

#### Members

Sen. Sue Landske, Chairperson  
Sen. Randall Head  
Sen. James Arnold  
Sen. Timothy Lanane  
Rep. Kathy Kreag Richardson  
Rep. Peggy Mayfield  
Rep. John Bartlett  
Rep. Phil GiaQuinta



## **CENSUS DATA ADVISORY COMMITTEE**

*Legislative Services Agency*  
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#### LSA Staff:

Chris Baker, Fiscal Analyst for the Committee  
Robert Rudolph, Attorney for the Committee

Authority: IC 2-5-19

### **MEETING MINUTES<sup>1</sup>**

**Meeting Date:** October 9, 2013  
**Meeting Time:** 1:30 P.M.  
**Meeting Place:** State House, 200 W. Washington St., Room 130  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 2

**Members Present:** Sen. Timothy Lanane; Rep. Kathy Kreag Richardson; Rep. Peggy Mayfield; Rep. John Bartlett; Rep. Phil GiaQuinta.

**Members Absent:** Sen. Sue Landske, Chairperson; Sen. James Arnold; Sen. Randall Head.

Representative Kathy Richardson called the second meeting of the Census Data Advisory Committee (CDAC) to order at 1:40 P.M. Following the introduction of members, testimony began on the agenda items.

#### Agenda Item 1: Methods to Reduce Lines at Polling Places-

Brad King, Co-Director of the Election Division, said that there are tools in place to help with line reduction. He suggested the use of more poll workers, such as re-instituting the use of sheriffs in precinct election boards. He said many counties have stopped using them. He also said that getting a sense of voter expectations on waiting in line could also be useful. He suggested placing local officials at vote centers to watch the lines and then, if needed, divert voters in long lines at one center to another center that did not have long lines.

Trent Deckard, Co-Director of the Election Division, discussed a study conducted by the

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<sup>1</sup> These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

Election Center (Exhibit A). He cautioned that the study was unscientific, and the results were based on survey data. He also added that any pressure that can be taken off the 12-hour period that an election is held on election day would help line length.

Julia Vaughn, Common Cause of Indiana, said that it was her opinion that the General Assembly took a major step backward in reducing polling place lines by enacting the unanimous approval of all three county election board members to authorize satellite early voting. She suggested two other possible solutions: go to 'no excuse' absentee voting and extend polling place hours of operation for a couple more hours in the evening.

Beth White, Marion County Circuit Court Clerk, said she agreed with all the points that Ms. Vaughn had made. She said she would like to see satellite early voting restored, the start of 'no excuse' absentee voting, and extended polling place hours of operation. She said that the early voting locations in the 2008 election took a lot of pressure off of poll workers in Marion County on election day as approximately 93,000 persons voted early. She said that in the 2012 election, she had to divert many of her office resources and personnel for the early voting at the Clerk's office in the City-County Building as a result of not having early voting as in 2008.

Ms. White commented on who is impacted by longer lines at the polls. She said it was a large percentage of lower income voters without job flexibility who step away. She said, in contrast, that union contracts allow for time to vote and many professionals with a flexible work schedule are also able to wait.

#### Agenda Item 2: Reducing Election Cost-

Andrew Berger, Association of Indiana Counties, said that allowing vote centers the flexibility of using paper ballots printed 'on demand' [as opposed to having touchscreen voting systems only] could reduce election costs.

Representative Richardson commented that her county tries many things to reduce costs, such as making their own supply boxes, instead of buying them from a vendor. She said, though, that there are lots of things that must be prepared that never get used, such as emergency ballots.

Representative Mayfield added that there is much 'waste cost' to elections to throw away unused paper ballots. She said she was an advocate of print 'on demand' balloting.

Representative GiaQuinta said that finding ways to reduce cost is fine. But he continued that he did not want the impression to be made that doing so would reduce access to voting.

Beth White said that printing 'on demand' ballots would not be a cost-effective option in Marion County, but that it could be in other counties. She said that voters can be voted faster in Marion County by using preprinted ballots.

Trent Deckard said that the phaseout of the reliable lever-style voting machines has led to an era of electronic machines that age much quicker. He said that machines purchased during the HAVA funding of the early 2000s have started to wear out. He continued that with HAVA money now gone, counties are bearing the brunt of the cost to purchase new machines.

Brad King added that Indiana should take pride in being one of the first of eight states to allow online registration. He said the use of online registration has reduced transaction

costs of voter registration, which he also said have reduced election costs.

Representative Bartlett commented that he thought costs could be reduced by allowing people to vote online wherever they are located on election day, with the use of an ID swipe card.

### Issue Three: Redistricting by Local Units of Government-

Professor Kelsey Kauffman, Depauw University, distributed handouts (Exhibits B & C). She said that three-fourths of all counties either did not redistrict or violated a requirement under the law while redistricting after the 2010 Census. She said a lack of institutional memory within these governmental bodies was the primary cause for lack of redistricting in the past. She said that is not a good excuse today. She said, today, the primary reason to not redistrict at the county level is that those governmental bodies do not want to redistrict. She says that not redistricting leads to lawsuits that result in lots of special elections [once new districts are ordered in a court decision].

She said that use of a mandatory schedule for redistricting would help governing bodies remember to redistrict. She suggested the Election Division put out a schedule of compliance until the completion of redistricting. She said a schedule would help watchdog groups and other interested persons keep local governmental bodies accountable to redistrict. She also said that the technology now exists for maps to be placed on the internet, like the maps for the state House and Senate. She suggested that the Election Division could place these local redistricting maps on their website.

Staff Attorney Bob Rudolph summarized and explained Exhibit C, an excerpt from Indiana election law (IC 36-2-3-4). He said that in general the code section provides, with the exception of Lake and St. Joseph Counties, that the other counties have four contiguous districts and three 'at-large' members in their fiscal bodies.

Andrew Berger discussed the subtleties of local redistricting. He said that county government does not have a mandate to redistrict. He said the actual enforcement is in the fact that counties will not receive any revenue increases from the Department of Local Government Finance if they do not redistrict.

Trent Deckard said that IC 36-2-3-4 has four 'shall provisions' that point to a mandated redistricting of county fiscal bodies. He said the Election Division would never tell a county to walk away and not redistrict. He said that the Election Division can advise a county to redistrict, but that sometimes counties do not listen. He said that the Election Division would be willing to help the General Assembly with this matter. He said that perhaps the Office of Census Data could look at assisting counties. He said that if the Election Division is to be officially involved, that the General Assembly would be advised to offer creative solutions to the Election Division to help the counties redistrict.

Brad King said he agreed basically with Professor Kauffman's argument that redistricting is a key part to democracy. He urged though that the General Assembly exercise caution with giving the Election Division an enforcement role, given the possibility of being involved in more litigation. He said that the counties talk to each other and have associations to provide communication on matters such as redistricting. He said there are already statewide conferences held by the Election Division to educate local officials in their responsibilities.

Mark Stratton, Office of Census Data (OOCDD), said that the primary responsibility of the OOCDD was to provide the data and maps for state legislative and congressional

redistricting. He said they do work extensively with county and municipal governments and will provide maps and data upon request to those agencies. He said that he was not certain that an agent of the state government that produces maps for the General Assembly should assume an enforcement role on local government redistricting.

Bob Rudolph briefly discussed a revision of testimony that had been sent as an addendum to the testimony that the Chicago Lawyer's Committee For Civil Rights Under Law Inc. had offered through their representative at the first meeting. He said that Senator Landske said it was fine to include the revision comments from the Chicago Lawyer's group as an attachment into the minutes of the second meeting (Exhibit D).

Representative Richardson asked if there were any further comments. Seeing none, she said there would be a third meeting scheduled, most likely, during the week of October 21, 2013.

Representative Richardson adjourned the meeting at 3:24 P.M.

CDAC  
EX A  
10/9/13

# Election 2012 - Long Lines

## Conducted by Election Center

# Election Center Survey – Long Lines

- Not Scientific & Not Random Sample
- 1139 Sent
- 177 Responses
- Multiple Choice & Open Ended Responses
- Survey November 21, 2012
- Results presented to JEOLC meeting in Washington, DC, January 10, 2013

# Survey Questions & Responses

- The critics have focused on 30 to 45 minutes as the limit for waiting in line. Did you have any line on Election Day where voters had to wait longer than 45 minutes?
- Yes – 42.77%
- No - 57.23%
  - (Remember that many responses from same states).

# Survey Questions & Responses

- If yes, what was the longest wait time?
  - 90 Responses:
    - 17 - less than one hour
    - 32 – One to 1.5 hours
    - 35 – 2 hours or more
      - 12 of these 3 hours or more
        - 1 was 4 to 5 hours
        - 1 was 6 to 8 hours
  - Remember that some of these were multiple responses from same states

# Survey Questions & Responses

- **In your professional experience, what caused the wait times (check all that apply):**

- Length of ballot 58.39%
- Shortage of pollworkers at affected polling sites 18.25%
- Not enough voting equipment or ballots 19.71%
- We reduced number of polling places for Election Day 5.84%
- Partially our fault (explain below) 13.87%
- Other (explain below) 57.66%
- # of people who answered question(137)

# Our Fault: Responses

- 19 chose the response but 29 answered in open end
  - Too many voters expected to vote at each polling location
  - Shortage of pollworkers or equipment is our fault. The remainder of the fault lies with those giving us insufficient budgets for more staff and equipment
  - The facilities were too small to accommodate the number of voters and the Chief Inspector in charge of the three -hour wait poll did not utilize the most efficient method for moving voters through the lines. Both issues have been addressed and the precincts will be moved to new facilities for future elections.

# Our Fault: Responses

- The locations with the longest waits had more poll management issues. Those that were better managed kept the lines moving. For example: We offered paper ballots (optical scan) in addition to our normal DREs. Precincts where poll workers actively advised voters in line of the ballot choice moved fastest. Our voters prefer DREs but when encouraged to vote paper rather than wait, they did so. Being proactive was much more effective

# Our Fault: Responses

- Electronic poll book problems – Several responses
  - Underestimated check in time with poll books
  - Not all voters were in the ePollbooks
  - Not enough ePollbooks for voting sites
  - Due to ED registration it takes more time to enter voter into ePollbooks than we estimated (took about 7 min per voter)
  - Not enough ePollbooks purchased/distributed
  - We underestimated the learning curve on using ePollbooks – made us less effective

# Our Fault: Responses

- Staff training issues
  - Not enough staff at HQ to answer pollworker questions
  - Voters not receiving AB ballots and staff handling of provisional ballots
  - Internal staff not well enough trained & last minute seasonal hires

# Our Fault: Responses

- Other problems:
  - Faulty wiring in facility – Repaired after lines developed.
  - Not enough voting booths/equipment
  - Ballots simply too long for voters to vote quickly
  - Too many voters assigned to polling sites
  - We cut too many early voting days

# Other Causes for Long Lines

- A definition of what is a long line and does the same definition apply to ED & early voting?
- We had more equipment & more staff but the high numbers of inexperienced voters takes far more time to show the process: Do we build the church for Easter Sunday or for the normal?
- Groups of voters were told they could vote provisional ballots even if they were never registered. College campuses had large numbers of unregistered voters showing up.
- Loss of use of schools forced us to consolidate polling locations into too small polling place

# Other Causes for Long Lines

- Too few early voting sites causes overloads on ED
- Media reports: wrong poll opening times and encouraging everyone to vote early
- County Budget Office told us to “manage expectations” which meant cutting 1500 pollworkers compared to 2008 (other similar responses)
- Redistricting Issues
- ED Registration: longer per voter to process. (many)
- Early morning rush of voters (several responses)
- 11 Constitutional issues on ballot
- 15 local issues on ballot

# Other Causes for Long Lines

- Peak period voting and resources not available for peak periods
- Several responses about management issues that will be resolved in future

## Another cause to consider

- Voter Turnout Higher in Swing States- 2012 election
- **Swing states:** 64.2%
- **Non-swing states:** 56.8%
- **Difference** (in percentage points): 7.4
- Source: USAToday, 12/23/2012 & Committee for Study of American Electorate

# Early Voting - Lines

- Did you have any lines in Early Voting where voters waited for longer than 45 minutes?
  - Yes 43.3%
  - No 56.7%
  - (Remember multiple replies from same states which can affect the percentages)

# Early Voting Responses

- **The causes for long lines in early voting (check all that apply) Back to top**
- Not enough early voting sites 34.12%
- Not enough voting equipment 18.82%
- Not enough days for early voting 12.94%
- Voters delaying early voting until last few days 61.18%
- Ballot too long 51.76%
- # of people who answered question(85)

# Additional Comments on Long Lines

- Hurricane Sandy – voters in our area were not frustrated or concerned because the lines kept moving. With all the options for voting now, long lines become a voters choice.
- Budget cuts limit our ability to do more & the very people who cut our budgets get frustrated with the lines.

# Additional Comments on Long Lines

- More equipment (voting machines, poll booths, ePollbooks), more check in stations AND more parking spaces needed. These should take care of most of our problems.
- Law only allows one site in the county which is too few – we had one site vote 6,000 voters in one day.

## Additional Comments – Long Lines

- Early voting began on a Saturday this year when ordinarily it begins on a Monday and lines created because more voters available on first day
- Each choice on a ballot takes a certain amount of time
- (and we need to better know what that is likely to be considering voting equipment)

# Additional Comments – Long Lines

- Early voting facilities – we are limited as to the type of facility we can use for EV & the facilities are too small to accommodate the numbers of voters.
- In VA we have 45 days of in-person absentee voting & we chose to be open during weekends during that period – and voters still waited until the last few days to actually vote

## Additional Comments – Long Lines

- We know there are some things we can do to make things work smoother in the future. We only had problems in a few precincts so we can compare those with no problems to the ones with problems and develop solutions.
- Long lines developed only in our opening of the polls but within 30 minutes the lines were gone.

# Additional Comments – Long Lines

- We had one EV site with lengthy lines (2 hours) while others sites had empty parking lots. Voters assumed all sites would be about the same wait and chose convenience of location.
- EV Sites were not well chosen nor thought given to the numbers that would turn out – some lines were 3 hrs

## Additional Comments – Long Lines

- State: some locals reported reducing polling places & some had long lines. Others had redistricting problems with large precincts that will be split in the future.
  - Not enough early voting sites but that costs more money to open so not sure how the counties will respond.

# Additional Comments – Long Lines

- You have to commit sufficient resources to an election to minimize long lines. ... If your budget is not going to accommodate enough voters, don't let it be because you didn't ask for the money.
- Lines at EV exceeded 45 minutes in last 3 days but not during previous 11 days.

# Additional Comments – Long Lines

- Number of voters per precinct could be an issue – our law permits up to 5,000 before we split precincts
- The key is having the correct number of pollworkers to process the voters. Voters less likely to complain if line moves
- Additional equipment is not always the answer – infrequent volunteers can be the problem – training & changes in law constantly creates problems.

# Additional Comments – Long Lines

- We are a small jurisdiction using Vote Centers: we put more equipment and more workers than ever because of reported problems in 2008 and 2010 – and it worked. Longest wait time was 10.5 minutes
- Multiple page ballots printed in multiple languages created problems – it took a great deal of time for voters to insert 4 (or more) cards into the machines. [Another person in this state indicated that the machines were also programmed to require assistance if blank ballot which takes more time.]

## Additional Comments – Long Lines

- In addition to a long ballot we had hurricane Sandy. Voters were lining up 2 to 3 hours BEFORE the polls opened and we were unable to recover.
- Voters not updating registration information before ED caused many delays. Resources cannot take the place of personal voter responsibility

# Additional Comments – Long Lines

- In SC we learned that we can handle about 2000 voters per day without having lines longer than 20 minutes. Once we go over 2000 we have lines. We will start adding check-in stations during the last week of early absentee to decrease times in the future.
- Once lines got long in our area, we started passing out sample ballots to inform the voters on the Amendments which sped up the time to vote per voter.

# Additional Comments – Long Lines

- Redistricting before a Presidential Election is the perfect storm.
- Consider having only one language per ballot – too many ballot (pages, cards) creates problems for voters.
- If there is a mandate to reduce lines, then there also needs to be a requirement that we can use certain facilities – fire stations closed (budget) and schools withdrew

# Additional Comments – Long Lines

- Currently state law allows for only one EV site per county. Our counties do not have the financial resources to increase the number of sites or the number of days of EV.
- We wanted more sites but didn't have the money to do so.
- 92 total responses

# Observations – Lessons Learned

- Numbers of voters assigned to polling place makes a difference.
- Length of ballot makes a difference.
- Lack of resources difficult problem to solve.
- Administrative issues can be overcome with time & resources
- Size &/or location of the polling place is important for both ED & EV
- Number of EV sites is important

# Observations – Lessons Learned

- Training is still a major issue
  - Permanent Staff
  - Season Staff
  - Volunteer Staff
  - Voters
  - Media
- Peak period voting v. “averages” – resources are costly
- Battleground states likely to need more resources for higher turnouts

# Observations – Lessons Learned

- Policies do impact administration
  - Too many voters per precinct
  - Ballots too long, too many state & local issues
  - Multiple languages create delays (and counting problems later)
  - Forcing PW intervention on blank ballots or undervoted ballots
  - Limiting number of EV sites

# Observations – Lessons Learned

- Pretesting how long it takes voters to vote current ballot can assist resource planning.
- Giving sample ballot handouts reduces waiting time.



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The Election Center is a nonprofit 501(c)(3) tax-exempt organization under the regulations of the Internal Revenue Service. The Election Center's purpose is to promote, preserve, and improve democracy. The Center is also known as the **National Association of Election Officials**.

Its members are almost exclusively government employees whose profession it is to serve in **voter registration and elections administration**, i.e., voter registrars, elections supervisors, elections directors, city clerk/city secretary, county clerk, county recorder, state legislative staff, state election director and Secretary of State for each of the individual states, territories, and the District of Columbia.

The Center provides its members an alert service which informs and updates state, city and other elections and voter registration officials regarding legislation, regulations, court decisions, and Justice Department rulings which affect the conduct of voter registration or elections administration. Additionally, the Center performs research for such governmental units concerning the similarities and differences in state or local laws, regulations, or practices concerning voter registration and elections administration.

As the election profession's premier organization for training and certification of election and voter registration administrators, The Center also conducts **annual events** such as **national conferences** and several **regional workshops** and **seminars** throughout each year which are designed specifically for government elections units. Each of these programs is designed to improve the methods of operation and efficiency of the affected offices. The result is **improved service to voters, the public, the taxpayers and to government**. The Center trains between 600 and 1,000 election and voter registration administrators every year.

Continuing professional education is the cornerstone of continuous improvement of democracy through The Election Center's **Professional Education Program**. A joint effort of The Center and Auburn University's public administration faculty, the Professional Education Program offers college level instruction for professional growth and development of government officials in the elections and voter registration process. These classes are conducted in several locations throughout each year. The Professional Education Program won an award as the most outstanding continuing education program in America from the National College and University Continuing Education Association (1995).

The Center sponsors an annual **Professional Practices** contest to get government officials to submit a professional paper on the best of their office programs and practices. Such papers are then duplicated and made available to government officials throughout the U.S. for improving their own operations.

**Acting as a catalyst for new ideas or working with difficult issues, it was through The Election Center:**

- That state directors of elections formed the National Association of State Election Directors (NASSED) and served as an incubator for NASSED until the organization could operate on its own (1989).
- That the nation's elections administrators developed the first Code of Ethics for voter registrars and elections administrators (1997).
- That the United States Postal Service created the only logo for any mailer outside of the USPS itself. The national Elections Mail Logo identifies for voters and for postal employees official mail related to citizens participation in the democratic process.
- That the USPS and the elections community created the National Task Force on Postal Issues and an elections mail program that significantly improves the ability of election offices to reach voters with mail and to lower mail costs to state and local jurisdictions.
- That created the National Task for on Voting Accessibility, a joint effort of the elections community and the disability community, to improve the ability of the nation's disabled and elderly to participate unassisted in voting, and to improve voting technology for such citizens.
- That formed the National Task Force on Election Reform which was a report of the nation's elections administrators on problems and solutions related to Election 2000.
- That the Election Center is the principal focus for the U.S. Congress, federal agencies and state governments related to the elections and voter registration issues.
- That has trained the elections officials of developing nations.
- That serves as the best single source for news and information organizations concerning elections.

Member governments can also utilize many other services such as surveys, peer review programs, consulting services, technology reviews, recruiting services for employees, and other consulting related services. The consulting services are only for voter registration and elections offices. Due to the unique nature of the responsibilities for voter registration and elections administration, nothing else in industry, or government, is comparable to these functions. These services are fee based but are designed to save jurisdictions tax dollars for services at a fraction of corporate costs for such services. Additionally, the services are performed by people who have an understanding and knowledge of the special requirements necessary for the operations of these offices.

A small professional staff is maintained to develop and administer these programs and to provide research services for members, legislators, local, state and federal elections officials. Research projects can involve in-depth surveys of major issues or specific portions of laws affecting voter registration and elections.

The Center's members also include suppliers of election products and services, including voting systems, voter registration software, voting booths, ballots, election supplies, etc. Members are able to visit with the providers of those goods and services at the national conference where members can learn what is available in the latest technology and election products.

With more than 1,000 members nationwide, **The Election Center has the largest number of the state and local election and voter registration administrators as members of any elections related organization in America.**

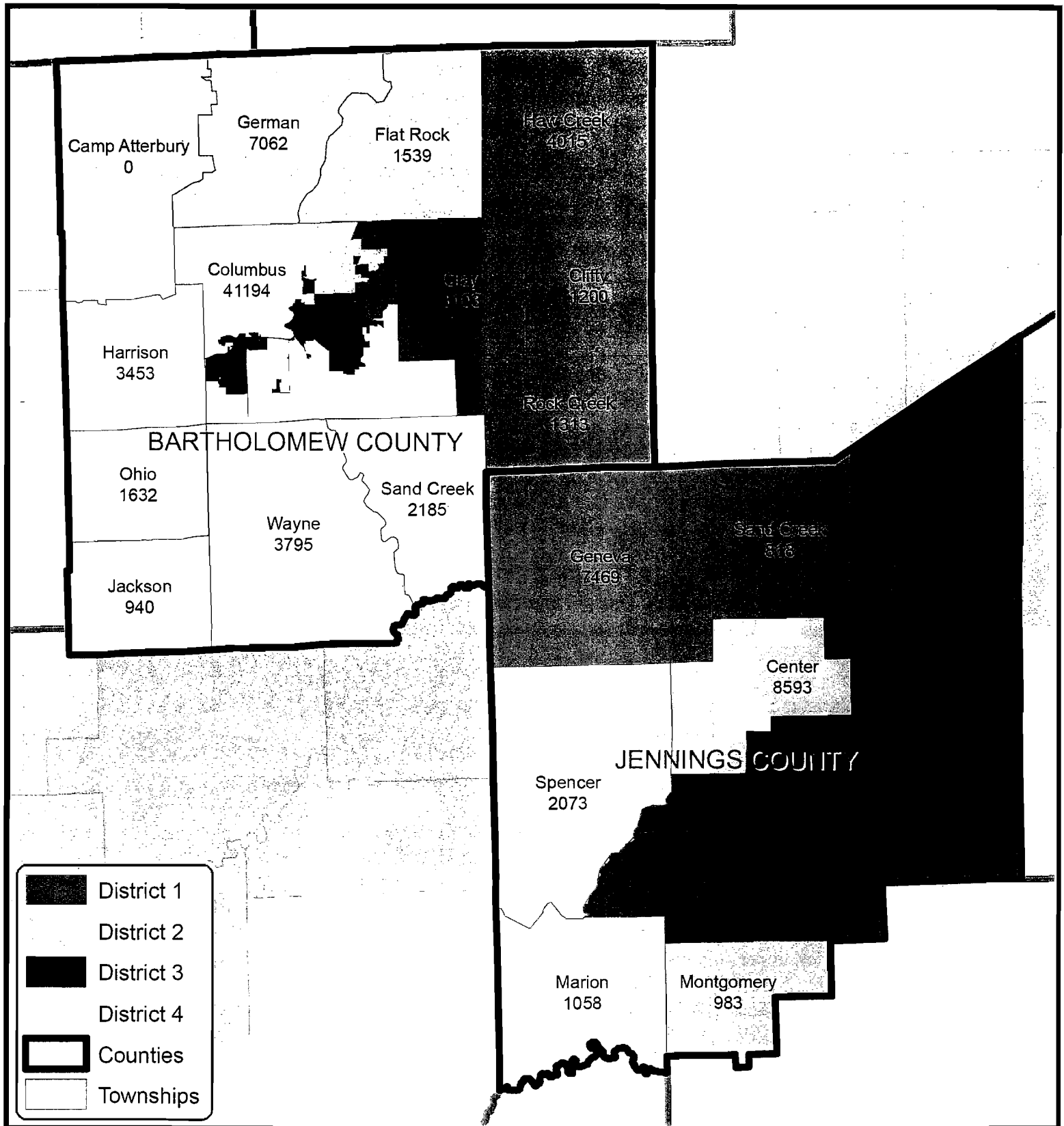
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# County Council Districts

Bartholomew County & Jennings County  
Indiana

CDAC  
EX B

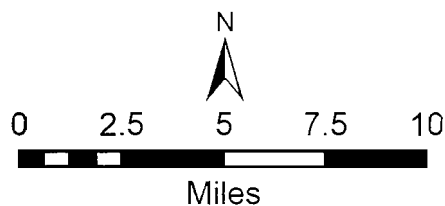
10/9/13



North American Datum 1983  
Universal Transverse Mercator Zone 16N

## Data Sources:

Indiana Map  
U.S. Census Bureau



(Population figures from 2000 census.)

Map generated with assistance from the  
DePauw GIS Center (Spring 2011) and  
created as part of a student project for  
HONR 300B. DePauw University is not  
responsible for inadvertant inaccuracies  
in the data.

CDAC  
EX C  
10/9/13

**IC 36-2-3-4**

**Election of fiscal body; division of county into districts; single-member district criteria**

Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

*As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.144; Acts 1981, P.L.17, SEC.10; Acts 1981, P.L.5, SEC.2; P.L.10-1988, SEC.237; P.L.13-1988, SEC.14; P.L.5-1989, SEC.88; P.L.12-1992, SEC.153; P.L.122-2000, SEC.21; P.L.230-2005, SEC.83.*



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LAWYERS'  
COMMITTEE

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CHICAGO'S PARTNERSHIP FOR EQUAL JUSTICE

CDAC  
EX D  
10/9/13

September 27, 2013

Bob Rudolph  
Census Data Advisory Committee  
Legislative Services Agency  
200 West Washington Street, Suite 301  
Indianapolis, IN 46204-2789  
By email: brudolph@iga.in.gov

**Re: Updated Testimony for Census Data Advisory Committee, first submitted  
August 29, 2013**

Thank you for providing the Chicago Lawyers' Committee for Civil Rights Under Law the opportunity to present testimony at the Census Data Advisory Committee hearing on August 29, 2013. We would like to re-submit our testimony to make a few clarifications, including to the number of overall calls and logged reports, as well as an updated overview of our program. We believe our data showing recurring issues and specific problems can be quite helpful in illustrating some of the challenges on Election Day and, as such, we want to be sure we present the information clearly. We greatly appreciate your willingness to consider this information so we can work together to fight voter suppression and increase voter access. We would be happy to answer any questions that you, or the members of the Committee, have about the updated testimony. Please let us know if we can be of any other assistance. Thank you for your time.

**Marissa Liebling**  
Staff Attorney, Voting Rights Project Leader  
Tel: 312-202-3659  
mliebling@clccrul.org



**Testimony of Ruth Greenwood, Attorney, Chicago Lawyers' Committee for Civil Rights Under Law**

**Before the Census Data Advisory Commission**

**Presented August 29, 2013; Revised September 27, 2013**

Good morning, distinguished Committee members. Thank you for the opportunity to speak at this very important hearing. My name is Ruth Greenwood, and I am an attorney at the Chicago Lawyers' Committee for Civil Rights Under Law.

The Chicago Lawyers' Committee for Civil Rights Under Law, Inc. is a non-partisan non-profit organization that aims to promote and protect civil rights, particularly the rights of poor, minority, and disadvantaged people in order to facilitate their participation in the social, economic, and political systems of our nation.

We work in Lake County, Indiana on a project called the Initiative for Northwest Indiana (INWIN). INWIN is a community economic development law project engaging community organizations, entrepreneurs, businesses, attorneys, and civic leaders for the greater good of the Northwest Indiana regional community.

We also operate a Voting Rights Project that works to prevent, reduce, and eliminate barriers to voting for minority and low-income residents throughout the Midwest region. A major component of the project is the Election Protection program, a national non-partisan coalition led by the national Lawyers' Committee for Civil Rights Under Law. Election Protection operates the nation's largest non-partisan voter protection program during early voting and on Election Day. We also partner with area law firms and nonprofit organizations. Operating since 2004, Election Protection volunteers answer voter questions and respond to issues reported to the 1-866-OUR-VOTE hotline. In addition, teams of attorneys volunteer as poll watchers to monitor elections across the region. For the 2012 general election we placed approximately 15 poll monitors in Lake County and worked in coalition with Black Youth Vote an initiative of the National Coalition on Black Civic Participation, Indiana American Civil Liberties Union, Indiana League of Women Voters, and Indiana Common Cause to distribute thousands of "Know Your Rights" cards providing general information to voters across the state. Additionally, the Election Protection hotline fielded over 800 calls from Indiana prior to and on Election Day in 2012.

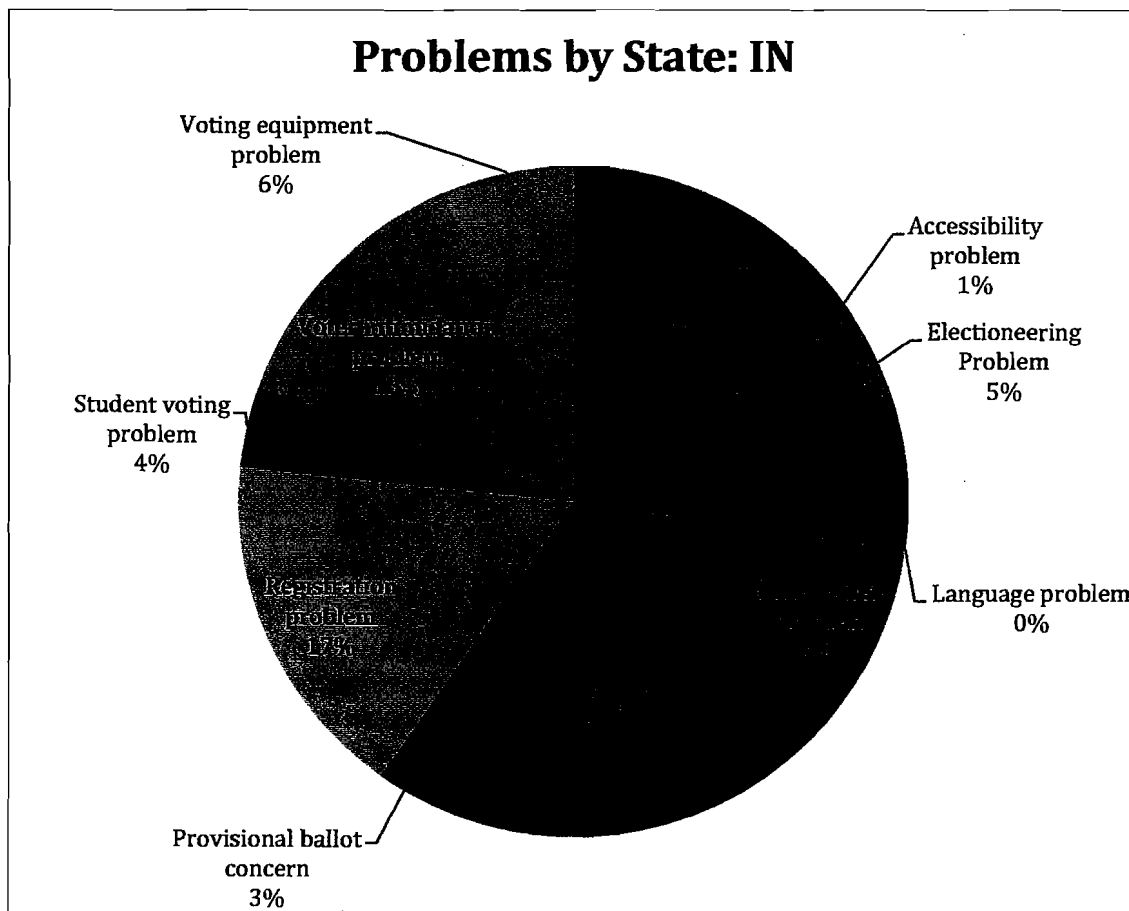
We are very pleased that the Committee has chosen to investigate the important issue of voter suppression in Indiana. In this testimony, I set out a summary of the findings of our Election Protection efforts with respect to voter suppression, and then discuss some of the legal and administrative policies that cause voter suppression and disenfranchisement in Indiana.

**Election Protection 2012: Findings**

The Election Protection program provides a valuable service to both voters and election officials. Trained volunteers are able to answer many questions for voters ranging from polling place location to registration status, thus relieving the burden on state and local officials to provide this information. While the 1-866-OUR-VOTE hotline fielded over 800 calls from Indiana during the 2012 election, due to the high volume of calls to the hotline, detailed information was recorded on only 185 of those calls through the reports that

Election Protection volunteers entered into the Our Vote Live tracking system. Of the calls logged in Indiana in 2012, there were 123 inquiries, such as determining the voter's polling place or registration status and 77 reports of problems, such as absentee voting problems or electioneering problems. (One call may involve more than one inquiry, more than one problem, or a mix of inquiries and problems, so these figures reflect the number of inquiries or problems rather than the total number of calls). I set out below a chart showing an overall breakdown of the problems reported.

As you can see, what is traditionally considered a type of voter suppression, what we call "voter intimidation," made up 13% of the problems. We believe that the photo ID law in Indiana also operates as a voter suppressive measure, and as you can see 7% of the problems identified to us concerned the photo ID law. Additionally, administrative problems (registration, absentee voting, poll worker, and polling place problems) also contributed to suppressing voter participation, and combined they constituted 61% of the issues identified. As such, it is important to address both direct voter suppression as well as election administration issues so that we can work together to increase voter access and participation. I outline below the chart how each type of problem caused voter suppression and some specific examples of each of these problems.



### *Voter intimidation*

The types of problems that are coded as “voter intimidation” include misleading information from the television, radio, newspapers, phone calls, text messages, emails, and signs placed in the community, as well as activities at a polling place that discourage someone from voting, perhaps by indicating that they are not eligible to vote or that the date or time of voting is different to the actual information. By way of example, Election Protection learned of the following reports of voter intimidation in Indiana in 2012:

- A voter heard that an email was circulated instructing voters that if they wanted to vote a straight Democratic ticket they would need to both select “10” (the straight ticket operation on the voting machine) *and* select Obama in the President category; doing both actually invalidates the ballot;
- A voter explained that she had heard on a talk show that there was a recent law passed in Indiana limiting the voting time at a polling place to only 3 minutes, though there was no such law passed in Indiana; and
- A report of a robocall made by a group calling itself “Vote USA” that told voters that they could vote early over the phone to avoid long lines on Election Day. Indiana Secretary of State, Connie Lawson, thankfully took swift action to advise voters to “under no circumstances... vote over the phone.”<sup>ii</sup>

### *ID problems*

The type of ID problems reported demonstrate the way that the photo ID law causes voter suppression. Callers to the Election Protection hotline reported the following issues with ID in 2012:

- In Monticello County, a voter was told she could not vote because her US passport was not acceptable ID;<sup>iii</sup>
- In Hobart County, a voter explained that she attempted to obtain a photo ID for the voter’s mother from an Indiana DMV but the mother was denied an ID because her birth certificate and marriage certificate had slightly different names on them; and
- In Marion County, a voter explained that her brother’s driver’s license had recently been taken by a police officer during an arrest and so did not know whether he would not be able to vote.

There was another group of Indiana voters who may have had difficulties meeting the photo ID requirement in 2012: students. Many of the state universities in Indiana do not issue student IDs with an expiry date, and so those students were unable to use their student IDs as approved photo ID to vote. With only 75% of 19 year olds nationally possessing driver’s licenses,<sup>iii</sup> many state university students may have been unable to vote at the polls at all. Private university student IDs are not on the approved list of photo IDs, so no students attending those colleges and universities could use their student ID to vote at the polls. There are over 400,000 students in Indiana colleges and universities.<sup>iv</sup>

### *Registration problems*

Nationally, problems with registration account for 5.5% of the reasons why people do not vote,<sup>v</sup> but for African Americans and Latinos, this number increases to 6.7% and 6.1%

respectively. Given the disparate impact of registration problems on minority voters, this issue is something that we are particularly concerned about. The registration problems identified through Election Protection were largely due to voters' attempted registration not appearing in the online Indiana Statewide Registration database and/or on the poll books. For example:

- In LaPorte County, a voter and her son knew that their names had been removed from the voting roll in 2009, so they re-registered in 2012 via mail. They never received voter registration cards and when they arrived at the polling place they were told their names were not on the list and they could not vote. They were not given provisional ballots.
- In Vanderburgh County, a voter explained that she registered to vote in February 2012 when she received her new driver's license. However, her name did not appear on the list at the polls and was told that "sometimes [the] DMV does not give names to us."

In Indiana, 33.3% of all voter registrations are processed at the DMV,<sup>vi</sup> meaning mal-administration at the DMV of such applications has the potential to affect (and possibly suppress the votes of) a large number of Indiana voters.

#### *Absentee voting problems*

One solution to the problem presented for those unable to obtain a photo ID so they can vote at a polling place during early voting or Election Day is for them to vote by absentee ballot (if they fit into one of the categories of person who may request one).<sup>vii</sup> This has the potential to reduce the suppressive effect of the Indiana photo ID law, but if absentee ballot requests are left unanswered then voters are at risk being entirely disenfranchised.

Additionally, absentee voting, in addition to providing general convenience, can be of great aid to the elderly, persons with disabilities, and others with difficulty traveling.

One example of a problem with absentee voting in 2012 came from a voter in Vanderburgh County who faxed in an absentee ballot application on October 22, 2012. The voter did not receive an absentee ballot, and called the Indiana Board of Elections on October 30 to determine why she did not receive it. They told her that her address information was incorrect on her absentee ballot application, and that they were planning to send her notice that her ballot application was not accepted. Follow up by an Election Protection volunteer with the Board of Elections confirmed that they were supposed to send notices by mail to voters informing them of problems with their application and to resubmit their request. Officials told the Election Protection volunteer that "because of capacity issues, many or all of those notices did not go out."

#### *Poll worker problems*

Precinct election officers (poll workers) represent the frontline between election administration and voters. While many are well trained, enthusiastic and capable, only a few poll workers with incorrect information or practices can disenfranchise the hundreds of voters they come into contact with on Election Day.

Specific reports from 2012 include:

- In Marion County, a voter's designated polling place was co-located with a number of other precincts at a single polling place. The poll worker at the outside of the polling place would not let voters enter the location if they did not know their precinct number; and
- In Marion County, a voter cast a paper ballot, but the ballot machine would not accept her ballot (and would not accept ballots of some other voters in the polling place). The voter saw the poll worker set these ballots aside and not put them in the machine.

#### *Polling place problems*

These problems capture issues such as lack of resources (running out of ballots, machines breaking down without someone on hand to repair them), directions to an incorrect polling place by the state, and mismanagement of polling places, such as opening late or closing early. Each of these problems can result in many voters being unable to vote. For example, Election Protection learned of the following polling place problems in 2012:

- In Lake County, the Indiana Statewide Registration Database directed an entire precinct of voters to the wrong polling place. When those voters arrived at the suggested polling place, their names were not on the voter roll and they were given provisional ballots. It is unclear how many of those provisional ballot were counted;
- In Lake County, a voter's machine was not working, and only allowed her to vote for the presidential election. She said that there were not enough poll workers, they opened the polling place late, and that they did not know how to use the equipment. While she was at the machine she had told the poll worker she needed help, and the poll worker told her that they were going to help her, but were occupied assisting other voters. The voter could not wait for any longer and left without voting;
- In Hammond County, a voter arrived before 6:00 p.m. and the polling place was closed, contrary to Indiana state law that polling places must remain open until 6:00 p.m.;<sup>viii</sup> and
- In Johnson County, a voter was told if they weren't inside the building, they couldn't vote, contrary to Indiana law (though the voter was eventually able to vote).<sup>ix</sup>

#### **Voter suppression due to restrictive voting laws**

In addition to intentional efforts to suppress voting and indirect suppression from mal-administration or misinformation, there are two laws in Indiana that operate to suppress voting. Each is discussed below.

##### *Photo ID Law*

Requiring a photo ID to be shown before a voter can vote at a polling place has been shown to reduce overall turnout by at least 2-3%.<sup>x</sup> As evidenced in the discussion above, this is because some people are unable to obtain ID and so cannot vote, while others are misinformed about the requirement either prior to going to the polls (and so may stay home), or at the polls (and so may be given a provisional ballot that may not be counted or may be simply turned away without the opportunity to vote).

While the intent of enacting the photo ID law may not have been to suppress voters, the

effect of it is clear. Many other states, including the neighboring states of Illinois<sup>xii</sup> and Ohio,<sup>xiii</sup> have less strict identification requirements—allowing non-photo IDs such as utility bills and bank statements to be used to prove identity at the polls—and yet there was no evidence of voter impersonation fraud in 2012 in either state. On this matter Indiana has historically been no different; even the United States Supreme Court found, in *Crawford v Marion County*, that there was “no evidence” of voter impersonation fraud having ever taken place in the state.<sup>xiii</sup>

The requirement that voters show a government issued photo ID before voting in Indiana operates to suppress the vote and we would support a repeal of that law.

#### *Excuse only absentee voting*

While Indiana allows any person to utilize early voting, it allows only persons fitting a narrow category of reasons to vote by absentee ballot.<sup>xiv</sup> Given that the photo ID law operates to prevent some eligible voters from being able to vote at their polling place due to not having the correct photo ID, having a restriction on the categories of person that can vote by absentee ballot becomes additionally suppressive. Introducing no-fault absentee voting was shown by a Pew study to increase turnout by approximately 3%, and though this effect does not vary across income or education groups, it does have a larger effect on older voters than on younger voters.<sup>xv</sup>

The Pew study also found that the overwhelming majority of voters that utilize no-excuse absentee voting are doing so as an alternative to other methods of voting,<sup>xvi</sup> and so its introduction has the potential to reduce lines on Election Day and with this, allow poll workers the time they need to get the right information to voters. The average time a voter waited in line in Indiana was 13 minutes, the 13<sup>th</sup> longest average wait time of all the states (and the longest in the Midwest).<sup>xvii</sup> Though this has improved considerably from 2008 (where the average wait time was over 20 minutes), it still lags far behind other states. It is important to note that while the *average* wait time is 13 minutes, the longest wait times were many hours long.<sup>xviii</sup>

Professors Charles Stewart and Steven Ansolabehere estimate that nationally 500,000 to 700,000 votes are lost because of long lines, and the economic cost of long lines is approximately \$500 million. As with other voter suppression and administrative problems, long lines are felt most acutely by minority voters, with African American voters likely to wait in line more than twice as long as white voters (23.3 versus 11.6 minutes, on average), and Latino voters also enduring almost double the average wait time (18.7 versus 11.6 minutes).<sup>xix</sup> One of the key recommendations that Stewart and Ansolabehere make to reduce long lines is to “increase opportunities to vote by mail, thus reducing the total number of people using all forms of in-person voting.”<sup>xxx</sup>

#### **Conclusion**

Indiana ranks 40<sup>th</sup> among the states in voter turnout, with a total turnout of only 56% of eligible citizens; this is well below Minnesota (the state with the highest turnout) at 76.1%, and well below the Midwest average of 66.5%.<sup>xxi</sup> If Indiana were to remove its photo ID requirement, introduce no-excuse absentee voting, continue to counteract the dissemination of mis-information, increase poll worker training, and ensure that those who register at the DMV are entered onto the voter roll, I feel confident that there would be less voter suppression and increased voter participation in Indiana.

I thank you very much for your time. I am more than happy to answer any of your questions.

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- <sup>i</sup> Press release, IN.gov, Secretary of State Connie Lawson warns Hoosiers about over-the-phone voting scam, (Sept. 14, 2012). Available at [http://www.in.gov/activecalendar/EventList.aspx?view=EventDetails&eventidn=58959&information\\_id=118983&type=&syndicate=syndicate](http://www.in.gov/activecalendar/EventList.aspx?view=EventDetails&eventidn=58959&information_id=118983&type=&syndicate=syndicate) (last visited August 26, 2013).
- <sup>ii</sup> But *see*, I.C. § 3-5-2-40.5: a photo ID issued by the U.S. government with the voter's name and photo, and an expiry date is valid ID to vote.
- <sup>iii</sup> Posting of University of Michigan Transportation Research Institute, Fewer young, but more elderly, have driver's licenses <http://www.umtri.umich.edu/news.php?id=3006> (December 1, 2011).
- <sup>iv</sup> Stats IN, College Enrollment and Migration [http://www.stats.indiana.edu/sip/edu/edu2\\_18.html](http://www.stats.indiana.edu/sip/edu/edu2_18.html) (last visited August 28, 2013).
- <sup>v</sup> United States Census Bureau, Voting and Registration in the Election of November 2012 – Detailed Tables: Table 10 <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2012/tables.html> (last visited August 27, 2013).
- <sup>vi</sup> United States Election Assistance Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2011-2012 A REPORT TO THE 113<sup>TH</sup> CONGRESS* (June 30, 2013), 44. Available at: [http://www.eac.gov/assets/1/Documents/EAC\\_NVRA%20Report\\_lowres.pdf](http://www.eac.gov/assets/1/Documents/EAC_NVRA%20Report_lowres.pdf) (last visited August 27, 2013).
- <sup>vii</sup> I.C. § 3-11-10-24.
- <sup>viii</sup> I.C. 3-11-8-8.
- <sup>ix</sup> I.C. § 3-11-8-11.
- <sup>x</sup> Nicholas Stephanopoulos, *Elections and Alignment*, COLUMBIA L. REV. forthcoming. Available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2313941](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2313941) (last visited August 27, 2013).
- <sup>xi</sup> 10 ILCS § 5/1A-16.
- <sup>xii</sup> Ohio Rev. Code § 3505.18.
- <sup>xiii</sup> *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 194 (2008).
- <sup>xiv</sup> *Supra* note viii.
- <sup>xv</sup> Jan E. Leighley and Jonathan Nagler, *The Effects of Non-Precinct Voting Reforms on Turnout 1972-2008* PEW CHARITABLE TRUSTS MAKING VOTING WORK (January 15, 2009), 2. Available at [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2009/Leighley\\_Nagler%281%29.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2009/Leighley_Nagler%281%29.pdf) (last visited August 28, 2013).
- <sup>xvi</sup> *Id.*
- <sup>xvii</sup> Charles Stewart and Stephen Ansolabehere, *Waiting in Line to Vote White Paper: Executive Summary*, Submission to the Presidential Commission on Election Administration (July 28, 2013), 7. The list includes the District of Columbia but excludes Oregon and Washington as they are entirely vote-by-mail states. Available at <https://www.supportthevoter.gov/files/2013/06/Charles-Stewart-Waiting-in-Line-to-Vote-White-Paper.pdf> (last visited August 26, 2013).
- <sup>xviii</sup> *Id.* at 6.
- <sup>xix</sup> *Id.* at 11.
- <sup>xx</sup> *Id.* at 15.

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<sup>xxi</sup> The average was calculated including Indiana's turnout. If Indiana's turnout is excluded, the average Midwest turnout is 68.2% (MN: 76.1%; WI: 73.2%; IA: 70.2%; MI 65.3%; OH: 65.2%; IL: 59.3%). Sean Sullivan, *The States with the highest and lowest turnout in 2012, in 2 charts* THE WASHINGTON POST, March 12, 2013. Available at <http://www.washingtonpost.com/blogs/the-fix/wp/2013/03/12/the-states-with-the-highest-and-lowest-turnout-in-2012-in-2-charts/> (last visited August 26, 2013).

