I am a professor who specializes in election law, and I am writing separately to express my dissenting views on the Carter-Baker Commission’s photo ID proposal.

The Commission’s “Real ID” recommendation is more restrictive than the photo ID proposal rejected by the Carter-Ford Commission in 2001, and more extreme than any ID requirement adopted in any state to date. The Commission’s proposal is so excessive that it would prevent eligible voters from proving their identity with even a valid U.S. passport or a U.S. military photo ID card.

In addition, the Commission’s Report fails to undertake a serious cost-benefit analysis. The existing evidence suggests that the type of fraud addressed by photo ID requirements is extraordinarily small and that the number of eligible citizens who would be denied their right to vote as a result of the Commission’s ID proposal is exceedingly large. According to the 2001 Carter-Ford Commission, an estimated 6% to 10% of voting-age Americans (approximately 11 million to 19 million potential voters) do not possess a driver’s license or a state-issued non-driver’s photo ID, and these numbers are likely to rise as the “Real ID Act” increases the documentary requirements for citizens to obtain acceptable identification. The 2005 Carter-Baker Commission does not and cannot establish that its “Real ID” requirement would exclude even one fraudulent vote for every 1000 eligible voters excluded.

The Commission’s ID proposal would exclude Americans of all backgrounds, but the poor, the disabled, the elderly, students, and people of color would bear the greatest burden. According to the Georgia chapter of AARP, 36% of Georgians over age 75 do not have a drivers’ license. In the United States, more than 3 million people with disabilities do not have identification issued by the government. A June 2005 study in Wisconsin found that the rate of driver’s license possession among African Americans was half that for whites, and that only 22% of black males age 18 to 24 had a driver’s license. The lack of government-issued photo ID is particularly acute among Native Americans, some of whom have religious objections to photo ID.

The exclusionary effects of the Commission’s ID proposal are best illustrated by some of the people it is most likely to disenfranchise—the victims of Hurricane Katrina. Many who were left behind in hurricane-torn New Orleans were poor, did not own a car, and were less likely to have a driver’s license. These forgotten Americans—and many like them across our nation—are the ones the Commission’s ID proposal will most likely leave out of our democracy.

To combat fraud by absentee voters, the Commission recommends verifying the signature on the ballot against the signature used to register. The Commission fails to explain why Americans who travel to the polls to vote should be denied the same opportunity to establish their identity through signature verification. The Commission’s double standard is particularly disturbing considering that whites are about twice as likely as African Americans to vote via absentee ballot, and that absentee ballots are widely
acknowledged to be more susceptible to fraud than ballots cast at the polls.

The Commission's zeal for an identification requirement at any cost reflects a general misconception of election integrity. An election with integrity is one that allows every eligible voter—and only eligible voters—the opportunity to cast a ballot and to have that ballot counted accurately. The Commission's ID recommendation fails this standard.

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