with a more affirmative and aggressive role for states in finding new voters and providing free IDs for those without driver's licenses. The formula we recommend will result in both more integrity and more access. A few of our members have expressed an alternative view of this issue.

Still, our entire Commission is united in the view that electoral reform is essential and that our recommended package of proposals represents the best way to modernize our electoral system. We urge all Americans, including the legislative and executive branches of government at all levels, to recognize the urgency of election reform and to seriously consider the comprehensive approach outlined herein.

We present this report because we believe the time for acting to improve our election system is now.



Jimmy Carter



James A. Baker, III

*Co-Chairs of the Commission on Federal Election Reform*

## 2.5 VOTER IDENTIFICATION

A good registration list will ensure that citizens are only registered in one place, but election officials still need to make sure that the person arriving at a polling site is the same one that is named on the registration list. In the old days and in small towns where everyone knows each other, voters did not need to identify themselves. But in the United States, where 40 million people move each year, and in urban areas where some people do not even know the people living in their own apartment building let alone their precinct, some form of identification is needed.

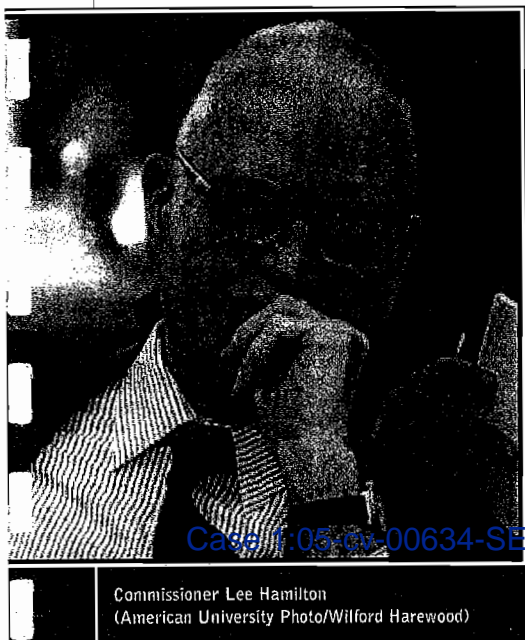
There is no evidence of extensive fraud in U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election.<sup>19</sup> The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters. Photo IDs currently are needed to board a plane, enter federal buildings, and cash a check. Voting is equally important.

The voter identification requirements introduced by HAVA are modest. HAVA requires only first-time voters who register by mail to show an ID, and they can choose from a number of different types of identification. States are encouraged to allow an expansive list of acceptable IDs, including those without a photograph, such as utility bills or government checks. These requirements were not implemented in a uniform manner and, in some cases, not at all. After HAVA was enacted, efforts grew in the states to strengthen voter identification requirements. While 11 states required voter ID in 2001, 24 states now require voters to present an ID at the polls.<sup>20</sup> In addition, bills to introduce or strengthen voter ID requirements are under consideration in 12 other states.<sup>21</sup>

Our Commission is concerned that the different approaches to identification cards might prove to be a serious impediment to voting. There are two broad alternatives to this decentralized and

unequal approach to identification cards. First, we could recommend eliminating any requirements for an ID because the evidence of multiple voting is thin, and ID requirements, as some have argued, are “a solution in search of a problem.” Alternatively, we could recommend a single national voting identification card. We considered but rejected both alternatives.

We rejected the first option — eliminating any requirements — because we believe that citizens should identify themselves as the correct person on the registration list when they vote. While the Commission is divided on the magnitude of voter fraud — with some believing the problem is widespread and others believing that it is minor — there is no doubt that it occurs. The problem, however, is not the magnitude of the fraud. In close or disputed elections, and there are many, a small amount of fraud could make the margin of difference. And second, the perception of possible fraud contributes to low confidence in the system. A good ID system could deter, detect, or eliminate several potential avenues of fraud— such as multiple voting or voting by individuals using the identities of others or



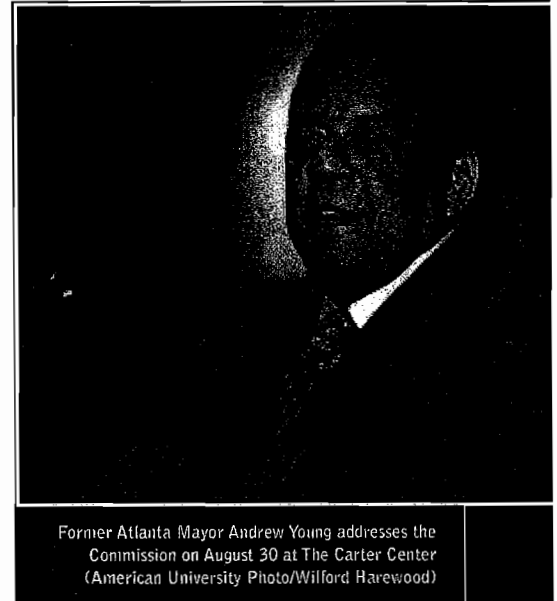
Commissioner Lee Hamilton  
(American University Photo/Wilford Harewood)

Case 1:05-cv-00634-SEB-VSS Document 82-2 Filed 12/01/2005 Page 6 of 9

those who are deceased — and thus it can enhance confidence. We view the other concerns about IDs — that they could disenfranchise eligible voters, have an adverse effect on minorities, or be used to monitor behavior — as serious and legitimate, and our proposal below aims to address each concern.

We rejected the second option of a national voting identification card because of the expense and our judgment that if these cards were only used for each election, voters would forget or lose them.

We therefore propose an alternative path. Instead of creating a new card, the Commission recommends that states use “REAL ID” cards for voting purposes. The REAL ID Act, signed into law in May 2005, requires states to verify each individual’s full legal name, date of birth, address, Social Security number, and U.S. citizenship before the individual is issued a driver’s license or personal ID card. The REAL ID is a logical vehicle because the National Voter Registration Act established a connection between obtaining a driver’s license and registering to vote. The REAL ID card adds two critical elements for voting — proof of citizenship and verification by using the full Social Security number.



Former Atlanta Mayor Andrew Young addresses the Commission on August 30 at The Carter Center (American University Photo/Wilford Harewood)

The REAL ID Act does not require that the card indicates citizenship, but that would need to be done if the card is to be used for voting purposes. In addition, state bureaus of motor vehicles should automatically send the information to the state’s bureau of elections. (With the National Voter Registration Act, state bureaus of motor vehicles ask drivers if they want to register to vote and send the information only if the answer is affirmative.)

Case 1:05-cv-00634-SEB-VSS Document 82-2 Filed 12/01/2005 Page 7 of 9

Reliance on REAL ID, however, is not enough. Voters who do not drive,<sup>22</sup> including older citizens, should have the opportunity to register to vote and receive a voter ID. Where they will need identification for voting, IDs should be easily available and issued free of charge. States would make their own decision whether to use REAL ID for voting purposes or instead to rely on a template form of voter ID. Each state would also decide whether to require voters to present an ID at the polls, but our Commission recommends that states use the REAL ID and/or an EAC template for voting, which would be a REAL ID card without reference to a driver’s license.

For the next two federal elections, until January 1, 2010, in states that require voters to present ID at the polls, voters who fail to do so should nonetheless be allowed to cast a provisional ballot, and their ballot would count if their signature is verified. After the REAL ID is phased in, i.e., after January 1, 2010, voters without a valid photo ID, meaning a REAL ID or an EAC-template ID, could cast a provisional ballot, but they would have to return personally to the appropriate election office within 48 hours with a valid photo ID for their vote to be counted.

To verify the identity of voters who cast absentee ballots, the voter's signature on the absentee ballot can be matched with a digitized version of the signature that the election administrator maintains. While such signature matches are usually done, they should be done consistently in all cases, so that election officials can verify the identity of every new registrant who casts an absentee ballot.

The introduction of voter ID requirements has raised concerns that they may present a barrier to voting, particularly by traditionally marginalized groups, such as the poor and minorities, some of whom lack a government-issued photo ID. They may also create obstacles for highly mobile groups of citizens. Part of these concerns are addressed by assuring that government-issued photo identification is available without expense to any citizen and, second, by government efforts to ensure that all voters are provided convenient opportunities to obtain a REAL ID or EAC-template ID card. As explained in Section 4.1, the Commission recommends that states play an affirmative role in reaching out with mobile offices to individuals who do not have a driver's license or other government-issued photo ID to help them register to vote and obtain an ID card.



Commissioners David Leebron, Betty Castor, and Tom Phillips  
(American University Photo/Wilford Harewood)

There are also longstanding concerns voiced by some Americans that national identification cards might be a step toward a police state. On that note, it is worth recalling that most advanced democracies have fraud-proof voting or national ID cards, and their democracies remain strong. Still, these concerns about the privacy and security of the card require additional steps to protect against potential abuse. We propose two approaches. First, new institutional and procedural safeguards should be established to assure people that their privacy, security, and identity will not be compromised by ID cards. The cards should not become instruments for monitoring behavior. Second, certain groups may see the ID cards as an obstacle to voting, so the government needs to take additional measures to register voters and provide ID cards.

The needed measures would consist of legal protections, strict procedures for managing voter data, and creation of ombudsman institutions. The legal protections would prohibit any commercial use of voter data and impose penalties for abuse. The data-management procedures would include background checks on all officials with access to voter data and requirements to notify individuals who are removed from the voter registration list. The establishment of ombudsman institutions at the state level would assist individuals to redress any cases of abuse. The ombudsman would be charged with assisting voters to overcome bureaucratic mistakes and hurdles and respond to citizen complaints about the misuse of data.

Case 1:05-cv-00634-SEB-VSS Document 82-2 Filed 12/01/2005 Page 8 of 9

The Commission's recommended approach to voter ID may need to adapt to changes in national policy in the future. Since the attacks of September 11, 2001, concerns about homeland security have led to new policies on personal identification. Under a presidential directive, about 40 million Americans who work for or contract with the federal government are being issued ID cards with biometrics, and the REAL ID card may very well become the principal identification card in the country. Driven by security concerns, our country may already be headed toward a national identity card. In the event that a national identity card is introduced, our Commission recommends that it be used for voting purposes as well.

### **Recommendations on Voter Identification**

- 2.5.1** To ensure that persons presenting themselves at the polling place are the ones on the registration list, the Commission recommends that states require voters to use the REAL ID card, which was mandated in a law signed by the President in May 2005. The card includes a person's full legal name, date of birth, a signature (captured as a digital image), a photograph, and the person's Social Security number. This card should be modestly adapted for voting purposes to indicate on the front or back whether the individual is a U.S. citizen. States should provide an EAC template ID with a photo to non-drivers free of charge.
- 2.5.2** The right to vote is a vital component of U.S. citizenship, and all states should use their best efforts to obtain proof of citizenship before registering voters.
- 2.5.3** We recommend that until January 1, 2010, states allow voters without a valid photo ID card (Real or EAC template ID) to vote, using a provisional ballot by signing an affidavit under penalty of perjury. The signature would then be matched with the digital signature on file with the voter registration authority. If the match is positive, the provisional ballot should be counted. Such a signature match would in effect be the same procedure used to verify the identity of voters who cast absentee ballots. After January 1, 2010, voters who do not have their valid photo ID could vote, but their ballot would only count if they returned to the appropriate election office within 48 hours with a valid photo ID.
- 2.5.4** To address concerns about the abuse of ID cards, or the fear that it could be an obstacle to voting, states should establish legal protections to prohibit any commercial use of voter data and ombudsman institutions to respond expeditiously to any citizen complaints about the misuse of data or about mistaken purges of registration lists based on interstate matching or statewide updating.
- 2.5.5** In the event that Congress mandates a national identification card, it should include information related to voting and be connected to voter registration.

Case 1:05-cv-00634-SEB-VSS Document 82-2 Filed 12/01/2005 Page 9 of 9