

The Ohio Voter Rights Coalition's Public Comment
Submitted to the Presidential Commission on Election Reform
September 20, 2013

The Ohio Voter Rights Coalition is a non-partisan network of voter advocates dedicated to ensuring that elections are free, fair and accessible for all citizens. The following reform suggestions are provided with the goal of modernizing Ohio's elections, increasing transparency between voters and election officials, and ensuring that more eligible votes are counted.

Implement An Election Complaint Tracking System

There are no standard forms for voters to report election complaints or irregularities to the Secretary of State or the Board of Elections. Accordingly, it is difficult for the public to obtain empirical data on whether voter suppression occurred, or to identify widespread problems. Furthermore, without a formal system for tracking election complaints, it is difficult for the public determine whether the Boards of Elections and the Secretary of State are being held accountable for resolving election complaints. The creation and public promotion of an election complaint tracking system would greatly enhance voter confidence in the system.

A report released in May by the Secretary of State stated that no voters had been denied ballots and no prosecution referrals were made for voter suppression during the 2012 election.¹ However, there were multiple complaints that voters who were eligible for a regular ballot were given provisional ballots. These issues were not taken into consideration during the compilation of the Secretary of State's report, however, we believe that an uncounted ballot is the denial of a person's vote.

It is also notable that a public records request to the Secretary of State's Office revealed that the Secretary of State had neither created nor specified any particular document be used to report any allegations or evidence of voter suppression.² Given that there were no official forms on which to report voter suppression, it is highly unlikely that voters were aware that they should document allegations of voter suppression with the Boards of Elections.

The need for a formalized election complaint system is further bolstered by records from the 866-OUR-VOTE hotline operated by the Lawyer's Committee for Civil Rights Under Law. On Election Day 2012, at least 680 voters called the 866-OUR-VOTE hotline and reported that they had problems voting in Ohio.³ Complaints included poll workers misapplying voter ID rules and voters being required to vote provisionally

¹ Secretary of State Husted Releases Post-2012 General Election Voter Fraud Report (2013, May 23). <http://www.sos.state.oh.us/SOS/mediaCenter/2013/2013-05-23.aspx>

² Public records request on file with the Ohio Voter Rights Coalition

³ Tuner, Nina & Clyde, Kathleen (2013, June 5). *Voter Suppression in Ohio in the November 2012 Election* at 7. <http://www.scribd.com/doc/145875926/Report-on-2012-Voter-Suppression-in-Ohio>

despite being eligible to vote with a regular ballot.⁴ But for the reports of the Lawyer's Committee, it would appear from the Secretary of State's report that no voters were intimidated, deterred, or were otherwise prevented from having their eligible votes counted. Again, the lack of documented voter suppression reports on file with the Secretary of State suggests that majority of the voting public is unaware that election complaints are able to be lodged with the Boards of Elections or Secretary of State.

It is our recommendation that Ohio adopt an election complaint tracking system similar to what is currently being used in Colorado.⁵ The Secretary of State, following the proper public notice process, should create an election complaint form and ensure that the complaint form is made available at the offices of the Secretary of State and all county Boards of Elections. The complaint form should also be highly visible online. As outlined by Secretary of State Directive 2013-01, the Boards of Elections should investigate and resolve each factually based election complaint submitted on this form, and if necessary, and conduct a hearing. Finally, the ultimate resolution of the complaint should be provided to the voter and posted online. This simple and transparent solution would provide more feedback on how well our elections system is working and ensure that election officials are accountable to the voters they serve.

Expand Online Voter Registration to Clients of Job & Family Services

Ohio currently permits previously registered voters to update their voter registration online. The Ohio legislature is considering a bill which would expand online registration to include new registrants, provided they use their driver's license or state identification to register online.⁶ While Ohio Voice supports modernizing Ohio's elections by implementing online voter registration for new registrants, there is a significant portion of the population that lacks a driver's license and/or internet access. An estimated 20% of the population in the U.S. does not have internet access.⁷ Furthermore, approximately one million Ohioans, or 10% of the voting age population does not have a driver's license or state ID.⁸

In an attempt to bridge this divide, it is our recommendation that online voter registration be expanded to allow new registrants to use their social security number and an electronic signature on file with the government agency Job and Family Services. This would enable lower income registrants who are less likely to possess a driver's license or internet access to be able to enjoy the benefits of online voter registration.

The benefits of online voter registration are so compelling that there is widespread bi-partisan agreement on this issue around this country. At least 23 states currently have

⁴ See Our Vote Live.org. <http://electionawareness.appspot.com/reports>

⁵ See Election Complaint Tracking <http://www.sos.state.co.us/pubs/elections/complaints/index.html>

⁶ See Laws, Acts, and Legislation http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_175

⁷ Schradie, Jen (2013, July 31). *Big Data Not Big Enough? How the Digital Divide Leaves People Out.* <http://www.pbs.org/mediashift/2013/07/big-data-not-big-enough-how-digital-divide-leaves-people-out/>

⁸ Haider, Sana and Hanauer, Amy (2012, April 26). *Ohio Photo ID: A Picture Worth \$7 Million A Year?* Policy Matters Ohio. <http://www.policymattersohio.org/voter-id-apr2012>

laws permitting online voter registration through the bureau of motor vehicles.⁹ States frequently tout the significant cost-savings due to reduced paper and printing costs.¹⁰ Online voter registration is also championed for creating more accurate voter rolls because staff is no longer required to correctly decipher handwriting and input data.¹¹ The benefits of online voter registration would only be enhanced if online voter registration is expanded to include identification verification from the Department of Job and Family Services. Continuing to modernize elections and broaden access to all voters, regardless of income, must be a top priority.

Permit Change of Address Voters to Cast a Regular Ballot

Ohio has consistently held the dubious distinction of having one of the highest provisional ballot rates in the country.¹² One of the largest categories of provisional ballots cast is comprised of voters who have failed to update their address by the registration deadline.¹³ If the voter presents acceptable identification showing a new address, and the Boards of Elections is able to verify that the voter has not already voted at the voter's former address, it is our recommendation that the voter should be given a regular ballot. One mechanism for achieving this without threatening ballot security is to use electronic poll books.

Several counties in Ohio already use electronic poll books, and the Secretary of State's recent advisory acknowledges that several more counties have expressed an interest in procuring electronic poll books as well.¹⁴ The Ohio Voter Rights Coalition supports the expanded use of electronic poll books in furtherance of its goal of reducing the number of provisional ballots cast in Ohio. Electronic poll books will allow Boards of Elections to access the real time information necessary to verify that voters completing a change of address have not already voted at the former precinct. In this way, a significant portion of the population can avoid risking that their provisional ballot may not be counted and be assured that they receive a regular ballot. As an added benefit, voters at precincts with electronic poll books should expect to enjoy expedited check-in procedures and shorter wait times, which is particularly important in large precincts.¹⁵

Implement Voter Suppression/Deceptive Practices Legislation

⁹ See Voter Registration Modernization in the States (2013, August 26) Brennan Center.org. <http://www.brennancenter.org/analysis/voter-registration-modernization-states> (last accessed 9/18/13)

¹⁰ *Id.*

¹¹ See Online Voter Registration (2013, August 1). Fair Elections Legal Network. http://fairelectionsnetwork.com/sites/default/files/Online%20Voter%20Registration%20Brief%202013%20%28formatted%29_2.pdf (last accessed 9/18/13).

¹² See Provisional Ballots in Cuyahoga County, Ohio (2013, January 17) Pew States.org. <http://www.pewstates.org/research/analysis/provisional-ballots-in-cuyahoga-county-ohio-85899443770> (last accessed 9/18/13).

¹³ See 2012 General Election Provisional Ballot Report (2012, January 9) <http://www.sos.state.oh.us/SOS/mediaCenter/2013/2013-01-09a.aspx>

¹⁴ SoS Advisory 2013-04 (2013, August 7) <http://www.sos.state.oh.us/SOS/Upload/elections/advisories/2013/Adv2013-04.pdf>

¹⁵ See (2012, May 18) VRM in the States: Electronic Poll Books. Brennan Center.org. <http://www.brennancenter.org/analysis/vrm-states-electronic-poll-books> (last accessed 9/18/13).

In every recent major election in Ohio, there have been disturbing reports of election suppression, intimidation, and deceptive practices. In 2012, in the weeks before Election Day, several anonymous billboards were erected in minority neighborhoods in Cleveland, Columbus, and Cincinnati with the message “Voter Fraud is a Felony up to 3 ½ years and \$10,000 fine.”¹⁶ The message was clearly intended to scare voters away from voting, particularly those who have a criminal history. Even though Ohio voting rights are restored upon the completion of a felony sentence, the billboard sponsors attempted to prey on a vulnerable segment of the population. Other types of deceptive practices commonly reported in Ohio and in other states include fliers that falsely advertise the date of the election, or Election Day phone calls telling voters their candidate of choice has already won and that it is no longer necessary to vote.¹⁷ In 2012 alone, there were numerous reports of voters being intimidated at polling places, and thousands of frivolous challenges to voter registrations in an attempt to get eligible voters knocked off the rolls.¹⁸

States with hotly contested elections such as Ohio need to have deceptive practices clearly defined. These guidelines will allow election officials and poll workers to identify and report such acts. Law enforcement will also benefit from knowing when it is lawful intervene to stop objectionable behavior. Finally, clearly defined punishments must be enacted and enforced in order for there to be a deterrent effect on the public. In order for elections to be truly fair and accessible, voters must be confident that there are effective procedures in place that will prevent them from being deceived or harassed at the ballot box.

Thank you for considering our suggestions for election administration reform. We look forward to reviewing the Commission’s final recommendations and working to modernize elections for all Ohio voters.

Respectfully Submitted,

Camille Wimbish
Ohio Voter Rights Coalition

¹⁶ Fessler, Pam (2012, October 18). Swing State Billboards Warning Against Voter Fraud Stir Backlash. NPR.org. <http://www.npr.org/blogs/itsallpolitics/2012/10/18/163158185/swing-state-billboards-warning-against-voter-fraud-stir-backlash>

¹⁷ See Testimony of Tanya Clay House (2013, June 26). *Deceptive Practices and the Impact on the 2012 Election*, U.S. Senate Committee on the Judiciary. <http://www.judiciary.senate.gov/pdf/12-6-26HouseTestimony.pdf>

¹⁸ Harris, Dan & Patria, Melia (2012, November 2). Is True the Vote Intimidating Minority Voters from Going to the Polls? ABC news.go.com. <http://abcnews.go.com/Politics/true-vote-intimidating-minority-voters-polls/story?id=17618823>