

**December 10, 2015**

**United States District Court for the Western District of Wisconsin**

*One Wisconsin Institute, et al. v. Nichol, et al.,*

**Case No. 15-cv-324**

**Expert Report**

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**12/10/15**

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**Lorraine C. Minnite**

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**Date**

## I. EXECUTIVE SUMMARY

I have been retained by Perkins Coie LLP, counsel for the Plaintiffs in the above-captioned case, to provide expert analyses and opinions regarding the incidence of voter fraud in American elections; the reasons for allegations of widespread voter fraud; and voting restrictions.<sup>1</sup>

As set forth below, I conclude that:

- A. The widespread allegation that voter fraud is a rampant problem of unknown proportions in contemporary U.S. elections is unsupported by evidence, and actual fraud committed by voters either by registering or at the polls on Election Day is exceedingly rare.
- B. Having no basis in fact, these allegations are usually motivated by political interests, and are designed to make voting harder for certain populations.
- C. American political parties compete as much by demobilizing voters as by mobilizing them, and it is black Americans who are usually singled out as the targets of demobilization efforts.
- D. The evidence of voter fraud in Wisconsin in recent years is consistent with the national picture: in Wisconsin, voter fraud, defined as the intentional corruption of the voting process by voters, is exceedingly rare; false and unsubstantiated allegations of voter fraud have been promoted by Republicans (and resisted by Democrats) to justify the passage of restrictive voting legislation; African Americans appear to have been singled out as the targets of voter demobilization efforts including the passage of voter identification and other restrictive voting rules, and the investigation and prosecution of alleged voter fraud cases.

## II. BACKGROUND & QUALIFICATIONS

I am an Associate professor in the Department of Public Policy and Administration at Rutgers, The State University of New Jersey-Camden. I received a Bachelor of Arts degree in History from Boston University, and two Master's Degrees and a Ph.D. in Political Science from the City University of New York. One of my areas of expertise is American Politics, with a specialization in elections and the political process. Specifically, I study the incidence and effect of voter fraud in American elections.

In 2003, I co-authored a study of voter fraud with David Callahan for the public policy research and advocacy organization, Demos, titled, "Securing the Vote: An Analysis of Voter Fraud." I updated this study with new material in 2007.<sup>2</sup> At that time, Demos published a report

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<sup>1</sup> Perkins Coie, LLP is compensating me for my work at the rate of \$100 per hour.

<sup>2</sup> Lorraine C. Minnite, "An Analysis of Voter Fraud," (New York: Demos, 2007), *available at* <http://www.demos.org/publication/analysis-voter-fraud-united-states-adapted-2003-report-securing-vote>.

I wrote on voter fraud and Election Day Registration (EDR),<sup>3</sup> which concluded that EDR does not increase opportunities for voter fraud, nor does it compromise voter roll security. In March of 2007, I published a report, “The Politics of Voter Fraud,” for Project Vote, a national, nonpartisan, nonprofit voting rights organization.<sup>4</sup> In 2009, I co-authored a book with two other political scientists titled, *Keeping Down the Black Vote: Race and the Demobilization of American Voters*, which located contemporary efforts to restrict voter access historically, and explained ballot security and voter restriction efforts by the Republican Party in recent years as a function of party competition and racial myth-making. In June 2010, Cornell University Press published *The Myth of Voter Fraud*, my full-length scholarly treatment of the subject of voter fraud. The book analyzes the evidence of voter fraud and concludes that the widespread allegation that voter fraud is a rampant problem of unknown proportions in contemporary U.S. elections is unsupported by evidence, and that actual voter fraud is extremely rare. I also conclude and provide evidence to show that, having no basis in fact, these allegations are motivated by political interests and are designed to make voting harder for certain populations. Further, I provide an analysis of the role of the voter fraud myth in the contemporary voter identification debate in “Voter Identification Laws: The Controversy over Voter Fraud,” a chapter in a peer-reviewed, edited book titled, *Law and Election Politics: The Rules of the Game* (2012). That year, 2012, I also published a paper in a refereed political science journal examining the uses of propaganda to advance paranoid stories about voter fraud conspiracies.<sup>5</sup> Finally, I was commissioned to write an article on the voter fraud myth for the third edition of *America Votes! Challenges to Election Law and Voting Rights*, a peer-reviewed publication of the American Bar Association that is in press and will be published in February 2016.

This report incorporates all of the research I have conducted—cited above and published in peer-reviewed books and journals—on the subjects of voter fraud and voting restrictions since 2001.<sup>6</sup> It incorporates my expert reports filed in *LULAC v. Deininger* (U.S. District Court for the Eastern District of Wisconsin, Case No. 2:12-cv-00185-LA), and relies on additional sources reviewed and cited herein, including but not limited to:

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<sup>3</sup> Lorraine C. Minnite, “Election Day Registration: A Study of Voter Fraud Allegations and Findings on Voter Roll Security,” (New York: Demos, 2007), *available at* <http://www.demos.org/publication/election-day-registration-study-voter-fraud-allegations-and-findings-voter-roll-security>.

<sup>4</sup> Lorraine C. Minnite, “The Politics of Voter Fraud,” (Washington, D.C.: Project Vote, 2007), *available at* [http://www.projectvote.org/wp-content/uploads/2007/03/Politics\\_of\\_Voter\\_Fraud\\_Final.pdf](http://www.projectvote.org/wp-content/uploads/2007/03/Politics_of_Voter_Fraud_Final.pdf).

<sup>5</sup> See “New Challenges in the Study of Right-wing Propaganda: Priming the Populist Backlash to ‘Hope and Change,’” *New Political Science* 34, no. 4 (2012): 506-26. In addition to voter fraud, the article examines two other contemporary cases of the uses of propaganda to stir up rightwing hysteria about plots to steal elections and undermine the Constitution, one concerning the now-defunct community organization, ACORN, the other an imagined conspiracy orchestrated by two university professors in the 1960s called the “Cloward-Piven Strategy” to “collapse the system” by overwhelming it with demands for welfare and other social services.

<sup>6</sup> A complete list of my peer-reviewed publications is set forth in my *Curriculum Vitae* at Appendix B.

- 1,048 newspaper articles covering the period, January 1, 2008 to December 9, 2015, from the Associated Press State Wire for Wisconsin, the *(Madison) Capital Times*, the *(Waukesha) Freeman*, the *Janesville Gazette*, the *La Crosse Tribune*, the *Milwaukee Journal-Sentinel*, the *Wisconsin State Journal*, the *(Cedarburg) News Graphic*, the *Oconomowoc Enterprise*, the *Times Press*, the *Washington County Daily News*, the *Superior Telegram*, the *Milwaukee Examiner*, the *La Crosse Examiner*, the *Green Bay Examiner*, the *Wausau Examiner* and the *Madison Examiner* and video from Fox 6 WITI; articles were obtained via a search of Newsbank (Access World News Database); 234 were relevant;
- all news releases produced by the Wisconsin Attorney General's Office, from January 2011 to November 2015 (N=1,396); and any additional news releases pre-dating January 2011, related to the "Election Fraud Task Force" initiative;
- criminal complaints for election fraud and summaries for cases filed by the Wisconsin Attorney General's Office and the Milwaukee County District Attorney's Office following the 2008, 2010, and 2012 elections;
- decisions of Wisconsin state courts and associated court documents concerning Act 23 (specifically, the Dane County Circuit Court, Wisconsin Court of Appeals, and Wisconsin Supreme Court decisions and documents including briefs and transcripts in *League of Women Voters v. Walker* and *NAACP v. Walker*); the opinions of the U.S. District Court for the Eastern District of Wisconsin, the U.S. Appeals Court for the Seventh Circuit, and the U.S. Supreme Court in *Frank v. Walker* and *LULAC v. Deininger*, as well as associated court documents as posted to The Ohio State University's Moritz College of Law's Election Law website (<http://moritzlaw.osu.edu/election-law/>) through Judge Adelman's October 19, 2015 decision concerning whether not recognizing certain forms of voter identification violates the 14th Amendment and constitutes a poll tax;
- documents created by and/or posted to the Wisconsin Government Accountability Board ("GAB" or "the Board") website ([www.gab.wi.gov](http://www.gab.wi.gov)), produced by searching the site using the phrase "voter fraud" (N=23); in addition, I reviewed all press releases from January 31, 2007 to November 3, 2015 (N=338), all publications classified as "Election Reports" (N=22), the Board's three biennial reports (for 2009-2011, 2011-2013, and 2013-2015), all testimony provided by Board members and the Executive Director from January 26, 2011 to October 27, 2015 (N=31), and all publications classified as "other," dated June 16, 2008 through October 26, 2015 (N=57).

### III. ANALYSES AND OPINIONS

#### A. Brief History of Voting Restrictions

Prior to the late nineteenth century, there were very limited voter registration

requirements placed upon eligible voters.<sup>7</sup> The earliest of registration laws put the obligation on the government to enroll qualified voters and allowed voters to register on Election Day.<sup>8</sup> The pool of eligible voters vastly expanded in the nineteenth century when property and tax-paying requirements for voter eligibility were mostly eliminated. By the end of the century, a competitive party system was helping to produce the highest rates of voter turnout in U.S. history. At the same time, however, states began adopting more onerous voter registration and voting laws, supplanting the restrictive effects of property requirements and shifting the burden of establishing voter eligibility away from the government to the individual.<sup>9</sup>

The United States has a long history of using electoral rules to suppress voting. Following the emancipation of African Americans and the enfranchisement of black men by the Civil War Amendments, a reactionary, white-supremacist counter-movement in the South arose to re-erect a system of racial subordination. By the turn of the twentieth century, African Americans had been virtually purged from the electorate of the southern states, at first by the use of violent intimidation and trickery, and later by the introduction or reintroduction of a series of superficially color-blind requirements intended to circumvent the Fourteenth and Fifteenth Amendments.<sup>10</sup>

Voter registration requirements were especially important because of the degree to which they ceded discretion to local registrars and election officials. Thus, an 1873 Georgia law permitted local registrars to close their books to new registrants except during the planting and harvesting months when African American farm workers were not likely to be able to travel to the county seat to register to vote. Once word of the effectiveness of this stratagem and other election administration techniques to disfranchise blacks spread, similar laws followed in North Carolina and Alabama.

Laws requiring voters to show their registration certificates before they were permitted to cast ballots were also effective in disenfranchising African Americans in the South. Most states

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<sup>7</sup> Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the U.S.* (New York: Basic Books, 2000), 151; Joseph P. Harris, *The Registration of Voters in the United States* (Baltimore: Lord Baltimore Press, 1929), 65-66; see also John Mark Hansen, et al., "Voter Registration," Reports of The Task Force on the Federal Election System (to accompany the Report of the National Commission on Election Reform, *To Assure Pride and Confidence in the Electoral Process*), National Commission on Federal Election Reform, August 2001, 2 (on file with author).

<sup>8</sup> Charles Edward Merriam and Harold Foote Gosnell, *The American Party System: An Introduction to the Study of Political Parties in the United States* (New York: The Macmillan Company, 1929); Harris, *Registration of Voters*, xi.

<sup>9</sup> Dayna L. Cunningham, "Who Are to Be the Electors? A Reflection on the History of Voter Registration in the United States," *Yale Law and Policy Review* 9, no. 2 (1991): 370-404.

<sup>10</sup> See Frances Fox Piven, Lorraine C. Minnite, and Margaret Groarke, *Keeping Down the Black Vote: Race and the Demobilization of American Voters* (New York: The New Press, 2009). The authoritative work on this subject is J. Morgan Kousser, *The Shaping of the Southern Politics: Suffrage Restriction and the Establishment of the One-Party South* (New Haven: Yale University Press, 1974).

adopting personal registration closed registration periods long before an election, and it would not be uncommon for illiterate and impoverished migrant farmers to lose track of paperwork. In addition, this rule made blacks doubly vulnerable to harassment and attack as they made their way to the polling place. There are numerous accounts from the period of blacks walking to the county seat to vote and being set upon by white mobs who robbed them of their registration papers. For example, in November 1876, the Republican governor of Louisiana wrote to Republican National Committee officials in New York:

Dispatches from Ouachita and Morehouse Parishes, near the Arkansas line, and West Feliciana near the Mississippi line, report that their parishes are now patrolled by the White League, reinforced by armed bodies from Arkansas and Mississippi. Most of the Republican leaders have been driven away or murdered. Under the State law voters are entitled to vote at any poll in the parish in which they reside. The colored people generally are attempting to reach the parish seats of those parishes in order to vote under the protection of the authorities. Numbers of them have been intercepted by the White League pickets, and their registration papers destroyed.<sup>11</sup>

Election fraud documented by early election reformers was not primarily committed by individual voters, who were the target of election reforms to widen the franchise, but instead by election officials and politicians engaging in conspiracies who are unaffected by these types of reforms.<sup>12</sup> Prior to the widespread adoption of the secret ballot, party agents arguably used “inflationary” corruption by buying votes and recycling voters.<sup>13</sup> Afterward, parties pursued “deflationary” corruption by paying opponents to stay home or otherwise defeating their efforts to vote, using devices such as poll taxes, literacy tests, long residency periods, and other onerous requirements for voter registration to further their means. For example, more than a hundred years ago, A.W. Terrell, the chief architect of the Texas poll tax, argued that it would *prevent* fraud in the form of vote buying. However, as Burton concludes in his expert report for plaintiffs in *Texas League of Young Voters v. State of Texas*, the fraud-prevention argument was only a pretext for disguising supporters’ true intent “to disfranchise African-American voters.”<sup>14</sup> Further, while reformers enacted voter registration as a means to subdue broader electoral fraud, it remains unclear whether the reforms played any part in reducing it.<sup>15</sup>

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<sup>11</sup> “The Close of the Canvass,” *New York Times*, November 7, 1876, 1.

<sup>12</sup> See Joseph P. Harris, *Election Administration in the United States* (Washington, D.C.: The Brookings Institution, 1934), 375-76 (“Isolated, individual cases of election frauds are uncommon and unimportant. Election frauds cannot be carried on successfully and upon a wide scale without protection, without the pre-arrangement of election officers who will ‘deliver’ if necessary, and without the backing of a powerful political organization.”).

<sup>13</sup> Gary W. Cox and J. Morgan Kousser, “Turnout and Rural Corruption: New York as a Test Case,” *American Journal of Political Science* 25, no. 4 (1981): 646-63.

<sup>14</sup> Orville Vernon Burton, Expert Report on Behalf of Plaintiff-Intervenors, *The Texas League of Young Voters Education Fund and Imani Clark*, Civ. No. 2:13-cv-00263 (2014), 12.

<sup>15</sup> Paul Kleppner, *Who Voted? The Dynamics of Voter Turnout 1870-1980*, American Political Party and Election Series (New York: Greenwood Publishing Group, Inc., 1982), 59-60.



No conclusive tie between enfranchising reform and voter fraud has ever been proven. Yet at each significant effort to protect and extend the right to vote, franchising opponents argued that reduced barriers would lead to voter fraud. This alleged threat to election integrity has been taken up by congressional opponents time and time again, for example, in debates over the Voting Rights Act of 1965, the Universal Voter Registration Act of 1977, and the National Voter Registration Act of 1993 (NVRA).<sup>16</sup> In addition, Groarke details the use of spurious fraud claims to defeat or limit the effectiveness of three national efforts to facilitate voter turnout by reforming voter registration requirements. These efforts included Wyoming Senator Gale McGee’s campaign for national postcard registration in the early 1970s, President Carter’s effort to enact Election Day registration, and the campaign for comprehensive voter registration reform that resulted in the passage of the NVRA.<sup>17</sup>

## B. Defining “Voter Fraud”

No statute exists specifically defining “voter fraud.”<sup>18</sup> Instead, nefarious election-related practices are prevented by state laws making “double voting,” “falsifying records,” and the like illegal.<sup>19</sup> Wisconsin statutes, for example, make no mention of voter fraud. Rather, “election fraud” is codified as follows:

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<sup>16</sup> See, e.g., U.S. Congress, Senate Committee on the Judiciary, “To Enforce the 15th Amendment to the Constitution of the United States: Hearings on S.1564,” 89th Cong., 1st sess., 1965; U.S. Congress, House Committee on House Administration, “To Establish a Universal Voter Registration Program, and for Other Purposes: Hearings on H.R. 5400,” 95th Cong., 1st sess., 1977; and U.S. Congress, House Committee on House Administration, Subcommittee on Elections, “Hearing on Voter Registration,” 103rd Cong., 1st sess., January 26, 1993. For an important account of the movement to reform voter registration laws leading to the passage of the National Voter Registration Act of 1993, see Frances Fox Piven and Richard A. Cloward, *Why Americans Don’t Vote and Why Politicians Want It That Way* (Boston: Beacon Press, 2000); see also Piven, et al., *Keeping Down the Black Vote*.

<sup>17</sup> Margaret Groarke, “The Impact of Voter Fraud Claims on Voter Registration Reform Legislation,” *Political Science Quarterly*, forthcoming.

<sup>18</sup> Vermont is one of the few states to use the phrase “fraudulent voting” in its election code. See Vermont Statutes, Title 17: Elections, Chapter 035: Offenses Against the Purity of Elections, Subchapter 003: Miscellaneous, § 2015 Fraudulent Voting, available at <http://legislature.vermont.gov/statutes/section/17/035/02015>.

<sup>19</sup> For example, in North Carolina, it is a Class 1 felony for any person “knowingly to swear falsely with respect to any matter pertaining to any primary or election” or “to take corruptly the oath prescribed for voters.” N.C. Gen. Stat. § 163-275 (2013). In Texas, it is a third degree felony to “vote or attempt to vote in an election in which the person knows the person is not eligible to vote; knowingly votes or attempts to vote more than once in an election; or knowingly impersonates another person and votes as the impersonated person.” Tex. Elec. Code Ann. § 64.012 (2003). California prohibits specific election related activity like fraudulent registration, voting in an election which one is not entitled to vote in, voting more than once, or trying to buy a vote with the promise of a job. Cal. Elec. Code § 18520 (1994). In Minnesota, it is a felony to submit more than one absentee ballot, to assist another in submitting more than one absentee ballot, or to alter another’s absentee ballot. Minn. Stat. § 203B.03 (1999). In New Jersey, it is a third degree crime to “fraudulently vote...or in any manner so interfere...with the

Whoever intentionally does any of the following violates this chapter:

- (a) Votes at any election or meeting if that person does not have the necessary elector qualifications and residence requirements.
- (b) Falsely procures registration or makes false statements to the municipal clerk, board of election commissioners or any other election official whether or not under oath.
- (c) Registers as an elector in more than one place for the same election.
- (d) Impersonates a registered elector or poses as another person for the purpose of voting at an election.
- (e) Votes more than once in the same election.
- (f) Shows his or her marked ballot to any person or places a mark upon the ballot so it is identifiable as his or her ballot.
- (g) Procures an official ballot and neglects or refuses to cast or return it. This paragraph does not apply to persons who have applied for and received absentee ballots.
- (h) Procures, assists or advises someone to do any of the acts prohibited by this subsection.<sup>20</sup>

Nevertheless, the process of formulating precise definitions is critical in the social sciences because it allows accurate measurement of empirical phenomena.<sup>21</sup> To develop the definition of voter fraud, I examined the electoral process and looked at the capacity of various actors in the political process to impact the outcome and integrity of elections. The actors with that capacity include, but are not limited to, voters, campaign officials, elected officials, and election poll workers.

I examined the parts of the political process that different actors could corrupt, and found a distinction between what voters can corrupt compared to what other electoral actors can corrupt. Voters are only capable of corrupting that part of the electoral process to which they have access. For example, voters cannot corrupt the election count; only an official with broad access could corrupt an entire count. But, individual voters can corrupt their registration process and balloting by falsifying their records or identity on a registration application and/or fraudulently misrepresenting themselves to poll workers.

By breaking up the electoral process according to its various stages and the actors that participate, I can specify my fraud definition to the data that I study: the behavior of individual voters. Accordingly, my definition of voter fraud is, “the intentional corruption of the voting

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voters lawfully exercising their rights of voting at the election, as to prevent the election or canvass from being fairly had and lawfully conducted.” N.J. Stat. Ann. § 19:34-11 (2011).

<sup>20</sup> Wis. Stat. § 12.13 (2015).

<sup>21</sup> W. Phillips Shively, *The Craft of Political Research*, 5th ed. (Upper Saddle River, New Jersey: Prentice Hall, 2002), 30-8.



process by voters.” This definition is specific to the elements I research.<sup>22</sup>

I emphasize the importance of intent in my definition, distinguishing election errors such as misspelled names and recording mistakes. Although these mistakes can produce irregularities, they should not be included in a definition of fraud that limits itself to nefarious acts *intentionally* committed by voters.<sup>23</sup>

### C. Analysis of Voter Fraud Nationally

To study and measure the contemporary incidence of voter fraud for *The Myth of Voter Fraud*, I used a “mixed methods” research approach, which is common in the social sciences. This methodology utilizes qualitative, quantitative, and archival research. I interviewed a wide range of people, including, but not limited to, prosecutors, defense lawyers, election officials, voters, academics, and people working on voter registration drives. Based on my work, I have concluded that allegations of voter fraud, with few exceptions, tend to fall into one of the three following categories: unsubstantiated or false allegations of voter fraud made by the losers of close elections;<sup>24</sup> mischief; and claims that later turned out to be based upon cases of voter error or administrative mistakes, but not fraud.<sup>25</sup>

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<sup>22</sup> The next best definition I found is provided by the U.S. Department of Justice. Its definition of “election fraud” is over-broad for purposes of this analysis, however, because it includes acts to intimidate voters and covers official malfeasance, such as ballot box stuffing or corruption of the count. (“Election fraud usually involves corruption of one of three processes: the obtaining and marking of ballots, the counting and certification of election results, or the registration of voters.” See Craig C. Donsanto and Nancy L. Simmons, *Federal Prosecution of Election Offenses*, 7th ed., U.S. Department of Justice, Criminal Division, Public Integrity Section (Washington, D.C.: Government Printing Office, 2007, 2-3)). See also U.S. Department of Justice, “Fact Sheet: Protecting Voting Rights and Preventing Election Fraud,” July 2, 2008, available at <http://www.justice.gov/opa/pr/2008/July/08-crt-585.html>. Because voters do not have access to those activities, they are not included in my definition of voter fraud.

<sup>23</sup> See chapter 2 of *The Myth of Voter Fraud* (“What Is Voter Fraud?”) for a detailed discussion of the scholarly literature that I draw upon to derive and justify my definition of voter fraud, including the concept of criminal fraud in legal scholarship. I argue there that, “The idea of deceit is fundamental to the legal notion of fraud in criminal law. There is no fraud without deceit. In fact, the word *fraud* derives from the Latin *fraus*, which means “deceit.” *Black’s Law Dictionary* defines fraud as ‘a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.’” See Minnite, *The Myth of Voter Fraud*, 26.

<sup>24</sup> For a discussion of fraud and the sore loser, see generally Michelle L. Robertson, “Election Fraud – Winning at All Costs: Election Fraud in the Third Circuit (*Marks v. Stinson*),” *Villanova Law Review* 40, no. 3 (1995): 869-925.

<sup>25</sup> Minnite, “The Politics of Voter Fraud,” 12-13. I also reviewed hundreds of news articles cited in a report by the now-defunct American Center for Voting Rights, which purported to be “the most comprehensive and authoritative review of the facts surrounding allegations of vote fraud, intimidation and suppression made during the 2004 presidential election.” From this review I concluded that “among the more than one hundred cases cited of alleged voter fraud implicating nearly 300,000 potentially fraudulent votes in the 2004 election cycle, only about 185 votes

The basis of the quantitative research in the book comes from a data set produced by the Administrative Office of the United States Courts that is available to researchers through the Inter-University Consortium for Political and Social Research (ICPSR).<sup>26</sup> This data set is a complete and total record of all indictments and cases tried annually in federal courts.

In addition, I relied on the record of federal indictments generated during the first three years of a special program at the U.S. Department of Justice. In March 2001, United States Attorney General John Ashcroft announced the Ballot Access and Voting Integrity Initiative (BAVII).<sup>27</sup> The BAVII brought together civil rights and criminal division lawyers of the Justice Department for an Election Day program. The stated purpose of this program was to help attorneys recognize election fraud and voter intimidation and to provide their services to voters who receive complaints of the same.

After numerous unsuccessful attempts at locating information regarding voter fraud from the BAVII, including a Freedom of Information Act request made to four different units of the U.S. Department of Justice that took more than two years, an appeal, and the intervention of my U.S. Senator to process, I found a case list of indictments brought under the program in the records of a congressional hearing held in 2006.<sup>28</sup> The list, which was prepared by the U.S. Department of Justice, records 95 indictments over the first three years of the program (FY2002 to FY2005). I concluded that this was a complete list of indictments brought under the BAVII for those three years by comparing it to Justice Department press releases announcing numbers of indictments brought under the program. I researched the BAVII indictments and concluded that only 40 of the 95 people indicted were voters; the other 55 people were associated with elections in other ways, for example, serving as campaign, party or election officials.

There are no officially compiled national or statewide statistics reliably reporting the instances of voter fraud. Using the same standard for judging voter fraud crime rates as we do for other crimes (which is to calculate the incidence of crime from law enforcement statistics on arrests, indictments and convictions), we must conclude that the scant evidence of arrests, indictments or convictions for any of the practices defined as voter fraud means that little fraud is being committed relative to the millions of votes cast each year in state, local and federal elections. In other words, the lack of an accurate centralized tracking system is itself evidence

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could be confirmed as *possibly* tainted by fraud.” [emphasis added] See also Minnite, *The Myth of Voter Fraud*, 12.

<sup>26</sup> The ICPSR is an international consortium of about 700 academic institutions and research organizations that maintains a data archive of more than half a million files of research in the social sciences. See [www.icpsr.umich.edu](http://www.icpsr.umich.edu) for more information.

<sup>27</sup> U.S. Department of Justice, press conference, Washington, D.C., March 7, 2001, available at <http://www.justice.gov/archive/ag/speeches/2001/0307civilrightspressconf.htm>. See also Dan Eggen and David A. Vise, “Ashcroft Takes on Voting Issues; Enforcement, Monitoring of Election Laws to Be Increased,” *Washington Post*, March 8, 2001, A19.

<sup>28</sup> U.S. Congress, House Committee on House Administration, “Hearing on ‘You Don’t Need Papers to Vote?’: Non-Citizen Voting and ID Requirements in U.S. Elections,” 109th Congress, 2d Sess., June 22, 2006, 245-54.

that voter fraud is not the threat to elections some claim it is.

Some argue that crime statistics are an invalid measure of the extent of voter fraud. Proponents of this view typically offer two reasons for this: 1) prosecutors are biased and do not pursue voter fraud cases; and 2) voter fraud escapes detection. Neither of these arguments is supported by evidence.

First, the claim that prosecutors are biased against pursuing actual voter fraud cases is unsupported by any evidence. As described above, the federal government *designed a program* in 2001 to root out voter fraud in federal elections. In its first three years, under vigorous prosecution, this program produced just 40 indictments of voters, 26 of whom pleaded or were found guilty. More than 200 million votes were cast in the 2002 and 2004 federal elections combined. Thus, we have an important example of prosecutors pursuing voter fraud cases, and yet almost no voter fraud was actually prosecuted. Data from Minnesota also refutes the claim that voter fraud is not prosecuted because it is not investigated. In Minnesota, county district attorneys are required by law to investigate complaints of voter fraud and risk losing their jobs if they fail to. My research into voter fraud in Minnesota between 1999 and 2005 turned up only one prosecuted case, however.<sup>29</sup>

Second, some argue that voter fraud is next to impossible to detect, and therefore, again, statistics from the law enforcement effort against it are irrelevant. This argument is not persuasive. It is simply illogical to argue that a lack of evidence that a phenomenon is occurring means it is widespread. All crime, including fraud, is meant to be concealed, and yet there are many types of fraud that are routinely detected and prosecuted. There is no reason to believe that voter fraud is less detectable than social security fraud, counterfeiting, tax evasion, or postal or wire fraud. Indeed, these forms of fraud share qualities with voter fraud. For example, social security fraud can involve impersonation and making false claims about eligibility, counterfeiting can involve forgery and making false claims about identity, and tax evasion can involve false claims of residence; moreover, mail fraud statutes have been used to prosecute voter fraud. In federal fiscal year 2005, there were 183,284 criminal indictments brought in the federal courts.<sup>30</sup> Among these we find the following:

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<sup>29</sup> See Minnite, *The Myth of Voter Fraud*, 61-6.

<sup>30</sup> Federal Judicial Center, Federal Court Cases: Integrated Database (“FCCID”), 1997, 2005 [computer file], conducted by the Federal Judicial Center, ICPSR04306, ICPSR04382, Ann Arbor, Mich.: Inter-University Consortium for Political and Social Research [producer and distributor]; author’s calculations.

<b>Criminal charge<sup>31</sup></b>	<b>FY2005</b>
Election fraud violations <sup>32</sup>	60
Other fraud violations	
Citizenship fraud	776
Social Security fraud	1,980
False claims and statements	6,658
Counterfeiting	3,161
Postal, Internet, and wire fraud	6,929
Tax evasion	781
<b>Total criminal defendants</b>	<b>183,284</b>

These data suggest that the claim against a methodology relying on measures of law enforcement to assess the threat of voter fraud to the integrity of U.S. elections is of little merit. It is not unreasonable to estimate crime rates from data produced by the law enforcement effort against it. In the absence of contradictory or alternative evidence, such as expert opinion, crime statistics on voter fraud present benchmarks that can guide policymakers in establishing priorities and designing election systems to provide the widest possible access to the franchise.

Data collected in close elections and recounts provide the best-documented cases of the operations of election administration, and therefore, generate data we can use to examine voting irregularities more closely. In these instances, the statistics on voter fraud committed in polling locations are virtually zero. An important example is the 2004 Washington State gubernatorial election, one of the most closely scrutinized elections in modern history. The initial winner lost on a recount, spurring a blizzard of litigation that produced scrupulous documentation of the electoral process.<sup>33</sup> In the end, after allegations of voter fraud surfaced during trial proceedings, Chelan County Superior Court Judge John E. Bridges concluded that some 25 ballots or .0009 percent of the total 2,812,675 ballots cast were invalid because they were either cast in the names of deceased voters or were double votes.<sup>34</sup> What the judge did not find was voter fraud.<sup>35</sup> In

<sup>31</sup> At least one of the top five filing charges for each defendant falls into crime category.

<sup>32</sup> The FCCID, which purports to be “the official public record of the business of the U.S. courts,” does not code indictments for voter fraud. Instead, it includes a category of “election law violations,” following the coding scheme of the Administrative Office of the U.S. Courts, which is responsible for compiling this data. I created a category of “election fraud violations” by excluding indictments for campaign finance violations, but I was not able to further exclude non-voters. This measure, therefore, is not directly comparable to other sources of data on federal investigations and prosecutions of voter fraud cases cited in this report. On the FCCID, see Federal Judicial Center, “Description,” Federal Court Cases: Integrated Database, 2005, conducted by the Federal Judicial Center ICPSR04382 (Ann Arbor, Mich.: Inter-University Consortium for Political and Social Research).

<sup>33</sup> See chapter 6 of *The Myth of Voter Fraud*, 113-28 for a case study of this election.

<sup>34</sup> “Final Judgment Dismissing Election Contest with Prejudice and Confirming Certification of Election of Christine Gregoire,” *Timothy Borders, et al. v. King County et al.*, Case No. 05-2-00027-3, Superior Court of the State of Washington for Chelan County, June 24, 2005.

Judge Bridges' words, "The Court concludes that, having neither pled nor disclosed . . . fraud [it] cannot now be claimed and that to the extent that it was claimed, neither the act of fraud nor the causation arising therefrom were proved by the higher burden of proof of clear, cogent and convincing."<sup>36</sup> Many of these ballots were mailed in for absentee voters, and the judge made no determination that any were in fact *fraudulently* (i.e., intentionally illegally) cast as opposed to attributable to a mistake.

Finally, where the authorities are focused on observing fraud in polling places, there have been very few indictments nationally. As noted above, in the first three years of the BAVII, the Justice Department brought a total of 95 indictments against an array of voters, election workers, and party and public officials.<sup>37</sup> A review of data from the U.S. Department of Justice's case management system and other records found no cases of voter impersonation at the polls charged by the Department's Criminal Division or by any U.S. Attorney's office over a ten-year period, from 2004 to 2014.<sup>38</sup> In a 1983 law review article, Craig Donsanto, the long-serving (former) director of the Criminal Division's Elections Crimes Branch stated that, "Most election fraud is easily recognized."<sup>39</sup> Donsanto was steadfast in his view, reiterating it across several editions of the manual he and his staff prepared for U.S. Attorneys and other prosecutors and investigators of election crimes. In the most recent version of that manual (2007), Donsanto and Simmons state:

There are several reasons why election crime prosecutions may present an easier means of obtaining convictions than do other forms of public corruption:

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<sup>35</sup> In 2005, the King County Prosecutor Norm Maleng (a Republican) prosecuted eight criminal cases of voter fraud in the 2004 election. Seven of the eight were charged with voting for a deceased spouse, partner, or other relative, and one person was charged with voting twice after registering twice, once under his real name and again under an alias. All eight pleaded guilty. See Letter to Jonathan Bechtle from Norm Maleng, January 31, 2007 (on file with author). Some of the voter fraud perpetrators were in their seventies and eighties. The lawyer for one, Doris McFarland, age eighty-three, said his client "simply did not know what to do with the absentee ballot after her husband of 63 years, Earl, passed away" in the month before the election, so she signed his name and mailed the ballot. Another man, Robert Holmgren, age fifty-nine, told the judge for his case that "my wife died just before this election. My judgment was clouded by the grief, I'm really sorry for what I did." According to a news report, "The judge told each client the court was sorry for their losses and wished them luck." Gene Johnson, "Two Plead Guilty to Voting Twice in 2004 General Election," *Associated Press State & Local Wire*, June 2, 2005.

<sup>36</sup> "Final Judgment Dismissing Election Contest," 24.

<sup>37</sup> See BAVII cast list, U.S. Department of Justice, Criminal Division, Public Integrity Section, "Election Fraud Prosecutions and Convictions: Ballot Access and Voting Integrity Initiative," Oct. 2002 – Sept. 2005, n.d. (on file with author).

<sup>38</sup> U.S. Government Accountability Office, *Elections: Issues Related to State Voter Identification Laws*, Report to Congressional Requesters GAO-14-634, September 2014 (Revised February 27, 2015), 70 (citing *Veasey v. Perry*, No. 13-193 (S.D. Tex. July 7, 2014), ECF No. 390-2).

<sup>39</sup> Craig C. Donsanto, "Federal Jurisdiction Over Local Vote Fraud," *University of Baltimore Law Review* 13, no. 1 (1983), 4.



- Election crimes usually occur largely in public.
- Election crimes often involve many players. For example, successful voter bribery schemes require numerous voters; ballot box stuffing requires controlling all the election officials in a polling location; illegal political contributions generally involve numerous conduits to disguise the transaction.
- Election crimes tend to leave paper trails, either in state voting documentation or in public reports filed by federal campaigns.<sup>40</sup>

In other words, committing voter fraud at the polling place is an inefficient method for corrupting an election. The perpetrator must commit the crime in front of the very people charged with preventing it.

#### **D. The Question of Evidence**

It is fair to argue that in 2002, when Republicans on the Congressional conference committee charged with reconciling the House and Senate election reform bills that became the Help America Vote Act slipped a voter identification requirement into the final bill nearly derailing its passage, no one knew for certain whether anecdotal stories about dogs registering and “cemetery” votes were urban legends or something more. Given the significance and urgency of the question, I began an exhaustive study of the incidence of voter fraud in contemporary U.S. elections. That work was published in various forms in 2003 and 2007, and then as an academic book in 2010 (as discussed above).

I found no evidence to support claims that voter fraud, defined as the corruption of the electoral process by voters, was a problem anywhere in the nation of a magnitude that called for imposing more restrictions on access to the ballot. I am not aware of any scholarship disputing my findings. Instead, I found that voter fraud allegations are more often than not the coded language of partisans used to shape public opinion and the debate over electoral rules that, in turn, contour the electorate in ways that advantage the partisans who make the allegations and advance the rules. The findings support the conclusions of my (co-authored) 2009 book, *Keeping Down the Black Vote*, which draws on historical evidence and argues that electoral demobilization is a central feature of party competition in the U.S., with race as its fulcrum. Chapter 6 describes demobilization dynamics since the disputed 2000 presidential election, documenting how Republican Party operatives targeted African American and minority communities with a variety of voter suppression tactics, some old, some new, such as misinformation campaigns, voter “caging” and aggressive challenging of voter eligibility at the polls, the manipulation and unlawful purging of voter registration records, and trumped up voter fraud investigations.<sup>41</sup>

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<sup>40</sup> Craig Donsanto and Nancy Simmons, *Federal Prosecution of Election Offenses*, 7th ed., U.S. Department of Justice, Criminal Division, Public Integrity Section, Elections Crimes Branch (Washington, D.C.: U.S. Government Printing Office, 2007), 2.

<sup>41</sup> See also Chandler Davidson, Tanya Dunlap, Gale Kenny and Benjamin Wise, “Vote Caging as a Republican Ballot Security Technique,” *William Mitchell Law Review* 34, no. 2 (2008): 533-



Subsequent research on the incidence of voter fraud I conducted in conjunction with the preparation of expert reports for plaintiffs in federal and state court cases challenging measures restricting access to voting in Pennsylvania, Wisconsin, Texas, North Carolina, and Ohio (*see* Appendix C) corroborated my previous findings, none of which were rebutted by defendants or their experts in those cases.<sup>42</sup>

Voter identification laws have received the most media attention nationally, but states have passed other limiting reforms, such as those identified by Plaintiffs in this case. A pattern of stark partisanship in the arguments for and against voter identification and other restrictive measures emerged after the contested 2000 presidential election, with Republicans introducing and adopting these laws in states with Republican majorities and unified control over state government in the face of fierce opposition from Democrats.<sup>43</sup> After the U.S. Supreme Court

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62; Tova Andrea Wang, *The Politics of Voter Suppression: Defending and Expanding Americans' Right to Vote* (Ithaca, N.Y.: Cornell University Press, 2012).

<sup>42</sup> For example, *see* Memorandum Opinion by Judge Simpson, Determination on Application for Preliminary Injunction, *Applewhite v. Commonwealth of Pennsylvania*, No. 330 M.D. 2012 (2012): “Respondents’ efforts to minimize these stipulated facts [that there have been no incidents, investigations or prosecutions of in-person voter fraud in Pennsylvania] were not convincing” (59); Memorandum Opinion by Judge McGinley, *Applewhite v. Commonwealth of Pennsylvania*, 330 M.D. 2012 (2014): “...this Court does not find in-person voter fraud a compelling interest the Voter ID Law was designed to serve.” (38); Decision and Order, Judge Lynn Adelman, *Frank v. Walker*, Case No. 11-CV-01128 (2013): “The evidence at trial established that virtually no voter impersonation occurs in Wisconsin” (10-11); Order, Judge Nelva Gonzales Ramos, *Veasey v. Perry*, Civil Action No. 13-CV-00193 (2014): “This Court finds that instances of in-person voter impersonation fraud in Texas are negligible” (17).

<sup>43</sup> The states enacting voter identification laws during this period include: Alabama, Arizona, Colorado, Indiana, Michigan, Montana, North Dakota, Ohio, South Dakota, and Washington. The three states tightening existing identification laws during this period were Florida, Georgia, and Missouri. In the period between the passage of the HAVA in 2002 and the *Crawford* decision, there are a few exceptions to the association of Republican control of state government and the passage of voter identification laws. Arizona’s voter identification law was established by ballot initiative in 2004 (Proposition 200) to overcome opposition by the state’s Democratic governor as part of a package of changes to electoral procedures. The law was challenged in federal court and eventually upheld by the Ninth Circuit Court of Appeals, sitting *en banc*. The requirement that voter registration applicants show proof of citizenship was struck down, however. Michigan’s voter identification law went into effect in 2007, when control of the state legislature was split between Republicans and Democrats. However, when Republicans controlled both houses of the legislature in 2005 they passed 2005 PA 71, which re-enacted a 1996 voter identification law (MCL 168.523), also passed by a Republican-dominated legislature and a Republican Governor, that had been blocked from implementation for nine years by a Michigan Attorney General’s Opinion (No. 6930) finding the law unconstitutional. Democrats then took control of the lower house in 2006. The following year, the Michigan Supreme Court over-ruled the Attorney General’s interpretation of the 1996 law and upheld 2005 PA 71. In June 2012, Republican Governor Rick Snyder vetoed a package of voter identification bills that

validated Indiana's voter identification law in *Crawford v. Marion County Election Board*,<sup>44</sup> another flurry of states passed increasingly stringent voter identification laws between that decision and the Court's nullification of the pre-clearance provisions of the Voting Rights Act in 2013 in *Shelby County v. Holder*.<sup>45</sup> Again, the pattern of partisan division in the promotion and resistance to these laws is noteworthy.<sup>46</sup>

Statistical research by social scientists confirms the partisan bias. For example, Rocha and Matsubayashi use a duration modeling approach and data drawn from 49 states for the

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would have required voters to show proof of citizenship and a photo identification to vote an absentee ballot. Washington State's polling place identification law was passed by Democrats in a conciliatory gesture following the contested 2004 gubernatorial election in which a Republican won with a razor thin margin on the first ballot count, only to see his victory reversed and a Democrat prevail after a recount. It provides for a wide range of acceptable identification documents. Since most Washingtonians vote by mail, the application of the law is limited.<sup>44</sup> 553 U.S. 181 (2008).

<sup>45</sup> 133 S. Ct. 2612 (2013). These states are: Idaho, Kansas, Mississippi, New Hampshire, Oklahoma, Pennsylvania, Rhode Island, Utah, and Wisconsin. South Carolina, Tennessee, Texas, and Virginia all tightened their existing voter identification laws.

<sup>46</sup> As before, there are a few exceptions, and as before they show the resilience of Republican proponents of voter identification to overcome the opposition of Democratic legislators with veto-overrides and ballot initiatives. In response to the Mississippi state senate's failure to pass a photo identification law (the state legislature was controlled by Democrats), the Republican Secretary of State and a Republican State Senator co-sponsored a ballot initiative to amend the state's constitution to require voters to present a government-issued photo identification in order to cast a ballot. The measure passed in the November 2011 election. Its implementation was initially delayed by the Voting Rights Act's pre-clearance process. In New Hampshire in June of 2012, the Republican state legislature over-rode Democratic Governor John Lynch's veto of a new voter identification law to be phased in by 2013, which requires New Hampshire voters to show one of just four forms of government-issued photo identification. Voters who lack the proper documents will still be able to vote as long as they sign "challenged" affidavits and consent to having their pictures taken by poll workers.

After Oklahoma's Democratic governor vetoed a photo identification bill, the Republican-controlled state legislature voted to place the issue before the voters who approved the measure in November 2010. Rhode Island is the lone outlier in the post-2002 states, where voter identification laws have otherwise been promoted and adopted by Republicans. Intra-party factionalism among Blacks and Latinos within the Democratic Party appears to have been the conflict producing curbs on access to the ballot there (*see* Simon van Zuylen-Wood, "Why Did Liberal African-Americans in Rhode Island Help Pass a Voter ID Law?," *New Republic*, February 7, 2012, *available at* <http://www.newrepublic.com/article/politics/100429/rhode-island-voter-id-laws-hispanic>). In 2011, a Democratic-controlled legislature and an Independent Governor (who had been a Republican and is now a Democrat) passed a flexible law that requires a photo, but not that the identification be issued by a government. If a voter lacks the requisite identification, he or she may vote a provisional ballot, to be counted if the local election board determines that the voter's signature matches the signature on the registration application. *See* R.I. Gen. Laws § 17-19-24.2.

period 1980 to 2011 to test the relationships between the likelihood of a state adopting a photo identification law, racial context, and partisan control of state government. They find that unified Republican control of state government increases the likelihood of approval of a photo identification law 16 times over that of other configurations of state governmental party representation and control.<sup>47</sup>

In an important 2013 article in *Perspectives on Politics*, a high-ranking journal of the American Political Science Association, Bentele and O'Brien, using different data and alternative statistical modeling techniques, extend the analysis of the determinants of restrictive voting legislation by modeling both the proposal and passage of such analysis in recent years, and by expanding the definition of restrictive voting legislation to include proof-of-citizenship laws, curbs on voter registration, rollbacks in access to absentee balloting and early voting, and restrictions on voter participation by citizens with felony convictions. They conclude:

In sum, [our] findings suggest that over the 2006-2011 period, states that increased their share of Republican legislators, elected a Republican governor, or became more competitive in the electoral college *in the presence of* a Republican majority in the state house were more likely to pass restrictive voter legislation. States experiencing increasing minority turnout were also more likely to pass restrictive legislation...Our analyses identify a very substantial and significant association between the racial composition of a state's residents or active electorate and both the proposal and passage of voter restriction legislation. This association is robust across multiple modeling approaches and controlling for a wide variety of relevant factors. Further, these findings demonstrate that the emergence and passage of restrictive voter access legislation is unambiguously a highly partisan affair, influence by the intensity of electoral competition. The fact that in the context of heightened competition Republican control increases while Democratic control reduces, the rate of restrictions passed underlines the highly strategic nature of these efforts...these findings are strongly consistent with a scenario in which minority voter suppression is a central driver of recent legislative developments restricting voter access (emphasis in the original).<sup>48</sup>

As voter identification and other bills restricting voter access wended their way through dozens of state legislatures in recent years, *no empirical evidence documenting a systematic problem with voter fraud has been presented by supporters of these bills anywhere to justify imposing the new burdens*. Instead, unsupported claims, dubious first-hand accounts, anecdotes, hunches, spurious accusations, references to electoral corruption in the past, biased reporting, as well as alleged evidence of voter fraud that is not evidence of voter fraud, was entered into the legislative record. In a number of cases where lawmakers asked state election officials to review

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<sup>47</sup> Rene R. Rocha and Tetsuya Matsubayashi, "The Politics of Race and Voter ID Laws in the States: The Return of Jim Crow?" *Political Research Quarterly* 67, no. 3 (2014): 666-679.

<sup>48</sup> Keith G. Bentele and Erin E. O'Brien, "Jim Crow 2.0? Why States Consider and Adopt Restrictive Voter Access Policies," *Perspectives on Politics* 11, no. 4 (2013), 1103.

their records and report on the evidence of voter fraud in the state, they were informed that there was very little voter fraud.<sup>49</sup>

Over and over again, when voter fraud allegations are investigated, they turn out to be simple mistakes by election administrators or voters themselves. Take, for example, a 2007 audit of the voter registration rolls by the North Carolina State Auditor, which purportedly found that some 380 deceased voters appeared to have voted in elections between 2004 and 2006, after their dates of death. The State Board of Elections investigated and found that in *all* cases, the voters had died during the absentee voting period after having sent in an absentee ballot.<sup>50</sup> During the pre-clearance review of South Carolina's voter identification law in 2011, the state's Attorney General reported that his investigation of the state's voter rolls had identified over 900 instances of dead people voting in recent elections.<sup>51</sup> When South Carolina's State Election Commission examined the list (sampling 207 of the allegedly fraudulent votes), it found simple human error in 95 percent of the cases. There was not enough information to determine the status of the other five percent of cases.<sup>52</sup>

### **E. Recent Developments in Wisconsin**

Following the 2004 presidential election, the *Milwaukee Journal Sentinel* reviewed Milwaukee's voting records. The most troubling finding from the detailed computer analysis made by the newspaper was that as many as 1,242 votes, three-quarters of them cast by people registering on-site on election day, appeared to have come from invalid addresses. Another 1,305 registration cards with discernible flaws, such as missing addresses or missing names, were accepted on election day from voters who were then allowed to vote.<sup>53</sup> The newspaper

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<sup>49</sup> For example, in the legislative debate in North Carolina over H.B. 589, an omnibus election reform bill that eliminated Same Day Registration and imposed a strict photo identification requirement, lawmakers were presented with evidence that between 2000 and 2014, the State Board of Elections, a quasi-judicial agency that has wide jurisdiction over elections in the state, referred only two cases of possible voter impersonation to local prosecutors for further investigation. See Lorraine C. Minnite, Expert Report, *North Carolina State Conference of the NAACP v. McCrory*, Case No. 1:13-cv-00658-TDS-JEP, February 12, 2015, 16-17.

<sup>50</sup> See Letter from Gary Bartlett, Executive Director of the North Carolina State Board of Elections to the Hon. Leslie W. Merritt, Jr., State Auditor, dated June 13, 2007, 9 (on file with author).

<sup>51</sup> "South Carolina Attorney General Informs Justice Department of Voter Fraud," Associated Press, *Augusta Chronicle*, January 21, 2012.

<sup>52</sup> Letter from Marci Andino, Executive Director, South Carolina Election Commission to The Honorable Alan Wilson, Attorney General of South Carolina, dated February 22, 2012, available at <http://images2.americanprogress.org/campus/web/South%20Carolina%20Election%20Fraud%20Report.pdf>.

<sup>53</sup> Greg J. Borowski, "Over 1,200 Voters' Addresses Found Invalid; Some Mistakes Easily Explained, but Milwaukee Flaws Raise Concerns about Shoddy Record Keeping, Possible Fraud," *Milwaukee Journal Sentinel*, January 25, 2005, A1; Greg J. Borowski, "Fraud or Bumbling, Voter Problems Still Unnerving to Public," *Milwaukee Journal Sentinel*, January 30, 2005, A1.

opined on its own investigation and reporting: “Republicans are quick to jump on the discrepancies, real or imagined, in voting data in Milwaukee as proof of widespread fraud in the big city. In their minds, the *Journal Sentinel*’s findings fit that pattern. A more plausible explanation, however, is that the findings reflect the unfortunate tendency of voting systems throughout America to err.”<sup>54</sup>

Voter fraud or voter and administrative error? By the end of January 2005, the mayor had appointed an internal task force to review the city’s electoral procedures, and federal, county and city law enforcement agencies began a joint investigation into whether breakdowns in procedure, poor record-keeping, human error, or fraud explained the discrepancies. On February 10, the bipartisan Joint Legislative Audit Committee of the state legislature voted unanimously to direct auditors to review voter registration and address verification procedures in Wisconsin.

Meanwhile, as election officials in the city and state struggled to meet the challenges of fixing Milwaukee’s election system after the 2004 election, the city was designated by the U.S. Department of Justice for a pilot program on prosecuting individuals for voter fraud. This was new territory for the Justice Department. According to a 2006 U.S. Election Assistance Commission (EAC) report, under the banner of the Ballot Access and Voting Integrity Initiative, the Justice Department designed three pilot programs “to determine what works in developing the cases and obtaining convictions and what works with juries in such matters to gain convictions.”<sup>55</sup> The report states:

Since 2002, the department has brought more cases against alien voters, felon voters, and double voters than ever before. Previously, cases were only brought against conspiracies to corrupt the process rather than individual offenders acting alone. For deterrence purposes, the Attorney General decided to add the pursuit of individuals who vote when not eligible to vote (noncitizens, felons) or who vote more than once.<sup>56</sup>

The head of the Elections Crimes Branch of the Criminal Division’s Public Integrity Section told the EAC researchers that prior to this, the Justice Department did not go after individual isolated instances of fraud or cases that would not have a big impact and therefore, a deterrent effect. In response to the Attorney General’s new direction, the agency undertook three pilot projects focused on: (1) felon voters in Milwaukee;<sup>57</sup> (2) alien voters in the Southern District of Florida; and (3) double-voters in a variety of jurisdictions. The Justice Department’s record of indictments fits this description: thirty-five of the forty voters indicted between

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<sup>54</sup> “Widen Election Day Focus” [Editorial], *Milwaukee Journal Sentinel*, January 26, 2005, A14.

<sup>55</sup> Interview with Craig Donsanto, director, Elections Crimes Branch, Public Integrity Section, U.S. Justice Department, January 13, 2006, in U.S. Elections Assistance Commission, “EAC Summary of Expert Interviews for Voting Fraud-Voter Intimidation Research,” 2-4, *available at* [http://www.eac.gov/assets/1/workflow\\_staging/Page/60.PDF](http://www.eac.gov/assets/1/workflow_staging/Page/60.PDF).

<sup>56</sup> *Ibid.*, 4.

<sup>57</sup> In an in-person interview I conducted on June 22, 2007, U.S. Attorney Steven Biskupic neither confirmed nor denied the pilot project investigating individual felon voters in Milwaukee. U.S. Attorney Biskupic stated that his office became involved in voter fraud prosecutions in 2005 at the request of the Milwaukee County District Attorney.



October 2002 and September 2005 were among the three groups targeted by the pilot projects. This includes ten alleged felon voters in Milwaukee; 16 alleged alien voters in the Southern District of Florida; and nine alleged double-voters, including four people in Milwaukee, and five people in Missouri and Kansas.

During U.S. House Judiciary hearings on the Bush Administration's firing of seven of its U.S. Attorneys on December 6, 2006, it was revealed that state Republican Party operatives, including in Wisconsin, had compiled local media reports for the White House, and used these reports as the basis of complaints that certain U.S. Attorneys were not pursuing voter fraud cases aggressively enough. In late February 2008, the Milwaukee Police Department (MPD) leaked an internal report prepared by the Special Investigations Unit (SIU) for a Joint Task Force assembled to look into the allegations of fraud in the city's 2004 election that included the U.S. Attorney, the F.B.I., the District Attorney of Milwaukee County, and the MPD.<sup>58</sup> The SIU investigated a formal complaint filed by the Republican Party of Wisconsin that 60 persons had voted more than once in the November 2004 general election. It found that only 21 people were listed twice in the electors database due to "data entry errors by employees of the Milwaukee Election Commission."<sup>59</sup> Moreover, "none of these people voted twice."<sup>60</sup>

The MPD Special Investigations Unit report contradicts claims that reports of irregularities in the 2004 election were evidence of voter fraud. Instead, over and over again, the MPD investigators found that data entry errors, typographical errors, procedural missteps, misapplication of the rules, and the like, accounted for almost all of the problems observed by the media and complained about to the White House and prosecutors in Wisconsin<sup>61</sup> by Republican Party operatives. In investigating another complaint by the Republican Party of Wisconsin that nine more people had voted twice, the report found more mistakes. Describing in detail their findings regarding this batch of allegations, they state:

This appears to be a mistaken entry by the Election Commission employees...This appears to be a mistaken entry by the Election Commission employees...It appears that these voters are a father and son...it appears that there was an error by a Poll Inspector on Election Day...again, this appears to be an error at the poll site...these

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<sup>58</sup> See Milwaukee Police Department, Special Investigations Unit, "Report of the Investigation into the November 2, 2004 General Election in the City of Milwaukee," February 26, 2008 (on file with author). See also Greg J. Borowski, "Tighter Voting Laws Urged: Milwaukee Police Report Findings From Probe into 2004 Polling," *Milwaukee Journal-Sentinel*, February 26, 2008; Daniel Bice, "Report's Stealthy Release Irks Police Chief," *Milwaukee Journal-Sentinel*, March 1, 2008; John Diedrich, "Chief Flynn Says MPD Vote Fraud Unit on the Job," *Milwaukee Journal-Sentinel*, November 4, 2008.

<sup>59</sup> "Report of the Investigation," 35.

<sup>60</sup> *Ibid.*

<sup>61</sup> Congressional investigations and hearings concerning the unprecedented firing of nine of their own appointed U.S. Attorneys by the Bush Administration in late 2006, produced evidence of these complaints. For example, with respect to Wisconsin, see Letter with Enclosures from Richard A. Hertling, Principal Deputy Assistant Attorney General to the Honorable Patrick J. Leahy, Chairman, Committee on the Judiciary, United States Senate, dated May 17, 2007 (on file with the author).



are not the same person. It appears that they are father and son...These are not the same person and it appears that the two may be father and son...This appears to be another mistaken entry at the poll site...the remaining three persons have closely matching names but are not the same person.<sup>62</sup>

Out of over 73,000 same day registrants studied, the SIU investigators found fewer than 100 invalid voters, resulting in the 14 indictments for alleged voter fraud cited above. Only five of these 14 indictments resulted in convictions or guilty pleas.<sup>63</sup> A thorough reading of the SIU report thus drives home its principal conclusion, that systemic problems in the administration of the 2004 election and not fraud were almost entirely responsible for the irregularities discovered and extensively reported on by the local media.

The scrutiny from federal, state, and local law enforcement and elections officials produced several reports, an intensive review of voter registration practices in a number of Wisconsin cities, many recommendations for improving election administration and voter registration procedures, several later-vetoed photo identification bills in the state legislature, a variety of other legislative proposals, and *very little conclusive evidence of voter fraud*. For example, the state audit of 150 Wisconsin municipalities authorized by the legislature found “105 instances of potentially improper or fraudulent voting in the November 2004 elections” in six jurisdictions.” The overwhelming majority of the irregularities, however, were cases of potential felon voting; intentional fraud was not confirmed.<sup>64</sup> Similarly, the U.S. Attorney’s Joint Task Force found that there may have been cases of illegal votes by felons who served their prison time but were still under state supervision and therefore, under Wisconsin law, ineligible to vote.

The Wisconsin felony disenfranchisement laws are more restrictive than those in 19 other states and the District of Columbia.<sup>65</sup> Individuals with felony convictions are barred from voting

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<sup>62</sup> *Ibid.*, 33-34. In my book, *The Myth of Voter Fraud*, and in a book chapter published in 2012, I show how allegations of voter fraud based on media accounts typically fall apart under scrutiny, and how human error, administrative complexity and mistakes are often the best explanation for election irregularities of the kind too quickly seized upon as evidence of voter fraud. See Lorraine C. Minnite, “Voter Identification Laws: The Political Controversy Over Voter Fraud,” in *Law and Election Politics*, 2nd ed., edited by Matthew J. Streb (New York: Routledge, 2012).

<sup>63</sup> I discuss the allegations of voter fraud concerning Milwaukee voters during the 2004 election and review the prosecution record in detail in *The Myth of Voter Fraud* (see 106-07 and note 92 of appendix 1). See also Spencer Overton, “Voter Identification,” *Michigan Law Review* 105, no. 4 (February 2007): 645-47.

<sup>64</sup> Of the 105 irregularities, 98 were identified as “felons who may have voted.” See Wisconsin State Legislative Audit Bureau, “An Evaluation: Voter Registration,” Report 05-12, Madison, September 16, 2005, 6.

<sup>65</sup> Unlike Wisconsin, those 19 other states and the District of Columbia do not disenfranchise people with felony convictions who are on probation. See “Felony Disfranchisement in Wisconsin,” American Civil Liberties Union, n.d., available at [http://www.aclu.org/pdfs/votingrights/wi\\_flyer.pdf](http://www.aclu.org/pdfs/votingrights/wi_flyer.pdf); Jean Chung, “Felony Disenfranchisement: A Primer,” The Sentencing Project Policy Brief, August 2015, available at

while in prison, on probation, or on parole.<sup>66</sup> Because 60 percent of those convicted of felonies do not serve their sentences in jail, an ineligible felon voter can register and vote if officials allow it.<sup>67</sup> Alleged illegal felon voting constitutes nearly all of the “voter fraud” reported by the media in Wisconsin.<sup>68</sup> Wisconsin election crime laws require the establishment of a willful effort to defraud.<sup>69</sup> Most of those identified as ineligible have not been prosecuted because they were never informed that they lost their voting rights until they had completed their entire sentence, meaning were released from probation or parole.<sup>70</sup>

Wisconsin’s felon disenfranchisement law is not well understood as evidenced by the fact that one of the instances of alleged voter fraud in the 2004 election involved a black man registering to vote using his state offender identification card.<sup>71</sup> Had the poll worker who registered this man been properly informed of Wisconsin law, the man would not have been able to register or to vote, and had this individual understood that his voting rights had been taken away and not yet restored, he would not have attempted to vote.<sup>72</sup> Considering that he provided proof of his recent incarceration as proof of his identity, he clearly did not realize what he was doing was illegal, and did not intend to commit fraud. When these facts were presented to prosecutors in the office of U.S. Attorney Steven Biskupic by the man’s federal defender on the eve of his trial, the office withdrew the indictment.<sup>73</sup> It is unlikely that Wisconsin’s voter photo identification law or any of the other challenged measures would have prevented the illegal vote implicated in this case from being cast. The voter presented a government-issued photo identification card, albeit an unacceptable form of identification under Act 23. The poll worker inspected that identification card closely enough to write down the identification number on the voter’s registration application. The voter also presented a letter from his parole officer to verify his address. The voter was allowed to register to vote and cast a ballot. The case illustrates how errors in election administration can cause “irregularities” that partisans misrepresent as fraud.

In 2008, the Wisconsin Attorney General announced a new partnership with Milwaukee County District Attorney John Chisholm in forming another “Election Fraud Task Force.” The

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[http://www.sentencingproject.org/doc/publications/fd\\_Felony%20Disenfranchisement%20Prime%20r.pdf](http://www.sentencingproject.org/doc/publications/fd_Felony%20Disenfranchisement%20Prime%20r.pdf).

<sup>66</sup> Wis. Stats. § 6.03.1b (2015) (disqualified from voting is “any person convicted of treason, felony or bribery, unless the person’s right to vote is restored through a pardon or under s.304.078(3).”)

<sup>67</sup> “Felony Disfranchisement in Wisconsin.”

<sup>68</sup> Over two federal election cycles, from 2002 to 2005, only ten cases of felon voting in Wisconsin were prosecuted by the federal government, and only five people were convicted or pleaded guilty.

<sup>69</sup> Wis. Stats. § 12.13 (2015) (Election fraud: “Whoever intentionally does any of the following violates this chapter...”)

<sup>70</sup> Until recently, the Wisconsin voter registration application form did not clearly indicate that felons on probation or parole were ineligible to vote.

<sup>71</sup> Gina Barton, “A Felon But Not a Fraud: No Charges for Voter With Prison I.D.,” *Milwaukee Journal-Sentinel*, March 17, 2006.

<sup>72</sup> I interviewed this individual, his lawyer and the U.S. Attorney for the Eastern District of Wisconsin regarding this case. See Minnite, *The Myth of Voter Fraud*, 102-112.

<sup>73</sup> *Ibid.*

Task Force was described as a “multijurisdictional action team” of prosecutors, special agents, and police officers to focus law enforcement efforts on detecting, investigating and prosecuting election fraud crimes in Milwaukee County. A Department of Justice news release from September 17, 2008, explains how the Task Force would operate:

The Milwaukee District Attorney’s office, which has primary criminal jurisdiction, would remain the source for the intake of complaints. The District Attorney’s office will be primarily responsible for the initial screening and prioritizing of complaints to determine which should be referred for further investigation. Assistant Attorneys General will participate in this review.

Upon referral, an investigative team comprising Department of Justice-Division of Criminal Investigation special agents and officers of the Special Investigation Unit of the Milwaukee Police Department officers [sic] will conduct the further investigation. Assistant Attorneys General in the Department of Justice and prosecutors in the Milwaukee County District Attorney’s office will provide legal advice and guidance to the investigators as requested.

Upon the completion of the investigation, representatives of the Milwaukee County District Attorney’s office and the Department of Justice will review the investigation’s results.<sup>74</sup>

In time for the next federal election two years later, the Attorney General expanded the Election Fraud Task Force to eleven more counties, including Dane County, La Crosse County, Marathon County, Racine County, Outagamie County, Brown County, Waukesha County, Washington County, Sheboygan County, Winnebago County and Kenosha County. According to a July 29, 2010 news release from the Wisconsin Department of Justice, “The expanded Task Force will continue to develop and share information, resources, tactics and strategy regarding matters involving election integrity and the enforcement of Wisconsin’s election laws.”<sup>75</sup>

As part of the Attorney General’s “election integrity efforts,” the Wisconsin Department of Justice dispatched teams of assistant attorneys general and special agents from the Division of Criminal Investigation to polling places across the state for the 2008, 2010, and 2012 elections, including the special June 2012 Recall Election.

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<sup>74</sup> Wisconsin Department of Justice, “Milwaukee County Elections Fraud Task Force Established by Attorney General Van Hollen and Milwaukee County District Attorney Chisholm,” News Release, September 17, 2008, accessed December 9, 2015, *available at* <https://www.doj.state.wi.us/news-releases/milwaukee-county-elections-fraud-task-force-established-attorney-general-van-hollen>. *See also* Larry Sandler, “Group to Examine Vote Fraud; Republican, Democrat Vow to Set Partisanship Aside in Creation of Task Force,” *Milwaukee Journal Sentinel*, September 18, 2008.

<sup>75</sup> Wisconsin Department of Justice, “Van Hollen Expands Election Integrity Task Force – 11 District Attorneys Join Justice Efforts,” News Release, July 29, 2010, accessed December 9, 2015, *available at* <https://www.doj.state.wi.us/news-releases/van-hollen-expands-election-integrity-task-force-11-district-attorneys-join-justice>.

Between 2008 and 2013, as a result of the stepped-up law enforcement efforts led by the Attorney General, the Wisconsin Department of Justice and Milwaukee County District Attorney charged 30 people, or approximately five people a year, with various violations related to election fraud. I was able to identify one additional case that was discovered as part of an identity theft investigation unrelated to the work of the Election Fraud Task Force (for a list of all 31 cases, see Appendix A).<sup>76</sup> Although 11 other county district attorneys' offices had joined the Task Force by the time of the 2010 election, only Milwaukee County (or, in seven cases, the Wisconsin Department of Justice) appears to have obtained convictions for election fraud violations since 2008.<sup>77</sup>

According to public records accessed through the Wisconsin Circuit Court Access online records retrieval system,<sup>78</sup> 29 of the 31 people charged pleaded guilty. Over the roughly six years of stepped up enforcement efforts, there were three federal elections and more than two dozen elections for state offices in Wisconsin.<sup>79</sup> In the three federal elections alone, more than 8.2 million ballots (8,212,683) were cast. The rate of convictions per vote cast in just these three federal elections is about 1 in 283,000 (.0000035). If we exclude from the aggregate vote totals those votes cast in counties whose district attorneys did not participate in the Task Force, the rate more than doubles to .0000082, or one conviction per 121,000 votes. However, there were hundreds of thousands of more votes cast in non-federal elections in Wisconsin over this period, and incorporating them into these calculations would drive the conviction-per-vote rate down considerably.

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<sup>76</sup> See Bruce Vielmetti, "Illegal Vote Brings Prison Term," *Milwaukee Journal Sentinel*, October 20, 2010.

<sup>77</sup> All of the 31 cases brought on charges of election fraud between 2008 and 2013 were filed in Milwaukee County (see appendix). According to the minutes of a March 30, 2009, open session of the Wisconsin Government Accountability Board, the board received a report on election fraud presented by Shane Falk, Michael Haas, and Milwaukee County Assistant District Attorney Bruce Landgraf that "included results of a staff survey of Wisconsin district attorney's regarding cases of voter fraud..." I have not been able to locate a copy of this report, but an April 29, 2010, article by Chris Rickert in the *Wisconsin State Journal* states that the survey found "there were 63 fraud complaints in 14 counties during the [2008] election. Thirty-two of the complaints were in Milwaukee County, and 22 counties reported receiving no complaints...As of March 2009, only seven of those complaints were still under investigation and six had gone to court. Of those six, one resulted in a felony conviction and the rest were still pending." See Chris Rickert, "How Common Is Voter Fraud in Wisconsin?" *Wisconsin State Journal*, April 29, 2010.

<sup>78</sup> To access the records, see <http://wcca.wicourts.gov/index.xsl;jsessionid=572B9A5E15F909442E2D13EE4BAB3ACC.render6>.

<sup>79</sup> Results for local elections are not reported to the Wisconsin Government Accountability Board, which collates and reports state and federal election results by county and ward. See "Wisconsin Election Results" webpage of the Wisconsin Government Accountability Board's website, available at <http://gab.wi.gov/elections-voting/results>.

Ten, or one third of 31 defendants were charged with various violations that did not implicate illegal votes<sup>80</sup> (i.e., three of the 10 were not even charged with crimes, but rather, civil offenses).<sup>81</sup> The charges for these 10 people included falsifying registration applications (six people)<sup>82</sup> or petition signatures (three people who collected three improper signatures),<sup>83</sup> and in one case, falsely swearing about felon status in order to qualify as a Special Registration Deputy in Milwaukee, a condition of employment with a community group conducting a voter registration drive.<sup>84</sup>

The charges against the remaining 21 people casting illegal or improper votes can be aggregated into four general categories of wrong-doing: voting by people who are ineligible because of a felony conviction (or “voting by ineligible”; 13 people),<sup>85</sup> voting in a wrong jurisdiction or ward (four people),<sup>86</sup> double voting (three people),<sup>87</sup> and voting another person’s ballot (in this case, a deceased voter’s ballot; one person)<sup>88</sup> (*see* Table 1).

Approximately 25 illegal votes were cast by these 21 people over the six-year period, with one defendant voting in five elections in the Village of West Milwaukee between April 2012 and April 2013, while maintaining residency in the City of Milwaukee.<sup>89</sup>

The prosecution record suggests a disturbing racial pattern.<sup>90</sup> Of the 31 people charged with election fraud violations, 19 are African American (61 percent),<sup>91</sup> 11 are white (35

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<sup>80</sup> For the next several paragraphs, when I discuss groups or categories of defendants among the 31 cases under review, I will note defendants here by last name. Please see Appendix A for reference to the court case citation. The 10 defendants charged with violations that do not implicate illegal votes are: Adams, Clancy, Haycock, L. Lewis, Mehling, Miles, Mucklin, Shepherd, Walton, and Wanasek.

<sup>81</sup> Defendants Haycock, Mehling, and Wanasek.

<sup>82</sup> Defendants Adams, Clancy, L. Lewis, Miles, Shepherd, and Walton.

<sup>83</sup> Defendants Haycock, Mehling, and Wanasek.

<sup>84</sup> Defendant Mucklin.

<sup>85</sup> Defendants Dean, Grady, Henderson, Johnson, D. Lewis, Maclin, Martinez, Morris, Pendleton, Rainey, Stephens, Toney, and West.

<sup>86</sup> Defendant Brown, DiGiorgio, Nawaz, and Uecker

<sup>87</sup> Defendant Gigowski, H. Gunka, S. and Gunka.

<sup>88</sup> Defendant Wroblewski.

<sup>89</sup> Apartment leasing agreements obtained by investigators indicated the defendant, Leonard K. Brown, lived in West Milwaukee until 2008; he pleaded guilty to voting there four years after he had moved out. Brown was also convicted of voting twice in the 2012 election and sentenced to nine months in House of Correction. *See* Katie Delong, “Nine Months in HOC for Man Found Guilty of Election Fraud,” Fox6Now.com, March 3, 2014, accessed December 9, 2015, *available at* <http://fox6now.com/2014/03/03/man-to-be-sentenced-on-seven-election-felony-counts-on-tuesday/>.

<sup>90</sup> In *The Myth of Voter Fraud*, I observed a similar pattern of racial targeting in the prosecution data produced by the federal government’s stepped up enforcement efforts against alleged voter fraud between 2002 and 2005. Fourteen of the 40 individual voters charged over the three period were from Wisconsin, specifically, Milwaukee, and 13 of those individuals were racial minorities. *See* Minnite, 107-12.



percent),<sup>92</sup> and one is Hispanic (3 percent).<sup>93</sup> All of the African American and Hispanic defendants were charged with felony counts, and following guilty pleas, many of them were sentenced to prison or jail, whereas only a quarter (27 percent) of the whites (three people)<sup>94</sup> were charged with felony violations. Half of the other whites (four people)<sup>95</sup> were charged with misdemeanors or had felony charges reduced to misdemeanors, and half (four people)<sup>96</sup> were charged with civil violations.

Two of the three whites charged with felony violations, a husband and wife who voted twice in the 2008 election, once by absentee ballot and then at the polls, claimed they made a mistake and were acquitted at trial.<sup>97</sup> The third, a young man accused of casting two ballots in the 2008, resulted in a guilty plea and six month jail sentence with work release privileges.<sup>98</sup> The 28-year old defendant told investigators that he had recently moved from Greenfield to Milwaukee to live with his mother, and gone back to Greenfield to vote after he was unable to register on Election Day in Milwaukee because he did not have proof of residency with him when he went to the polls. He said he provided an old driver license to officials in Greenfield to confirm his identity, and was about to put his ballot into the ballot reading machine when a poll worker told him he was in the wrong place. He doesn't remember voting in Greenfield. He then went back to Milwaukee, collected his proof of residency, and went back to the polls to cast his ballot there. He eventually pleaded guilty to voting twice and said that he was not a part of any conspiracy, but rather that his judgment had been impaired by drugs and alcohol.<sup>99</sup>

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<sup>91</sup> Defendants Adams, Brown, Clancy, Dean, Grady, Henderson, Johnson, D. Lewis, L. Lewis, Maclin, Miles, Morris, Pendleton, Rainey, Shepherd, Stephens, Toney, Walton, and West.

<sup>92</sup> Defendants DiGiorgio, Gigowski, H. Gunka, S. Gunka, Haycock, Mehling, Mucklin, Nawaz, Uecker, Wanasek, and Wroblewski.

<sup>93</sup> Defendant Martinez. Race is listed on each criminal defendant's summary case file in the public records of the Wisconsin Circuit Court (*see supra* note 7). The case files note that, "the designation listed in the Race field is subjective. It is provided to the court by the agency that filed the case." The race of the accused in the four civil cases is not recorded in their case file records, so I made judgments based on photographs posted on the defendants' Facebook accounts.

<sup>94</sup> Defendants Gigowski, H. Gunka, and S. Gunka.

<sup>95</sup> Defendants Haycock, Mucklin, Wanasek, and Wroblewski.

<sup>96</sup> Defendants DiGiorgio, Mehling, Nawaz, and Uecker.

<sup>97</sup> Defendants H. Gunka and S. Gunka. *See* Bruce Vielmetti, "Couple Charged with Double Voting Say It Was Honest Mistake," *Milwaukee Journal Sentinel*, May 2, 2008. *See also* Bruce Vielmetti, "Couple Charged with Double Voting Say It Was Honest Mistake; They Say Press Releases Unfairly Link Them to ACORN," *Milwaukee Journal Sentinel*, May 3, 2010; Bruce Vielmetti, "Voter Fraud Verdict: Not Guilty; Jurors Acquit Couple Who Cast 2 Ballots Each in 2008 Election," *Milwaukee Journal Sentinel*, May 26, 2011.

<sup>98</sup> Defendant Gigowski.

<sup>99</sup> Bruce Vielmetti, "Milwaukee Man Gets Jail Time for Voting Twice in Presidential Election," *Milwaukee Journal Sentinel*, October 17, 2013.



Another white defendant who applied for, received, and voted his wife's ballot after she died of lung cancer in August 2008, was charged with a misdemeanor.<sup>100</sup> He pleaded guilty and was fined \$500.<sup>101</sup> Sympathetic news coverage may have helped his case. For example, once he was charged, the *Milwaukee Journal Sentinel* ran a reader's poll asking whether the man, grief-stricken by the loss of his wife, should be charged with a crime.<sup>102</sup> I found no other stories or media polls expressing such sympathy for the travails of any of the African American or Latino defendants that may have caused them to mistakenly or wrongly cast an illegal vote.<sup>103</sup> The white defendant in this case was the only defendant among all 31 of those charged who actually cast another person's ballot.

Moreover, whites who committed the same type of election fraud as African Americans were charged with misdemeanors where African Americans were charged with felonies. For example, one white defendant who was qualified as a Special Registration Deputy by the Milwaukee Elections Commission in June 2008, so that he could work on a voter registration drive, was ineligible for deputization because he was serving a sentence for a felony conviction. He claimed he was confused about what the word "conviction" meant despite the fact that he had attended three years of college. He registered to vote, even though he was ineligible to register to vote for the same reason. Initially, he was charged with two felony counts, however, the charges were modified to misdemeanors and his sentence of seven months in the House of Corrections for "caus[ing] the Milwaukee Election Commission to appoint him as a special registration deputy when he failed to qualify for that office," was stayed.<sup>104</sup> None of the African

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<sup>100</sup> Defendant Wroblewski. See Marie Rohde, "Charge Says Man Cast Dead Wife's Vote," *Milwaukee Journal Sentinel*, April 9, 2009.

<sup>101</sup> Marie Rohde, "Man, 64, Charged with Casting Dead Wife's Vote," *Milwaukee Journal Sentinel*, April 8, 2009.

<sup>102</sup> Sharif Durhams, "Debating the Case of the Widow's [*sic*] Absentee Ballot," *Milwaukee Journal Sentinel*, April 9, 2009.

<sup>103</sup> For example, take the case of 21-year Endalyn Adams, the first person charged by the Election Fraud Task Force. Adams stated that she had gone to work for the Community Voters Project because she needed the \$40 a day, and was raising her four younger siblings while their mother was in jail. It turned out her mother was not in jail, but on the run from authorities after forfeiting \$2,000 in bail for an arrest in Waukesha County on a fugitive charge before she could be extradited to Tennessee where she was wanted on charges of possession of marijuana with intent to sell and misdemeanor theft. Adams pleaded guilty to being a party to a crime of falsely procuring voter registration. She said she couldn't meet the quota of 15 new voters a day to earn her \$40, so she made up names, addresses and driver's license numbers. The complaint against her accused her of submitting at least 27 phony registration applications. According to the *Milwaukee Journal Sentinel*, the judge in her case "expressed skepticism that Adams appreciated the seriousness of her offense." He later regretted staying the 15 month prison sentence he gave Adams, and told her, "You are undercutting the faith in the electoral system. What you did raises the question of how many others are there out there? It's like a cockroach – if you see one, you know there are hundreds of others." See Marie Rohde, "Woman Avoids Jail in Voter Fraud Case; But Story That Got Her Leniency Is Being Questioned," *Milwaukee Journal Sentinel*, April 17, 2009.

<sup>104</sup> Defendant Mucklin. The defendant was additionally sentenced to four months in the House of Corrections for the first charge of providing false information to an election official. See

American defendants charged with registration fraud had their felony indictments modified to misdemeanors. In fact, one who worked for ACORN collecting registration applications, and whose crime mostly consisted of submitting multiple registration applications for the same already registered voters, received a sentence of ten months in the Wisconsin State Prison system.<sup>105</sup>

Similarly, of the four people charged with voting in wards or towns where they no longer lived, three are white, and all three were charged with civil violations and civil forfeiture (\$100 fines) in Small Claims Court.<sup>106</sup> The fourth, an African American who voted at an old address, was charged with five felony counts of illegal voting, one count each for five different elections he voted in over a one-year period (noted above). This man had moved five times over four years between his residency in West Milwaukee and Milwaukee. He pleaded guilty, saying he voted in West Milwaukee because that was where he was registered to vote.<sup>107</sup>

The 29 (of 31) cases of election fraud successfully prosecuted in Wisconsin between 2008 and 2013 affirm the conclusion that intentional voter fraud in Wisconsin is exceedingly rare. There was only one case of voter impersonation among these recent prosecutions that may have been thwarted by Act 23, which requires that a form of identification be presented when obtaining an absentee ballot.<sup>108</sup> I say “may have been thwarted” because in this case, it is reasonable to assume that the bereaved husband had access to his wife’s driver license or other form of acceptable ID and could have supplied a copy when applying for her absentee ballot. The deceased woman just happened to be a long time political activist and poll worker who worked at the polling place across the street from her home. All of the poll workers there knew her and all of them knew she was dead when her husband filed her absentee ballot.<sup>109</sup> Local knowledge, not a photo ID, identified the problem.

This conclusion is further supported by statements of election and law enforcement officials in Wisconsin, and by the conclusion of a Dane County Circuit judge who issued a permanent injunction against the enforcement of Act 23 following a bench trial. For example, in a letter to the Wisconsin Senate Committee on Transportation and Elections dated January 26, 2011, regarding “Senate Bill 6 – Voter ID,” Milwaukee County District Attorney John Chisholm, a founding member of the Attorney General’s Election Fraud Task Force, and the man whose office brought almost all of the cases of election fraud over the 2008 to 2013 period discussed here, states,

We have uncovered numerous cases involving individuals engaged in unlawful activity, including ineligible voting, improper registration activity and double voting. My office has aggressively prosecuted those offenses...In the course of our work we have never found any evidence to support allegations of organized,

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criminal complaint, Milwaukee DA Case Number 08XF7019, and *State of Wisconsin v. Adam J. Mucklin*, 2008, Case No. 2008CF005024.

<sup>105</sup> Defendant Clancy.

<sup>106</sup> Defendants DiGiorgio, Nawaz, and Uecker.

<sup>107</sup> See *supra* note 84.

<sup>108</sup> See Section 63, 6.87 (1) of Act 23.

<sup>109</sup> Rohde, “Man, 64, Charged.”

large scale vote fraud or dissuasion. Before we do anything that alters existing access to voting we should make sure we do it for a compelling reason based on a clear need. I hope that any election related reform includes informed deliberation on what the actual problems are, the costs associated with proposed solutions, and clear guidance on how law enforcement and election officials implement changes.<sup>110</sup>

In a five-page, single-spaced response to a July 11, 2012 letter from members of the Wisconsin Assembly demanding to know what the Government Accountability Board (GAB) planned to do about “problems that surfaced in the recall election of the 21<sup>st</sup> Senate District,” such as alleged “tampering of ballot bags...[and] unsigned poll books,”<sup>111</sup> the Director and General Counsel of the GAB, Kevin Kennedy, detailed the facts of what was known about the vague allegations in the Assembly Members’ letter, none of which have been substantiated as fraud. He then offered this:

Speaking frankly on behalf of our agency and the local election officials, absent direct evidence, I believe continued unsubstantiated allegations of voter fraud tend to unnecessarily undermine the confidence that voters have in election officials and the results of the election. I know we agree that elections should be open and transparent and subject to scrutiny and analysis. I hope that, as an elected official, you would also agree that there is little benefit in promoting unsupported allegations questioning the credibility of the election process and the work of local clerks and election inspectors.<sup>112</sup>

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<sup>110</sup> Letter from John Chisholm to Wisconsin Senate Committee on Transportation and Elections, January 26, 2011 (on file with author).

<sup>111</sup> Letter to Kevin Kennedy, Director, Government Accountability Board, from Members of the Wisconsin Assembly (Rep. Jeff Fitzgerald, Rep. Robin Vos, Rep. Scott Suder, Rep. Bill Kramer, Rep. Dan Knodl, and Rep. Joan Ballweg), July 11, 2011, accessed December 9, 2015, *available at* [http://gab.wi.gov/sites/default/files/news/65/assembly\\_leaders\\_letter\\_gab\\_pdf\\_91276.pdf](http://gab.wi.gov/sites/default/files/news/65/assembly_leaders_letter_gab_pdf_91276.pdf).

<sup>112</sup> Letter from Kevin J. Kennedy, Director and General Counsel of the Wisconsin Government Accountability Board, to the Honorable Jeff Fitzgerald, State Representative, 39th District, July 13, 2012, accessed December 9, 2015, *available at* [http://gab.wi.gov/sites/default/files/news/65/response\\_to\\_7\\_11\\_12\\_ltr\\_fitzgerald\\_pdf\\_16448.pdf](http://gab.wi.gov/sites/default/files/news/65/response_to_7_11_12_ltr_fitzgerald_pdf_16448.pdf).

A press release from the office of the Racine County District Attorney dated the same day reports that following the filing of four separate complaints about election fraud in the June 5, 2012, recall election, the Racine County Sheriff’s Office launched an investigation. “Based on the information that was received, it was determined that said information did not rise to the level required for a criminal prosecution.” The press release continues: “Much of what was reported as fraud was more appropriately categorized as rule violations that are under the jurisdiction of the Government Accountability Board (GAB)...Complaints about poll workers, same day registration procedures and electioneering, can be, but in this case, did not rise to the level of a crime in Wisconsin.” *See* “Voter Fraud Press Release: Racine County Sheriff’s Office/Racine County District Attorney’s Office, July 13, 2012, accessed December 9, 2015, *available at* [http://gab.wi.gov/sites/default/files/news/65/voter\\_fraud\\_press\\_release\\_for\\_july\\_13\\_2012\\_pdf\\_13791.pdf](http://gab.wi.gov/sites/default/files/news/65/voter_fraud_press_release_for_july_13_2012_pdf_13791.pdf).

Sometime in the fall of 2013, the Joint Legislative Audit Committee (JLAC) of the Wisconsin State Legislature asked the Legislative Audit Bureau, a non-partisan state agency charged with conducting financial and evaluation audits of state agencies, to audit the performance of the Government Accountability Board.<sup>113</sup> The LAB reviewed staffing, expenditures, communications, rule-making, and the like, and closely evaluated how well the GAB was performing its statutory responsibilities. It reported on its findings in December 2014.<sup>114</sup>

With respect to the maintenance of voter and voting records, the LAB found some lapses in record-keeping in areas often ripe for fraud allegations, for example, record-matching resulting in some number of registered voters in recent elections appearing as deceased or ineligible to vote due to a felony conviction (and unfinished sentence). In both cases, municipal clerks are required to inactivate registration records for such individuals as soon as they receive information from state agencies charged with reporting it to them. Specifically, the LAB audit found discrepancies on the registration lists for the fiscal year 2012-2013, covering five statewide elections:

- 255 voter records were marked in the Statewide Voter Registration System (SVRS) as having a vote recorded in an election that occurred on or after the date of death;
- of these, 12 individuals were recorded as having voted at the polling place, however, clerks later determined that all 12 cases were cases of clerical error;
- of the remaining 243 voters, 88 were forwarded to the GAB for further investigation;
- of these, the SVRS provided insufficient information to determine when clerks issued and received absentee ballots for 55 deceased voters;
- 29 deceased voters died after clerks issued absentee ballots but before voted ballots were received by clerks, thus indicating that the individuals may have voted the issued ballots before they died;
- 4 deceased voters may have died before clerks issued them absentee ballots.<sup>115</sup>

The LAB recommended that the GAB provide a progress report to the JLAC on the implementation of the LAB audit recommendations by April 15, 2015. In his report and April 15, 2015 letter to the JLAC, GAB Executive Director and Counsel Kevin

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<sup>113</sup> Letter from Joe Chrisman to Senator Robert Cowles and Representative Samantha Kerkman, dated September 5, 2013 (on file with author).

<sup>114</sup> State of Wisconsin Legislative Audit Bureau, "Government Accountability Board," Report 14-14, December 2014, accessed December 9, 2015, *available at* <http://legis.wisconsin.gov/lab/reports/14-14full.pdf>.

<sup>115</sup> *Ibid.*, 28-29.

Kennedy states that the investigation into the forwarded 88 individuals is not complete; however, in 26 cases, the primary election records needed to verify voter status and voting were destroyed by municipal clerks pursuant to Wisconsin law. In four other cases, data entry errors explained the discrepancies. In two cases, ballots were tallied by mistake after the municipal clerk correctly advised the election inspectors to reject them. And in six cases, clerks provided insufficient information to the GAB to make a determination about whether ballots had been improperly recorded and counted. In the remaining 50 cases, clerks confirmed that votes were accurately recorded, however, the GAB's investigation was on-going as to whether these votes violate Wisconsin law, which allows for an absentee ballot returned by an individual who subsequently dies before Election Day to be counted if election officials are not aware of the person's death.<sup>116</sup>

In conclusion, as of April 2015, the final disposition of 84 of the 88 individuals identified by the LAB as cases of potential voter fraud was not yet determined with the GAB's investigation on-going. However, even if all 84 cases were actual cases of voter fraud, they would account for .00109 percent of the 7,717,032 votes cast in the five elections covered by the audit period.

The second group of voters for whom the LAB audit expressed some concern is voters with felony convictions who are ineligible to vote in Wisconsin because they remain under state supervision. The GAB has stated that "The most common type of voter fraud [in Wisconsin] is by convicted felons."<sup>117</sup> However, the issue of felon voting is fraught in Wisconsin, for reasons discussed above. It is my contention that most of the so-called "felon voting" in Wisconsin is mischaracterized as fraud and more accurately categorized as illegal voting caused by both voter and poll worker confusion and error and not fraud. Regardless, some small number of cases occur in each statewide election, and the LAB investigated why. Their audit (again, for five statewide elections conducted during the 2012-2013 fiscal year) found:

- 3,679 individuals in the SVRS who were flagged by the Department of Corrections' electronically provided information as convicted of felonies that year;
- of this number, local election clerks were able to determine that 3,211 had on-going felony sentences, whereas,
- 165 did not;

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<sup>116</sup> Letter from Kevin J. Kennedy to Hon. Robert Cowles and Hon. Samantha Kerkman, dated April 15, 2015, accessed December 9, 2015, *available at* [http://legis.wisconsin.gov/lab/reports/follow-up/14-14\\_GAB.pdf](http://legis.wisconsin.gov/lab/reports/follow-up/14-14_GAB.pdf).

<sup>117</sup> GAB Staff Report, "The Case for Election Day Registration," March 22, 2011, 7.

- the status of 303 registered voters matched to the DOC's records had not yet been determined by November 2013, with the potential match unresolved for some 226 days, on average.<sup>118</sup>

In addition, the LAB audit notes that the GAB suspended post-election felon audits in 2009, and did not complete audits for elections in the interim years until July 2014,<sup>119</sup> at which point the GAB reported on its reviews of 16 elections held between February 2010 and April 2014. As a result of those reviews, the GAB referred 33 individuals who may have voted while serving felony sentences to district attorneys for further investigation (28 of whom may have voted in the 2012 presidential election).

In his April 15, 2015 report to the JLAC on the GAB's progress in implementing the LAB's recommendations, GAB Executive Director Kennedy updated the LAB audit findings concerning the GAB's post-election felon voting review process and outcomes. Noting that the GAB had closed all outstanding potential felon voting cases, "either by resolving the data matches or referring cases to district attorneys for all [19] elections,"<sup>120</sup> from the 2010 Spring Primary through the 2015 Spring Primary, the GAB report included data showing that the agency referred 154 cases of potential felon voting in these 19 elections to local district attorneys. I tallied data from the report as follows:

Charges Filed:	16
<i>Convicted</i>	2
<i>Dismissed</i>	2
<i>Outcome Not Yet Determined</i>	12
Declined to File Charges	42
Deceased	1
Under Investigation	23
No Status Reported Yet	72
Total Referrals	154

<sup>118</sup> State of Wisconsin Legislative Audit Bureau, "Government Accountability Board," 30.

<sup>119</sup> Kennedy's testimony before the JLAC on January 14, 2015 noted that the GAB temporarily suspended its post-election felon audits during this period because of data quality problems with DOC records and the "simple" matching procedures required by state law. "We learned that a simple match was not good enough," stated Kennedy. "Innocent people were being matched as felon voters and referred to District Attorneys for prosecution. In one case an innocent man was charged, and the DA had to make a public apology. District Attorneys told us the process was not reliable or useful. In some cases they told us not to send them any more referrals... The new system is more efficient and provides more accurate results." See Testimony of Kevin J. Kennedy, Director and General Counsel, Wisconsin Government Accountability Board before the Joint Legislative Audit Committee, January 14, 2015, 4; accessed December 9, 2015, *available at*

[http://www.gab.wi.gov/sites/default/files/publication/kennedy\\_testimony\\_jlac\\_hearing\\_1\\_14\\_15\\_final\\_pdf\\_15032.pdf](http://www.gab.wi.gov/sites/default/files/publication/kennedy_testimony_jlac_hearing_1_14_15_final_pdf_15032.pdf).

<sup>120</sup> Letter from Kevin J. Kennedy to Hon. Robert Cowles and Hon. Samantha Kerkman, dated April 15, 2015, 7.



My review of news reports from September 21, 2013 through December 9, 2015 turned up just one case of an individual convicted of illegal voting due to a standing sentence for a prior felony conviction over this period, which roughly coincides with the period studied by LAB and GAB Executive Director Kennedy's April 15, 2015 report to the JLAC. On September 15, 2014, Todd Hohnstein of Ozaukee County pleaded guilty to one count of illegal voting during the 2012 presidential election. The *Cedarburg News Graphic* reported that Mr. Hohnstein told a Grafton police detective that he voted in that election, "but did not know that he could not" [according to] the complaint...<sup>121</sup> I found only three other reports of illegal or alleged illegal voting in my search of the available news archives, as follows:

- Robert D. Monroe was charged in 2014, with 13 felony counts of illegal voting, voting more than once, and fraudulent voter registration in five separate elections in 2011 and 2012. A jury trial is scheduled for January 2016.<sup>122</sup>
- John S. Rohde of Dodge County was charged in February 2015, with two counts of voting by a disqualified person and two counts of providing false information to an election officials. He pleaded no contest to falsifying registration his voter registration and was sentenced to 40 hours of community service.<sup>123</sup>
- Scott Halverson of Waukesha County was charged in June 2015, with one count of falsifying his voter registration for registering to vote at the polls on April 6, 2010 while serving a two-year probation sentence for a felony bail-jumping conviction in August 2008. Halverson told a police detective that he had filled out a voter registration application in 2010 "under the false belief that his probation had expired."<sup>124</sup> His case is scheduled for a jury trial in December 2015.

It is important to point out there has been no finding of a problem of voter fraud in the state in any of the litigation challenging Act 23 in federal court or as a violation of Wisconsin's state constitution. For example, in his order granting *Milwaukee Branch of the NAACP, et al., v. Scott Walker, et al.* plaintiffs declaratory and injunctive relief, Dane County Circuit Judge David Flanagan states:

It is because the right to vote is so fundamental, that a court is obligated to look at both sides of the ledger, the cost and the benefit of the statute. Here the cost or impairment is significant and in looking to the benefit, little can be found.

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<sup>121</sup> Gary Achterberg, "Grafton Man Charged with Voter Fraud - Suspect Said He Didn't Know Felony Record Prohibited Voting," *Cedarburg News Graphic*, June 3, 2014, B7.

<sup>122</sup> Mike Ivey, "Voter Fraud Case Targets Scott Walker Backer," *Capital Times*, June 23, 2014; Bruce Vielmetti, "Man Charged with 13 Counts of Voter Fraud; Shorewood, Milwaukee, Indiana Addresses Used," *Milwaukee Journal Sentinel*, June 24, 2014, B1.

<sup>123</sup> Terri Pederson, "Man Accused of Voter Fraud," *Wisconsin State Journal*, February 15, 2015.

<sup>124</sup> "Waukesha Man Charged with Voter Fraud in 2010 Spring Election," *Waukesha Freeman*, June 25, 2015.

Serious recent efforts to investigate voter fraud have found nothing that Act 23 would have prevented.<sup>125</sup>

Thus, I conclude that the scant number of prosecutions and convictions over the last 15 years and the corroborating conclusions of elections and law enforcement officials involved in investigating voter fraud stand in sharp contrast to claims made by former Wisconsin Attorney General J.B. Van Hollen, certain Wisconsin lawmakers,<sup>126</sup> and the Republican National Committee Chair Reince Priebus, a Kenosha, Wisconsin native, who has said that Wisconsin is “absolutely riddled with voter fraud.”<sup>127</sup> Priebus told reporters on a conference call in advance of the 2012 recall elections that fraudulent votes account for “a point or two” in Wisconsin elections.<sup>128</sup> If Mr. Priebus is correct, there would have been at minimum 30,684 fraudulent ballots cast for Democrats in the 2012 presidential election in Wisconsin. There is no evidence that this allegation is anywhere near accurate. And yet, Republican leaders and elected officials in Wisconsin continue to misrepresent the facts. For example, following the 2012 presidential election and Barack Obama’s victory in the state,<sup>129</sup> State Senator Alberta Darling appeared on

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<sup>125</sup> “Order for Judgment and Judgment Granting Declaratory and Injunctive Relief,” *Milwaukee Branch of the NAACP, et al., v. Scott Walker, et al.*, Case No. 11CV5492, July 17, 2012, 17. The decision was overturned by the Wisconsin Supreme Court on July 31, 2014, finding that “requiring an elector to present Act 23-acceptable photo identification in order to vote is not an additional elector qualification” (Case No. 2012AP1652, 3).

<sup>126</sup> In 2010, the *Green Bay Press-Gazette* quoted then-Senate majority leader Scott Fitzgerald saying, “We continue to see these isolated incidents of people trying to vote five, six times a day; people voting based on some sort of fraudulent documentation.” Neither of these allegations is accurate, nor could the Majority Leader’s office cite any evidence or even a specific case to support Mr. Fitzgerald’s allegation when asked to do so by the *Milwaukee Journal Sentinel*, which voted his claim “false.” The reporter interviewed “10 state, county and local elections officials, and law enforcement officers at the local and federal level” to further probe the multiple voting allegation and found that “none of the officials reported a case of voting more than two times.” See Dave Umhoeffer, “Multi-voting Claim Fails at the Poll,” *Milwaukee Journal Sentinel*, December 23, 2010.

<sup>127</sup> Chair Priebus made this comment in a December 2, 2011, nationally televised interview with Martin Bashir on MSNBC.

<sup>128</sup> Patrick Marley and Lee Bergquist, “RNC Chairman Alleges Rampant Vote Fraud,” *Milwaukee Journal-Sentinel*, May 30, 2012. Priebus is quoted as saying, “I’m always concerned about voter fraud, you know, being from Kenosha, and quite frankly having lived through seeing some of it happen... Certainly in Milwaukee we have seen some of it, and I think it’s been documented. Any notion that’s not the case, it certainly is in Wisconsin. I’m always concerned about it, which is why I think we need to do a point or two better than where we think we need to be, to overcome it.” Partisans making claims like this give themselves away by assuming all of the fraud is committed in support of candidates of the opposing party, something the secret ballot makes impossible to know.

<sup>129</sup> Obama won with 53 percent of the vote compared to 46 percent for Republican challenger Mitt Romney (see State of Wisconsin Government Accountability Board, Canvass Results for the 2012 Presidential and General Election, November 6, 2012, accessed December 9, 2015, available at <http://www.gab.wi.gov/sites/default/files/Amended%20Percentage%20Results->

Milwaukee's ABC affiliate television station WISN-TV and said that she believed the outcome of the election would have been different if the state's photo identification law (which was stayed and the subject of litigation at the time) had been in place.<sup>130</sup> In another example, then-State Senator (now-Congressman) Glen Grothman gave a radio interview in which the host played a clip of Senator Darling's comments. The announcer asked Grothman whether Darling's comment could be taken as a tacit admission that the voter identification law was meant to suppress Democratic votes. Grothman denied the suggestion, but added that, "...it's a belief that the Democrats cheat." Later, the host asked, "Do you really believe Democrats are not to be trusted when it comes to voting?" Senator Grothman replied, "I believe there are some members of the Democratic Party that who, um, like to get a few extra votes here and there." The host responded, "...you know I belong to the Democratic Party, I've never known them to be organized enough to be able to..." to which Senator Grothman replied, "I think they are shockingly organized."<sup>131</sup> The empirical record disputes such claims about organized election fraud<sup>132</sup> and confirms my prior finding that "...fraud committed by voters either in registering to vote or at the polls on Election Day is exceedingly rare."

#### IV. CONCLUSION

As set forth above, voters can only influence the part of the electoral process to which they have access, namely their own voter registration and casting their own votes. There is virtually no evidence available suggesting that voters are intentionally systematically corrupting the electoral process. Accordingly, I conclude that measures which risk reducing voter access to the ballot are not justified by claims that such requirements are needed to reduce or prevent voter impersonation forms of election fraud because as the empirical record makes clear, fraud

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11.6.12%20President.pdf. His victory represented the growing strength of Democratic presidential candidates over the previous twelve years when Al Gore (2000) and John Kerry (2004) won the state by less than one percentage point.

<sup>130</sup> See video clip of Darling interview, *available at* <http://thinkprogress.org/justice/2012/11/14/1187861/romney-co-chair-outcome-of-wisconsin-election-would-absolutely-have-been-different-with-voter-id/>, accessed December 10, 2015 ("HOST (Mike Gousha): Do you think photo ID would have made any difference in the outcome of this election? DARLING: Absolutely, I think so...").

<sup>131</sup> The audio for this interview on the Wisconsin radio program, "Sly," 93.7 FM, is available at <http://ia902707.us.archive.org/25/items/GlennGrothman-11-15-12/glenn111512.mp3>, accessed December 10, 2015.

<sup>132</sup> At least one Wisconsin Republican has been willing to break with his party's views on voter fraud. Former Wisconsin State Senator Dale Schultz, a Republican from Richland Center (17<sup>th</sup> Senate District) who served as Majority Leader of the Wisconsin State Senate in 2003 and 2005 was interviewed on a radio program (The Mic/92.1 FM) by Mike Crute and Dominic Salvia in March 2014. In that interview he said that his party's efforts to limit access to voting was "sad" and a transparent effort to gain electoral advantage by depressing voter turnout. "It's just sad when a political party has so lost faith in its ideas that it's pouring all of its energy into election mechanics," Schultz told listeners. "We should be pitching as political parties our ideas for improving things in the future rather than mucking around in the mechanics and making it more confrontational at the voting sites and trying to suppress the vote." See Jack Craver, "Dale Schultz: 'I Am Not Willing Defend Them Anymore,'" *Capital Times*, March 18, 2014.

committed by voters either in registering to vote or at the polls on Election Day is exceedingly rare. Drawing on my prior research, I also conclude that American political parties compete as much by demobilizing voters as by mobilizing them, and that it is black Americans who are usually singled out as the targets of demobilization. While proponents of electoral policies that reduce voter access to the ballot purportedly believe that such policies are justified as fraud prevention measures, in the absence of evidence of a problem with voter fraud, I conclude, given historical patterns and evidence and the context for party competition, that such policies actually serve as a form of voter suppression.

**Table 1**

**Persons Charged with Election Fraud Violations  
by the Wisconsin Election Fraud Task Force  
and Milwaukee County District Attorney  
2008-2013**

**Type of Election Violation Charged**

<b>Criminal Charge</b>	<b>Total</b>
Voting by Ineligibles <sup>1</sup>	13
Voting in Wrong Jurisdiction or Ward <sup>2</sup>	4
Double Voting <sup>3</sup>	3
Voting Another's Ballot	1
Registration Fraud	6
Petition Fraud	3
Special Registration Deputy (SRD) Fraud <sup>4</sup>	1
<b>Total</b>	<b>31</b>

1. All "ineligibles" are people with felony convictions who were under state supervision when they cast ballots and therefore, were ineligible to vote in Wisconsin.

2. Three of the four people in this category were charged with civil violations and paid \$100 fines.

3. Two people charged with double voting were acquitted at trial.

4. Defendant falsified application to qualify as a Special Registration Deputy able to collect voter registration applications from others when he failed to report that he was under state supervision for a felony conviction.



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APPENDIX A

**Election Fraud Charges Filed in Wisconsin Circuit Court by the  
Department of Justice and Milwaukee County District Attorney's Office, 2008-2013**

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*State of Wisconsin v. Endalyn Adams*, 2008, Case No. 2008CF004890  
*State of Wisconsin v. Frank E. Walton*, 2008, Case No. 2008CF005168  
*State of Wisconsin v. Adam J. Mucklin*, 2008, Case No. 2008CF005024  
*State of Wisconsin v. Bridgett R. West*, 2009, Case No. 2009CF005617  
*State of Wisconsin v. Latoya T. Lewis*, 2009, Case No. 2009CF000864  
*State of Wisconsin v. Lavelle Marcus Morris*, 2009, Case No. 2009CF000872  
*State of Wisconsin v. L.B. Dean*, 2009, Case No. 2009CF000896  
*State of Wisconsin v. Stephen J. Wroblewski*, 2009, Case No. 2009CM001599  
*State of Wisconsin v. Michael S. Henderson*, 2010, Case No. 2010CF001101  
*State of Wisconsin v. Maria L. Miles*, 2010, Case No. 2010CF001102  
*State of Wisconsin v. Kevin L. Clancy*, 2010, Case No. 2010CF001103  
*State of Wisconsin v. Edward G. Johnson*, 2010, Case No. 2010CF001157  
*State of Wisconsin v. Herbert M. Gunka*, 2010, 2010CF001104  
*State of Wisconsin v. Suzanne C. Gunka*, 2010, 2010CF001105  
*State of Wisconsin v. Olando Nmn Maclin*, 2010, Case No. 2010CF001950  
*State of Wisconsin v. Ramon Martinez*, 2010, Case No. 2010CF001550  
*State of Wisconsin v. David E. Lewis*, 2010, Case No. 2010CF002549  
*State of Wisconsin v. Veronica Toney*, 2010, Case No. 2010CF002593  
*State of Wisconsin v. Leon Pendleton*, 2010, Case No. 2010CF004443  
*State of Wisconsin v. Tyrone J. Stephens*, 2010, Case No. 2010CF005321  
*State of Wisconsin v. Correy O. Grady*, 2011, Case No. 2011CF000302  
*State of Wisconsin v. Caitlin B. Haycock*, 2013, Case No. 2013CM001320  
*State of Wisconsin v. Jenny A. Wanasek*, 2013, Case No. 2013CM001321  
*State of Wisconsin v. Andrew Lewis Shepherd*, 2013, Case No. 2013CF001351  
*State of Wisconsin v. Leonard K. Brown*, 2013, Case No. 2013CF001352  
*State of Wisconsin v. Chad M. Gigowski*, 2013, Case No. 2013CF001353  
*State of Wisconsin v. Brittany Marie Rainey*, 2013, Case No. 2013CF001354  
*Wisconsin State v. Deborah A. Mehling*, 2013, Case No. 2013SC009081  
*Wisconsin State v. Brian A. Uecker*, 2013, Case No. 2013SC009082  
*Wisconsin State v. Bill A. Di Giorgio, Jr.*, 2013, Case No. 2013SC009083  
*Wisconsin State v. Fozia Haq Nawaz*, 2013, Case No. 2013SC009084

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**APPENDIX B**

*Curriculum Vitae of Lorraine C. Minnite*

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**EDUCATION**

**The Graduate School and University Center of the City University of New York**

**Ph.D.** in Political Science, 2000

*Dissertation:* "Identity, Voting Rights and the Remapping of Political Representation in New York City"

*Honors:* Distinction

**M.Phil.** in Political Science, 1994

*Major field:* American Politics

*Minor field:* Public Policy

**M.A.** in Political Science, 1992

*Master's Thesis:* "The Ecology of the Underclass: William Julius Wilson and the Chicago School"

**Boston University, College of Liberal Arts**

**B.A.** in History, 1983

*Area of Concentration:* American Civilization

*Honors:* Cum Laude

**ACADEMIC EXPERIENCE**

**Associate Professor**

*Rutgers, The State University of New Jersey – Camden Campus, 2011 to present.*

Teach graduate courses in public policy and community development, and undergraduate courses in urban studies.

**Assistant Professor**

*Barnard College, Columbia University, January 2000 to 2011.*

Taught undergraduate courses in American politics and urban studies.

**Associate Director**

*The Center for Urban Research and Policy, Columbia University, December 1993 to 2000.*

Responsible for the day-to-day management of the Center; wrote grant proposals and helped secure funding from government and private sources for all activities totaling nearly \$2,000,000.

**Instructor and Research Associate**

*Metropolitan Studies Department, New York University, Spring 1991.*

Designed and taught a core course for undergraduates on the political and economic development of post-war American cities.

**Assistant Program Director**

*Borough of Manhattan Community College, City University of New York, 1987 to 1990.*

Assisted the Director in all administrative aspects of the BMCC Summer Immersion Program, a non-traditional, intensive, remedial education program.

**Research Assistant and Data Analyst**

*CUNY Data Service, The Graduate School, City University of New York, 1987 to 1991.*

Programmed and analyzed large data sets from the 1980 STF and PUMS (microdata) Census files, and the New York City Housing and Vacancy Surveys.

### **Research Assistant**

*Department of Political Science, The Graduate School, City University of New York, 1985 to 1987.*

Worked on various research projects for Prof. Marilyn Gittell.

## **OTHER EMPLOYMENT**

### **Research Director**

*Project Vote, 2010 to 2011.*

Developed a research program and conducted research for a non-profit organization that runs voter registration drives, litigates violations of the National Voter Registration Act of 1993, and advocates for the voting rights of minorities, youth and the poor.

### **Issues Director**

*The Committee for David N. Dinkins, II, New York City, 1991 to 1993.*

Conducted research for Mayor David N. Dinkins' campaign committee on a wide range of public policy issues and problems facing New York City.

### **Campaign Manager**

*McCabe for City Council, Brooklyn, New York, 1991.*

Organized and administered a successful campaign for the Democratic Party nomination and the New York City Council seat in the 38th Council District.

### **Union Organizer**

*District 65/UAW, (AFL-CIO), Northeast Regional Office, Boston, Massachusetts, 1984 to 1985, Summer 1986.*

Participated in the planning and implementation of a union organizing campaign; served as editor of a union local's newsletter; assisted negotiating committee in contract negotiations.

## **ACADEMIC AND PROFESSIONAL HONORS**

Distinguished Alumni Award, Department of Political Science, CUNY Graduate School, 2014

Jay Sigler Award for Teaching Excellence, Rutgers-Camden Public Administration Student Association, 2013

Affiliated Faculty, Center for Community Leadership, Rutgers-Camden, 2013 to present

Affiliated Faculty, Center for Urban Research and Education, Rutgers-Camden, 2012 to present

Civic Engagement Faculty Fellow, Rutgers-Camden, 2012

Selected a "Top Work" in Democracy and Elections, The Agenda Project, 2012

2011 *Choice* Magazine "Outstanding Academic Title" for *The Myth of Voter Fraud*

Carnegie Corporation of New York Special Opportunities Fund Award (\$50,000), 2007

Senior Fellow, Dēmos – A Network for Ideas and Action, 2006 to 2014

Member, Working Group on Immigration Challenges, The Century Foundation Homeland Security Project, 2004

Faculty Fellow, Institute for Social and Economic Research and Policy, Columbia University, 2002 to 2011

Member, Working Group on New York's Recovery from 9-11, Russell Sage Foundation, 2002 to 2005

Curriculum Development Award (\$1,500), Barnard Project on Diaspora and Migration, 2000

CUNY Graduate School Dissertation Year Fellowship (\$10,000), 1996-1997

## **PROFESSIONAL AFFILIATIONS**

American Political Science Association

American Sociological Association

European Sociological Association

Planners Network

Social Science History Association

Urban Affairs Association

## **TEACHING ACTIVITIES**

### **Doctoral Supervision: Chair**

#### ***Rutgers-Camden***

Jiro Arase-Barham, *in-progress*  
P.J. Craig McCaffery, *in-progress*  
Dan Tarng, *in-progress*  
Rasheda Weaver, *in-progress*  
Curtis Williams, *in-progress*  
Zachary Wood, *in-progress*

### **Doctoral Supervision: Member of Committee**

#### ***Rutgers-Camden***

Spencer Clayton, *in-progress*  
Ashley Nickels, *in-progress*  
Wendy Osefeo, *in-progress*  
Jason Rivera, *completed 7/15*

### **Courses Taught**

#### ***Rutgers University-Camden (Graduate)***

Alternative Development Strategies for Distressed Cities (PhD)  
Civic Engagement, Nonprofits and Community Development (PhD)  
Foundations of Policy Analysis (MPA and Executive MPA)  
Politics of Community Development (PhD)  
Practicum in Community Development (PhD)  
Research Workshop (MPA)

#### ***Rutgers University-Camden (Undergraduate)***

Poverty and the Urban Environment

#### ***Barnard College, Columbia University (Undergraduate)***

American Urban Politics  
Contemporary Urban Problems  
Dynamics of American Politics  
Participation and Democracy  
Senior Research Seminar in American Politics  
Urban Myths and the American City

#### ***New York University (Undergraduate)***

The Crisis of the Modern American City

### **Graduate Committee Examiner**

Rutgers University, Ph.D. Program in Public Affairs/Community Development, Dissertation Committees (see above)  
Columbia University Ph.D. Program in Political Science, Dissertation Committee, 12/00, 5/03, 5/09.  
Columbia University School of Architecture, Planning and Preservation, Dissertation Proposal Committee, 2/08.  
Columbia University School of Architecture, Planning and Preservation, Dissertation Committee, 4/10.  
CUNY Graduate Center Ph.D. Program in Political Science, Dissertation Committee, 4/05, 5/06, 8/06.  
CUNY Graduate Center Ph.D. Program in Political Science, Oral Doctoral Exam, 12/00.

## **PEER-REVIEWED PUBLICATIONS**

### ***Books***

*The Myth of Voter Fraud*, Ithaca, New York: Cornell University Press, 2010.

*Keeping Down the Black Vote: Race and the Demobilization of American Voters*, New York: The New Press, 2009; co-authored with Frances Fox Piven and Margaret Groarke.

#### **Journal Articles**

“New Challenges in the Study of Right-wing Propaganda: Priming the Populist Backlash to ‘Hope and Change,’” *New Political Science* 34:4 (2012), 506-526.

“Modeling Problems in the Voter ID-Voter Turnout Debate,” *Election Law Journal* 8:2 (2009), 85-102; co-authored with Robert S. Erikson.

“Models, Assumptions, and Model Checking in Ecological Regressions,” *Journal of the Royal Statistical Society* 164, Part 1 (2001), 101-118; co-authored with Andrew Gelman, David K. Park, Stephen Ansolabehere, and Phillip N. Price.

#### **Chapters in Edited Volumes**

“The Voter Fraud Myth,” in Benjamin E. Griffith, ed., *America Votes! Challenges to Election Law and Voting Rights*, Chicago: American Bar Association, *forthcoming* (February 2016).

“Competing Concepts of Social Class: Implications and Applications for Community Development,” in Mae Shaw and Marjorie Mayo, eds., *Class, Inequality and Community Development*, Bristol, UK: Policy Press at the University of Bristol, *in press*; co-authored with Frances Fox Piven.

“Making Policy in the Streets,” in James DeFilippis, ed., *Urban Policy in the Age of Obama*, Minneapolis: University of Minnesota Press, *in press*; co-authored with Frances Fox Piven.

“Poor People’s Politics,” in David Brady and Linda Burton, eds., *Oxford Handbook of the Social Science of Poverty*, New York: Oxford University Press, *in press*; co-authored with Frances Fox Piven.

“Crisis, Convulsion and the Welfare State,” in Kevin Farnsworth and Zoë Irving, eds. *Social Policy in an Age of Austerity*, Policy Press, 2015; co-authored with Frances Fox Piven.

“Voter Identification Laws: The Controversy Over Voter Fraud,” in Matthew J. Streb, ed., *Law and Election Politics: The Rules of the Game*, 2<sup>nd</sup> Ed., New York: Routledge, 2012.

“Lost in Translation? A Critical Reappraisal of the Concept of Immigrant Political Incorporation,” in Jennifer Hochschild and John H. Mollenkopf, eds., *Bringing Outsiders In: Transatlantic Perspectives on Immigrant Political Incorporation*, Ithaca, New York: Cornell University Press, 2009.

“Environmental Risk and Childhood Disease in an Urban Working Class Caribbean Neighborhood,” in Sherrie L. Baver and Barbara Lynch Deutsch, ed., *Beyond Sun and Sand: Caribbean Environmentalisms*, New Brunswick, NJ: Rutgers University Press, 2006; co-authored with Immanuel Ness.

“Outside the Circle: The Impact of Post-9/11 Responses on the Immigrant Communities of New York City,” in John H. Mollenkopf, ed., *Contentious City: The Politics of Recovery in New York City*, New York: Russell Sage Foundation, 2005.

“Between White and Black: Asian and Latino Political Participation in the 2000 Presidential Election in New York City,” in William E. Nelson, Jr. and Jessica Lavariega Monforti, eds., *Black and Latino/a Politics: Issues in Political Development in the United States*, Miami: Barnhardt and Ash, 2005; co-authored with John Mollenkopf.

“The Changing Arab New York Community,” in Kathleen Benson and Philip M. Kayal, eds., *A Community of Many Worlds: Arab Americans in New York City*, Syracuse: Syracuse University Press, 2002; co-authored with Louis Abdellatif Cristillo.

“Social Capital, Political Participation and the Urban Community,” in Susan Saegert, J. Phillip Thompson, and Mark Warren, eds., *Social Capital and Poor Communities*, New York: Russell Sage Foundation, 2001; co-authored with Ester R. Fuchs and Robert Y. Shapiro.



"Patterns of Neighborhood Change," in John H. Mollenkopf and Manuel Castells, eds., *Dual City: Restructuring New York*, New York: Russell Sage, 1991; co-authored with Frank F. DeGiovanni.

## **OTHER PUBLICATIONS**

### ***Chapter in Conference Proceedings***

"The Political Participation of Immigrants in New York," in *In Defense of the Alien: Proceedings of the 2000 Annual National Legal Conference on Immigration and Refugee Policy*, Vol. XXIII. New York: Center for Migration Studies, 2001; co-authored with Jennifer Holdaway and Ronald Hayduk.

### ***Encyclopedia Entries***

"The Underclass," in *The International Encyclopedia of Social and Behavioral Sciences*, Elsevier, *forthcoming*; co-authored with Paul J. Jargowsky.

"Welfare," in *The International Encyclopedia of Social and Behavioral Sciences*, Elsevier, *forthcoming*; co-authored with Joan Maya Mazelis.

"Voter Participation," in *The Encyclopedia of Social Work*, 20<sup>th</sup> ed., New York: Oxford University Press, 2008, online version 2013; co-authored with Frances Fox Piven.

"The Working Families Party," in Immanuel Ness, ed. *The Encyclopedia of American Third Parties*, Armonk, New York: M.E. Sharpe, Inc., 2000.

### ***Book Reviews***

*Waiting for the Cemetery Vote*, by Tom Glaze, *American Review of Politics*, (Spring/Summer 2012).

*Election Fraud: Detecting and Deterring Electoral Manipulation* edited by R. Michael Alvarez, Thad Hall and Susan D. Hyde, *Election Law Journal* 8:3 (2009).

*Governing From Below: Urban Regions and the Global Economy* by Jefferey M. Sellers, Cambridge University Press, 2002, in *Political Science Quarterly* Vol. 118, No. 4 (Winter 2003-2004).

*Social Class, Politics, and Urban Markets: The Makings of Bias in Policy Outcomes* by Herman L. Boschken, Stanford, CA: Stanford University Press, 2002, in *The International Journal of Urban and Regional Research*, Vol. 27, No. 4 (December 2003).

*The Miami Fiscal Crisis: Can A Poor City Regain Prosperity?* by Milan J. Dluhy and Howard A. Frank, Westport, Connecticut: Praeger Publishers, 2002, in *Political Science Quarterly* Vol. 117, No. 4 (Winter 2002-2003).

### ***Research Reports, Memoranda and Briefs***

*The Misleading Myth of Voter Fraud in American Elections*, Key Findings Brief, Scholars Strategy Network, February 2014.

*Latino New Yorkers in the 2008 Presidential Election: The New Americans Exit Poll*, New York Latino Research Network (NYLARNet) at The University of Albany, Fall 2011.

*Research Memo: First-time Voters in the 2008 Election*, Project Vote, Washington, D.C., April 2011.

*An Analysis of Who Voted (And Who Didn't Vote) in the 2010 Election*, Project Vote, Washington, D.C., November 2010.

*Research Memo: Debunking the Tea Party's Election Night Message*, Project Vote, Washington, D.C., October 26, 2010.

*What Happened to Hope and Change? A Poll of 2008 Voters*, Project Vote, Washington, D.C., September 2010.

*Election Day Registration: A Study of Voter Fraud Allegations and Findings on Voter Roll Security*, Dēmos – A Network for Ideas and Action, New York, November 2007.

*The Politics of Voter Fraud*, Project Vote, Washington, D.C., March 2007.

*Securing the Vote: An Analysis of Election Fraud*, Dēmos – A Network for Ideas and Action, 2003, New York; updated 2007; co-authored with David Callahan.

### ***Journalism***

My expertise on elections and voter fraud was sought and widely cited and I was quoted in print and broadcast media during the 2008, 2010 and 2012 election seasons, including, for example, in the following: *The New Yorker Magazine*, *The New Republic*, *Mother Jones*, *The Wall Street Journal*, *In These Times*, *American Prospect*, *Washington Monthly*, *Monthly Review*, *New Left Review*, *The New York Times*, *The Washington Post*, Associated Press, McClatchy, Al Jazeera English (*Fault Lines*, Washington, D.C.), WZBC (*News*, Boston), WBAI (*Democracy Now!*, New York), WNYC (*The Brian Lehrer Show*, New York), WHYY (*Radio Times*, Philadelphia), NPR (*Morning Edition*, Washington, D.C.), CBS News, ABC News Radio, Salon.com, Talking Points Memo, Alnet.net, The Huffington Post, Slate Magazine, and CQ Researcher, among others.

“The Power of Disruption: An Interview with Frances Fox Piven,” *Global Dialogue: Newsletter for the International Sociological Association* 5(4): December 2015.

“The Myth of Voter Fraud,” BillMoyers.com, March 9, 2015.

“Movements Need Politicians – And Vice Versa,” *The Nation*, October 22, 2012; co-authored with Frances Fox Piven.

“The Other Campaign: Who Gets To Vote,” *New Labor Forum*, May 2012; co-authored with Frances Fox Piven.

“Why We Need ACORN,” *Los Angeles Times*, April 22, 2010; co-authored with Frances Fox Piven.

“Re-Drawing the Map of U.S. Politics,” *Red Pepper*, April, 2008; co-authored with Frances Fox Piven.

“N.C. Rejects Politics of Fear,” *The Charlotte Observer*, Charlotte, North Carolina, July 18, 2007.

“They Are Arriving: Immigrants Are Gaining Power in New York’s Voting Booths,” *New York Daily News*, New York, July 24, 2005.

“Albany’s Making Bad Elections Worse,” *New York Daily News*, New York, August 22, 2004.

## **UNPUBLISHED PAPERS, PRESENTATIONS AND REPORTS**

### ***Works in Progress***

“Does Concentration Worsen Poverty? The Case of Philadelphia”

“Voter Purging Under the National Voter Registration Act of 1993”

“When A Mistake is A Mistake: Human Error in Election Administration”

“Felony Disfranchisement and the New Three-Fifths Rule”

### ***Conference Participation, Papers and Invited Presentations***

Invited Panelist, “Voting Fraud, Voter Suppression: Myths and Realities,” League of Women Voters of Connecticut Education Fund Annual Fall Conference, Darien Library, Darien, Connecticut, October 24, 2015.

Invited Panelist, “Voting Rights at 50,” 22<sup>nd</sup> Annual First Monday Celebration, Eric R. Neisser Public Interest Program, Rutgers School of Law, Newark, New Jersey, October 7, 2015.

Panel Organizer and Chair, “Electoral Rules, Voting and Turnout: New Pathways for Research,” panel at the 111<sup>th</sup> Annual Meeting of the American Political Science Association, San Francisco, September 3-6, 2015.

“Community and Class in a Neoliberal Age,” paper presented at the 110<sup>th</sup> Annual Meeting of the American Sociological Association, Chicago, August 22-25, 2015; co-authored with Frances Fox Piven.

“Black Urban Liberalism: A Case Study of Democratic Inclusion and Economic Exclusion in Philadelphia, 1970-2010,” paper presented at the 45<sup>th</sup> Annual Meeting of the Urban Affairs Association, Miami, April 8-11, 2015.

Invited Speaker, “Does Concentration Worsen Poverty? The Philadelphia Case,” Center for Urban Research and Education, Rutgers University, Camden, December 12, 2014.

Invited Speaker, “The State of Voting Rights,” sponsored by the Atlanta Chapter of the Scholars Strategy Network, Atlanta, December 2, 2014.

“The Poverty of Politics in a Northern City: A Case Study of Democratic Inclusion and Economic Exclusion in Philadelphia, 1970-2000,” paper presented at the 39<sup>th</sup> Annual Meeting of the Social Science History Association, Toronto, November 6-9, 2014.

“Crisis, Convulsion and the Welfare State,” roundtable presentation at the 109<sup>th</sup> Annual Meeting of the American Sociological Association, San Francisco, August 16-19, 2014; co-authored with Frances Fox Piven.

“Making Policy in the Streets,” paper presented at the 44<sup>th</sup> Annual Meeting of the Urban Affairs Association, San Antonio, March 20, 2014; co-authored with Frances Fox Piven.

Invited Panelist, “Voter Suppression, Equal Rights, and the Promise of Democracy,” sponsored by the Scholars Strategy Network, the Center for American Political Studies, and the Malcolm Wiener Center for Social Policy, Harvard University, March 6, 2014.

“Crisis, Convulsion and the Welfare State,” paper presented at the 11<sup>th</sup> Annual Meeting of the European Sociological Association, Torino, Italy, August 28-31, 2013; co-authored with Frances Fox Piven.

Invited Panelist, “Anatomy of A Public Interest Lawsuit: Voter ID Legislation – A Public Interest Legal Challenge,” sponsored by Penn Law Clinical Programs, Lawyering in the Public Interest, Toll Public Interest Center, American Constitution Society and the Civil Rights Law Project, University of Pennsylvania Law School, Philadelphia, Pennsylvania, November 5, 2012.

Invited Panelist, “Disenfranchise This: The Cost of Voter Suppression,” 19<sup>th</sup> Annual First Monday Celebration, Eric R. Neisser Public Interest Program, Rutgers School of Law, Newark, New Jersey, October 3, 2012.

Invited Panelist, “The Voting Rights Act: Where Do We Go From Here?” Rutgers University Law Review Symposium, Trenton, New Jersey, April 13, 2012.

Invited Panelist, “Voting Rights,” Civil Rights Law Society, Columbia University Law School, New York City, March 20, 2012.

Invited Panelist, “Race and Public Policy,” conference at George Mason University School of Public Policy, Arlington, Virginia, October 10, 2011.

Invited Panelist, “Organizing the Poor for Rights: The Work of Frances Fox Piven,” 107<sup>th</sup> Annual Meeting of the American Political Science Association, Seattle, September 1-4, 2011.

“Is Political Polarization Good or Bad for Democracy?,” paper presented at the 69<sup>th</sup> Annual Meeting of the Midwest Political Science Association, Chicago, March 30-April 2, 2011.

Invited Roundtable Participant, “Voter Disenfranchisement in American Politics,” 82<sup>nd</sup> Annual Meeting of the Southern Political Science Association, New Orleans, January 6-8, 2011.

Invited Panelist, “Voter Participation,” New York City Charter Revision Commission, New York City, June 2, 2010.

Discussant, "Immigrant Voters: Asian Americans and the 2008 Election," Immigration Seminar Series, Graduate School and University Center of the City University of New York, May 4, 2009.

"Purging Voters Under the NVRA," paper presented at the 67<sup>th</sup> Annual Meeting of the Midwest Political Science Association, Chicago, April 2-5, 2009; co-authored with Margaret Groarke.

Invited Panelist, "Democracy in America: The African-American Experience – Then, Now and Future," U.S. Mission to the United Nations, New York, March 17, 2009.

Invited Speaker, "Voter Suppression in the 2008 Presidential Election," Funders Committee for Civic Participation, Washington, D.C., December 9, 2008.

Invited Panelist, "Stealing the Vote in 2008," A Panel Discussion at New York University, October 16, 2008.

Invited Panelist, "Keeping Down the Vote: Vote Suppression and the 2008 Election," Sarah Lawrence College, September 23, 2008.

"Modeling Problems in the Voter ID-Voter Turnout Debate," paper presented at the 8<sup>th</sup> Annual State Politics and Policy Conference, Temple University, Philadelphia, May 30-31, 2008; co-authored with Robert S. Erikson.

Panelist, "Keeping Down the Black Voter: Race and the Demobilization of American Voters," *Left Forum*, New York, March 16, 2008.

Panel Discussant, "Group Mobilization, Partisanship, Ideas, and Leadership: The Los Angeles and New York Mayoral Elections of 2005," 102<sup>nd</sup> Annual Meeting of the American Political Science Association, Philadelphia, August 31-September 3, 2006.

"Re-thinking Immigrant Political Incorporation," paper presented at the 36<sup>th</sup> Annual Meeting of the Urban Affairs Association, Montreal, Canada, April 19-22, 2006.

"Immigrant Politics in an Age of Terror," paper presented at the 101<sup>st</sup> Annual Meeting of the American Political Science Association, Washington, D.C., September 1-4, 2005.

Panel Discussant, "Immigrants As Local Political Actors," 100<sup>th</sup> Annual Meeting of the American Political Science Association, Chicago, September 1-4, 2004.

Invited Lecturer, "Literature of Immigration," New Jersey Council for the Humanities Teacher Institute, Monmouth University, Long Branch, New Jersey, August 5, 2004.

"The Impact of 9/11 on Immigrant Politics in New York, With a Focus on Arab, Muslim, and South Asian Immigrant Communities," Columbia University Seminar on the City, New York City, March 23, 2004.

Invited Participant, "The Impact of Post-9/11 Immigration and Law Enforcement Policies," The Century Foundation, New York City, February 4, 2004.

Workshop Participant, Multi-race Study Group, *Harvard CAPS Workshop on Methodologies to Study Immigrant Political Incorporation*, Harvard University, Cambridge, October 30-31, 2003.

Invited Lecturer, "Literature of Immigration," New Jersey Council for the Humanities Teacher Institute, Monmouth University, Long Branch, New Jersey, July 10, 2003.

Panelist, "Rebuilding Post-War Iraq: Domestic and International Implications," Community Forum, Barnard College, New York City, April 21, 2003.

"Political Participation and the Neglected Role of Spatial Form," paper presented at the 33<sup>rd</sup> Annual Meeting of the Urban Affairs Association, Cleveland, Ohio, March 27-30, 2003.

Invited Speaker, "Teach-In on Iraq," Barnard College, New York City, November 8, 2002.

Panelist, "Colloquium on Responding to Violence," in honor of Virginia C. Gildersleeve Lecturer, Jody Williams, Barnard Center for Research on Women, Barnard College, New York City, October 25, 2002.

Panel Moderator, "Who is Brooklyn?" at *The Future of Brooklyn* Conference, Brooklyn College, June 7, 2002.

"Asian and Latino Participation in New York City: The 2000 Presidential Election," paper presented at the 97<sup>th</sup> Annual Meeting of the American Political Science Association, San Francisco, August 29 – September 2, 2001; co-authored with John H. Mollenkopf.

Organizer and Panelist, *The Changing Face of New York's Electorate: The Immigrant Vote in 2000 and Beyond*, A Panel Discussion and Media Briefing sponsored by the New York Immigration Coalition and Barnard College, New York City, May 2, 2001.

Organizer and Panelist, *The Muslim Communities in New York City Project; A One-Day Conference*, sponsored by the Center for Urban Research and Policy and the Middle East Institute at the School of International and Public Affairs, Columbia University, New York City, April 30, 2001.

Panelist, *Democratizing New York City; Re-imagining City Government*, sponsored by the Center for Humanities, CUNY Graduate Center, New York City, March 27, 2001.

Organizer and Panel Moderator, *Independent Politics in A Global World*, sponsored by the Independent Politics Group, CUNY Graduate Center, New York City, October 6-7, 2000.

"Political Capital and Political Participation," paper presented at the 96<sup>th</sup> Annual Meeting of the American Political Science Association, Washington, D.C., August 31-September 3, 2000; co-authored with Ester R. Fuchs and Robert Y. Shapiro.

"The Political Participation of Immigrants in New York," at *Immigrant Political Participation in New York City; A One-Day Working Conference*, sponsored by the Center for Urban Research/CUNY and the International Center for Migration, Ethnicity, and Citizenship, New York City, June 16, 2000

"The Muslim Community in New York City Project," with Louis Abdellatif Cristillo; *Muslims in New York: An Educational Program for Religious Leaders in New York City*, seminar on faith traditions in New York; sponsored by the Interfaith Center of New York and the Imans Council of New York, New York City, June 14, 2000.

"The Political Participation of Immigrants in New York," Session VI on *Integration of Immigrants and Their Descendants*, Center for Migration Studies 20<sup>th</sup> Annual National Legal Conference on Immigration and Refugee Policy, Washington, D.C., March 30-31, 2000.

"The Changing Arab New York Community," with Louis Abdellatif Cristillo; *A Community of Many Worlds: Arab Americans in New York City*, symposium sponsored by the Museum of the City of New York, New York City, February 5-6, 2000.

"The Political Incorporation of Immigrants in New York," paper presented at the 95<sup>th</sup> Annual Meeting of the American Political Science Association, Atlanta, September 1-4, 1999; co-authored with Jennifer Holdaway and Ronald Hayduk .

"Political Capital and Political Participation," co-authored with Ester R. Fuchs and Robert Y. Shapiro; paper presented at the 58<sup>th</sup> Annual Meeting of the Midwest Political Science Association, Chicago, April 15-17, 1999.

"Racial and Ethnic and Urban/Suburban Differences in Public Opinion and Policy Priorities," paper presented at the 58<sup>th</sup> Annual Meeting of the Midwest Political Science Association, Chicago, April 15-17, 1999; co-authored with Ester R. Fuchs, Robert Y. Shapiro, and Gustavo Cano.

"The Importance of Full Disclosure of Non-response Due to Refusals and the Nature of Potential Bias in Phone Surveys," with Robert Y. Shapiro, evening workshop presentation to the New York City chapter of the American Association for Public Opinion Research, New York City, March 9, 1999.



"White, Black and Latino Voter Turnout in the 1993 New York City Mayoral Election: A Comparison of Ecological Regression Techniques and Exit Poll Data," paper presented at the 94<sup>th</sup> Annual Meeting of the American Political Science Association, Boston, September 4, 1998; co-authored with David K. Park and Daniel M. Slotwiner.

Panel Discussant, "Race, Rights, and American Politics;" panel at the 27<sup>th</sup> Annual Meeting of the Northeastern Political Science Association and International Studies Association-Northeast, Newark, New Jersey, November 9-11, 1995.

"Assessing the Quality of Political Reform: Redistricting and the Case of New York City," paper presented at the Annual Meeting of the New York State Political Science Association, Albany, New York, April 22, 1994.

### **Research Reports**

*How to Think About Voter Participation*, White Paper, New York City Charter Revision Commission, July 2010.

*The Myth of Voter Fraud*, White Paper, Dēmos – A Network for Ideas and Action, May 2002.

*Evaluation of the New York Immigration Coalition's '200,000 in 2000: New Americans Pledging to Strengthen Democracy and New York' Initiative*, Final Report to the New York Foundation, with John H. Mollenkopf, August 2001.

*A Study of Attitudes Among Low-Income Parents Toward Environmental Health Risks and Childhood Disease: The Brooklyn College COPC Survey*, with Immanuel Ness, June 2001.

*Political Participation and Political Representation in New York City; With a Special Focus on Latino New Yorkers*, Report of the Columbia University/Hispanic Education and Legal Fund Opinion Research Project, co-authored with Robert Y. Shapiro and Ester R. Fuchs, December 1997.

### **Expert Witness Participation in Federal and State Court Cases, Amicus Filings, and Congressional Testimony**

Expert Witness, *Ohio Democratic Party v. Husted*, U.S. District Court for the Southern District of Ohio, 2015.

Expert Witness, *North Carolina State Conference of the NAACP v. McCrory*, U.S. District Court for the Middle District of North Carolina, 2014-2015.

Expert Witness, *Veasey v. Perry*, U.S. District Court for the Southern District of Texas, 2014-2015.

Expert Witness, *Frank v. Walker/LULAC (formerly Jones) et al. v. Deininger*, U.S. District Court for the Eastern District of Wisconsin, 2012-2013.

Expert Witness, *Applewhite v. Commonwealth of Pennsylvania*, Commonwealth Court of Pennsylvania, 2012-2013.

*Shelby County, Alabama v. Holder*; U.S. Supreme Court, Brief of Historians and Social Scientists as *Amici Curiae* in Support of Respondents, February 1, 2013 (signatory).

Expert Report, *Rutgers University Student Assembly et al. v. Middlesex County Board of Elections*, Superior Court of New Jersey/Middlesex County, 2011.

*League of Women Voters v. Rokita*; Supreme Court of Indiana, Brief of *Amici Curiae* Lonna Rae Atkeson, Matt A. Barreto, Lorraine C. Minnite, Jonathan Nagler, Stephen A. Nuño and Gabriel Ramon Sanchez in Opposition to Defendant's Petition to Transfer, November 2009.

Expert Witness, *Democratic National Committee, et al. v. Republican National Committee, et al.*, U.S. District Court in the District of New Jersey, 2008-2009.

U.S. Senate Committee on Rules and Administration, *Hearing on In-Person Voter Fraud: Myth and Trigger for Voter Disenfranchisement?*, March 12, 2008 (written testimony).

Expert Witness, U.S. House Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Civil Liberties, *Oversight Hearing on Voter Suppression*, February 26<sup>th</sup>, 2008 (oral and written testimony).

*William Crawford, et al. v. Marion County Election Board, et al.; Indiana Democratic Party, et al. v. Todd Rokita et al.; U.S. Supreme Court, Brief of Amici Curiae* The Brennan Center for Justice, Demos: A Network for Ideas and Action, Lorraine C. Minnite, Project Vote, and People for the American Way Foundation *in Support of Petitioners*, November 2007.

*William Crawford, et al. v. Marion County Election Board, et al.; Indiana Democratic Party, et al. v. Todd Rokita et al.; U.S. Supreme Court, Brief of Amici Curiae* of Historians and Other Scholars *in Support of Petitioners*, November 2007 (signatory).

Fact Witness, *ACORN et al. v. Bysiewicz*, U.S. District Court in the District of Connecticut, 2004-2005.

## **RESEARCH GRANTS**

*Recipient*, Rutgers-Camden Learning Abroad Office, Course Development Grant, 2015 (\$1,000).

*Principle Investigator*, "The Political Exclusion of the Urban Poor," Rutgers Research Council Award, 2013-2014 (\$3,000).

*Recipient*, RU FAIR ADVANCE (NSF) Rutgers-Camden Travel Award, March/April 2013 (\$1,590). Funded by the Rutgers University Office for the Promotion of Women in Science, Engineering, and Mathematics (SciWomen) Institutional Transformation grant from the ADVANCE program of the National Science Foundation.

*Principal Investigator*, "University Collaborative Exit Poll," November 2008 to October 2009 (\$30,000). Funded by Columbia University Institute of Social and Economic Research and Policy, Center for Urban Research at the Graduate School and University Center of the City University of New York, and the New York Latino Research and Resources Network at the University of Albany, State University of New York.

*Co-Principal Investigator*, "2006 New Americans Exit Poll," November 2006 to October 2007 (\$10,000). Funded by the Graduate School of Arts and Sciences, Columbia University.

*Recipient*, Special Assistant Professor Leave Travel Grant, September 2003 to September 2005 (\$7,700). Funded by the Provost's Office, Winston Fund, Barnard College.

*Recipient*, Conference Grant, September 2003 to September 2005 (\$3,000). Funded by the Provost's Office, Forman Fund, Barnard College.

*Member*, Working Group on New York's Recovery from September 11<sup>th</sup>, June 2002 to June 2005 (\$30,000). Funded by the Russell Sage Foundation.

*Principal Investigator*, "2002 New Americans Exit Poll," December 2002 to March 2003 (\$1,800). Funded by the Faculty Research Fund of Barnard College.

*Principal Investigator*, "Evaluation of the New York Immigration Coalition's '200,000 in 2000' Campaign," July 2000 to July 2001 (\$40,000). Barnard College, Columbia University. Funded by the New York Foundation.

*Co-Principal Investigator*, "Muslim Communities in New York City," July 1998 to July 2001 (\$350,000). The Center for Urban Research and Policy, Columbia University. Funded by the Ford Foundation.

## **SERVICE**

### ***College and University***

Member, Tenure and Third-Year Review Committees, Department of Political Science, Rutgers-Camden, 2015.  
Chair, Civic General Education Committee, Subcommittee on Engaged Civic Learning, Rutgers-Camden, 2015 to present.  
Member, Rutgers-Camden Department of Public Policy & Administration Ph.D. Committee, 2014-present.  
Member, Rutgers-Camden Department of Public Policy & Administration Ph.D. Exam (Theory) Committee, 2014-present.  
Member, General Education Committee, Subcommittee on Engaged Civic Learning, Rutgers-Camden, 2013-2014.  
Marshal, Rutgers-Camden Commencement, 2013, 2014.

Member, Rutgers-Camden Department of Political Science Search Committee, 2013.  
Member, Rutgers-Camden Department of Public Policy & Administration Search Committee, 2012, 2013.  
Director, Undergraduate Urban Studies Program, Rutgers-Camden, 2011 to present (on Sabbatical 2014-2015).  
Member, Ford Faculty Seminar on Inequality in New York, Barnard College, 2009-2010.  
Panelist, "Obama and the Immigrant Vote," Barnard Forum on Migration, October 30, 2008.  
Panel Moderator, "Is Democracy Democratic?" at the Thirty-Third Annual *The Scholar and the Feminist Conference*, Barnard College, March 11, 2008.  
Participant, Mellon 23 Assembly, Macalester College, St. Paul, Minnesota, February 15-17, 2008.  
Panelist, "Election Reflections: The Bush Legacy and the Coming Presidential Elections," Barnard College, Oct. 8, 2007.  
Member, *The Scholar and the Feminist Conference* Planning Committee, Barnard Center for Research on Women, 2006.  
Member, Faculty Programs and Governance Committee, 2005-2007 (on leave Spring 2007).  
Member, Faculty Committee, Barnard Leadership Initiative, 2005-2007 (on leave Spring 2007).  
Member, Medalist Committee, Barnard College, 2004-2006, 2007-2009 (on leave Spring 2007).  
Member, Columbia University Seminar in Political and Social Thought, 2004 to 2011.  
Faculty Mentor, Francene Rodgers Scholarship Program, Barnard College, Summer 2004.  
Panel Moderator, "Governance by the Media: Feminists and the Coming Election," at the Twenty-Ninth Annual *The Scholar and the Feminist Conference*, Barnard College, April 3, 2004.  
Member, Ph.D. Subcommittee in Urban Planning, Columbia University School of Architecture, Planning and Preservation, 2003 to 2011.  
Member, Columbia University Seminar on Globalization, Labor, and Popular Struggles, 2001 to 2011.  
Member, Columbia University Seminar on the City, 2001 to 2011.  
Faculty Mentor, Columbia University Graduate School of Arts and Sciences Summer Research Program, 2001.  
Advisory Board Member, Barnard Center for Research on Women, 2000 to 2011.  
First Year Adviser, Barnard College, 2000 to 2004, 2009 to 2011.  
One-Year Replacement Member, Committee on Programs and Academic Standing, Barnard College, 2000-2001.

### **Professional**

I have reviewed numerous journal articles for the *American Political Science Review*, *American Journal of Political Science*, *American Review of Politics*, *British Journal of Industrial Relations*, *Election Law Journal*, *Ethnic and Racial Studies*, *Journal of Ethnic and Migration Studies*, *Law and Society Review*, *New Political Science*, *Perspectives on Politics*, *Political Research Quarterly*, *Political Science Quarterly*, *Public Opinion Quarterly*, *Urban Affairs Review*, and *Working U.S.A.: The Journal of Labor and Society*; and book proposals and manuscripts for Blackwell Publishers, Lexington Books, Routledge, M.E. Sharpe, Inc., New York University Press, and The New Press.

Co-Chair, Scholars Strategy Network, New Jersey Chapter, 2015 to present.  
Seminar Speaker, Carnegie-Knight News21 Initiative Reporting Seminar on Voting Rights, The Walter Cronkite School of Journalism and Mass Communication, Arizona State University, February 2, 2012.  
Member, Best Book Committee, Urban Section, American Political Science Association, 2010-2011, 2012-2013.  
Executive Council Member, Urban Section, American Political Science Association, 2005-2006, 2008-2010.  
Member, Charles A. McCoy Career Achievement Award, New Politics Section, APSA, 2008-2009.  
Member, Best Dissertation Committee, Urban Section, American Political Science Association, 2008-2009.  
Co-chair, Local Host Committee, American Sociological Association Annual Conference, 2006-2007.  
Nominating Committee, Urban Section, American Political Science Association, 2006-2007.  
Chair, Piven and Cloward Award Committee, New Political Science Section, American Political Science Association, 2005-6.

Member, Best Paper Committee, Urban Section, American Political Science Association, 2005-2006.  
Editorial Board Member, *Working USA: The Journal of Labor and Society*, 2004 to present.  
Grant Reviewer, Research Award Program, The City University of New York, 2003.  
Member, New York Colloquium on American Political Development, 2001 to 2011.

### **Community**

Member, Participatory Budgeting in New York City Research Board, Community Development Project of the Urban Justice Center, 2013 to present.  
Invited Speaker, Registrar's of Voters Association of Connecticut, Annual Meeting, Cromwell, CT, April 12, 2012.  
Keynote Speaker, Federal Aviation Administration William J. Hughes Technical Center 2012 Black History Month Celebration, Atlantic City, New Jersey, February 15, 2012.

Organizer, "National Teach-in on Debt, Austerity and How People Are Fighting Back," Judson Memorial Church, New York City, April 11, 2011.

Host Committee, New York State Immigrant Action Fund, 2010.

Board Member, The Left Forum, 2009 to 2013.

Member, New York City Comptroller-Elect John Liu Transition Committee Working Group on External Affairs, 2009.

Board Member, Project Vote, 2008-2009.

Speaker, "The Immigrant Voter in New York City," New York Voter Assistance Commission, New York City, May 19, 2005; Citizens Union, New York City, May 18, 2005; New York Immigration Coalition, New York City, February 17, 2005; New York City Central Labor Council, New York City, April 28, 2004.

Speaker, "The Post-9/11 Crackdown on Immigrants," Coney Island Avenue Project, Brooklyn, New York, March 25, 2004.

Volunteer, *New York Immigration Coalition*, Voter Registration at INS Naturalization Ceremonies, 1998 to 2002.

## **PAID CONSULTANTSHIPS**

### ***Kirkland & Ellis, LLP, 2014-2015.***

Wrote expert reports for plaintiffs in *North Carolina State Conference of NAACP v. McCrory*, U.S. District Court for the Middle District of North Carolina.

### ***Dechert, LLP, 2014***

Wrote expert report for plaintiffs and testified at trial in *Veasey v. Perry*, U.S. District Court for the Southern District of Texas.

### ***Arnold & Porter LLP, 2012-2013.***

Wrote expert reports for plaintiffs (2012, 2013) and testified (2012) at trial in *Applewhite v. Commonwealth of Pennsylvania*, Commonwealth Court of Pennsylvania.

### ***New York City Charter Revision Commission, 2010.***

Analyzed the problem of voter participation in New York City and possible solutions for consideration by Commissioners as they prepared ballot referenda to be placed before the voters in 2010.

### ***New York Latino Research and Resources Network at the University of Albany, State University of New York, 2008.***

Analyzed survey and other data and wrote report on Latino political participation in New York City and New York State in the 2008 presidential election.

### ***New York Immigration Coalition, New York, New York, 2006.***

Provided technical assistance to a three-city exit poll survey project for the 2006 national midterm elections.

### ***Brennan Center for Justice at New York University School of Law, 2004-2005.***

Provided expert report on voter fraud and testified as a fact witness in *ACORN, et al. v. Bysiewicz*, Civil Action No. 3:04-CV-1624 (MRK), U.S. District Court for the District of Connecticut.

### ***Howard Samuels State Management and Policy Center, Graduate School and University Center of CUNY, 2002.***

Consulted on survey design for a project on the efficacy of community-based organizations.

### ***Dēmos, New York, New York, 2001 to 2002.***

Researched and wrote a study of voter fraud in contemporary American politics.

### ***1199 Child Care Fund, New York, New York, 2000 to 2002.***

Prepared demographic data for Fund-eligible union members and their children.

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**APPENDIX C**

**List of Expert Testimony Since 2010**

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*Ohio Democratic Party v. Husted*, Case No. 2:15-cv-1802 (S.D. Ohio 2015).

*North Carolina State Conf. of the NAACP v. McCrory*, Civ. No. 1:13-cv-658 (M.D.N.C. 2015).

*Veasey v. Perry*, Civ. No. 2:13-cv-00193 (S.D. Tex. 2014).

*LULAC v. Deininger*, Civ. No. 2:12-cv-00185 (E.D. Wis. 2013).

*Applewhite v. Pennsylvania*, No. 330 MD 2012 (Pa. Cmmw. Ct. 2012).