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**[Annotations by Justin Levitt.]**

## **Victims of Voter Fraud: Poor and Disadvantaged are Most Likely to Have Their Vote Stolen**

by [Horace Cooper](#)

All is not well in the Commonwealth of Virginia. The state has announced the shocking preliminary results of an extensive police investigation of voter registration "irregularities" – a polite word for the ugly reality of voter fraud.

As the *Richmond Times-Dispatch* has reported, the investigation has resulted in charges filed against 38 people across the state, with a warrant issued for a 39th person who can't be found. <sup>1</sup> According to reports, most of those cases have resulted in convictions, while 26 more cases continue to be investigated "nearly 3 years after the Board of Elections forwarded more than 400 voter and election fraud allegations from 62 cities and counties to the Virginia State Police for individual investigation." <sup>2</sup> And Richmond, the city with the highest minority population in the group, had the largest number of election "irregularities" referred for prosecution. <sup>3</sup> **[So far, this appears accurate. The investigations aren't complete, but the piece does not claim otherwise.]**

The scam in several jurisdictions involved left-wing **[No citation to this, and I'm not sure how the author knows that the groups in question were "left-wing." There is no such indication in the underlying article cited above.]** voter advocacy groups asking convicted felons to register to vote even though their felon-status prevented them from casting a legal ballot. These liberal **[Again, no citation, and no indication in the article above.]** groups would convince the felons that they could register to vote and that their voting rights had been or would be restored. "Don't worry," they essentially said, "just register and we'll take care of the legalities." **[This was indeed one of the allegations, and if those facilitating registration understood the would-be voters to be ineligible, is inexcusable. It is also possible that there was confusion about the status of those convicted of felonies. Reliable studies have documented that many election officials misunderstand the rules governing those with convictions; while not forgivable, it is perhaps understandable that some lay citizens misunderstand the rules as well.]** In the end, Virginia officials now believe, the felons cast illegal votes, which effectively diluted and nullified the votes of law-abiding Virginians.

But there's more than one way to steal votes.

The Virginia scandal comes close on the heels of the voter fraud trials in upstate New York, where Democratic county elections officers and city councilmen from the town of Troy stand trial for absentee-ballot fraud. Four Democrats have already pleaded guilty in a case that highlights who the real victims of election fraud usually are: the poor, minorities, the sick, the old, and other vulnerable members of society.

Democratic Committeeman Anthony DeFiglio pleaded guilty to falsifying business records in the case, and he told investigators that "The people who are targeted [in voter fraud cases] live in low-income housing and there is a sense that they are a lot less likely to ask any questions." Even more disturbing was his admission that "What appears as a huge conspiracy to nonpolitical persons is really a normal political tactic."<sup>4</sup>

Another Troy Committeeman, Anthony Renna, admitted to forging absentee ballot applications and explained that handing in forged ballots and fake votes ensures that "ballots are voted correctly."

"I knew that the actual voters had not voted the ballots or signed the envelopes, but that did not concern me. I am not the ballot police," Renna told police. "I have been present when 'ballots were voted correctly' by party operatives."<sup>5</sup> "Voted correctly" is fraud-speak for a forged application or ballot and it has nothing to do with the intentions of the lawful voter and everything to do with the interests of criminals who flagrantly violate election laws.

And who were the victims of this crime against the public? According to the *Times Union*, those disenfranchised Troy voters who had their ballots voted for them "correctly" included "public housing residents, college students, the semi-literate, a deaf man, the chronically ill and non-English speakers."<sup>6</sup> **[All true. All shameful.]**

Lest we think that this sort of thing only happens on the east coast, we should remember the illegal ballots cast by an estimated 5,000 non-citizens in Colorado's elections in 2010. Colorado's Secretary of State reported that a state study found nearly 12,000 people registered to vote in Colorado who were not citizens and were therefore not legally eligible to vote. Of those, the state believes that perhaps as many as 5,000 voted in the 2010 general election.<sup>7</sup> **[Actually, the "fact" that 5,000 non-citizens cast illegal ballots is pure speculation, and most likely untrue. The state's study found 11,805 people registered to vote who were not citizens when they got driver's licenses, 11,699 of whom registered after — sometimes years after — interacting with the DMV. As the study itself expressly said, "the data are incomplete and this number does not prove that all 11,805 non-citizens were registered improperly."**

**Actually, it is more likely that the noncitizens became citizens: in the same time period covered by the study, 32,000 Colorado noncitizens were naturalized. The same caveats apply to the 4,947 individuals identified as noncitizens who then — later, including years later — voted. "Perhaps as many as 5,000" noncitizens voted; perhaps none did.]**

Then there is New Mexico, where the secretary of state recently identified over 64,000 instances — or nearly 10% of those who voted — of voter irregularities sent to the state police for investigation.<sup>8</sup> **[Technically, this is true. But the Secretary's more recent interim report was**

far more modest. It identified some instances of fraud. It also identified some data entry errors, some errors by officials, and some other irregularities that do not call the voters' eligibility into question. I count 53 instances of registration that appear likely to be by ineligible individuals, and 18 potential ineligible votes, over at least four years of elections investigated. Not one of the instances alleged involve any allegation of impersonation at the polls. Fraudulent registrations and fraudulent votes are not to be excused. But this is a far cry from 64,000 irregularities.]

And, of course, there are the infamous election frauds perpetrated over the years by the leftist outfit ACORN. In 2004, six St. Louis volunteers pleaded guilty to dozens of voter-fraud charges, including registering the names of dead or non-existent people. **[True.]** It is believed that ACORN's "Operation Big Vote" turned in over 1,500 fraudulent voter registration cards. **[Apparently, true.]** In 2006, ACORN turned in tens of thousands of suspect voter registration forms to Missouri elections officials, **[Most states, Missouri included, have rules requiring the preservation of voter registration applications. If a registration worker produces a suspect form, that's obviously a problem. But if a registration worker receives a suspect form, she likely has no choice but to turn it in.]** and ACORN workers later admitted to telling registrants who to vote for. **[A few states prohibit electioneering or other advocacy in the course of voter registration. Missouri is not, I believe, one of those states. Short of coercion, citizens encouraging voters to vote for particular candidates is protected free speech.]** And, demonstrating a profound and vexing consistency, four more ACORN employees were indicted for voter fraud in 2007.

ACORN's shenanigans were widespread and well-documented. Kevin Clancy, a former ACORN voter registration worker in Wisconsin, was convicted of election fraud arising out of the 2008 Presidential election, and sentenced to 10 months in jail. He pleaded guilty to falsely procuring voter registration and confessed to submitting multiple voter registration applications for the same individuals. Clancy was part of a larger scheme in which he and his cronies registered each other to vote multiple times in order to meet voter turn-out quotas set by ACORN. **[So close. But the last sentence asserts that the registration was conducted in order to meet voter turnout quotas. That's not an allegation I've ever seen support for. Indeed, the state's own press release says that Clancy and others "registered each other to vote multiple times in order to meet voter registration quotas." Note the real goal of the scheme: to meet quotas in the number of forms submitted, not to steal an election. I'm still not aware of any fraudulent vote, ever, cast in the name of a form submitted through such a scheme.]**

These and other insidious voter-fraud plots prey upon the weakest members of our society. They violate the public trust, they erode faith and confidence in our democratic process, and they ultimately disenfranchise those men and women whose votes should be rightfully counted. **[True.]**

Yet liberals and the Obama Administration turn a blind eye to these travesties. They oppose common-sense solutions and efforts like state voter ID laws **[Whoa. That's a familiar, but illogical, pivot. The author has identified isolated instances of noncitizens and persons rendered ineligible by convictions who may have registered and voted. He has identified registration fraud allegedly perpetrated in order to meet quotas on the number of forms**

submitted. And he has identified an absentee ballot scheme perpetrated by insiders. Not one of these problems could possibly be addressed by requiring specific identification at the polls.] and more stringent voter registration requirements specifically designed to discourage voter fraud. Why? **[Few observers oppose regulations for voter registration that solve more problems than they create – like prohibitions on paying registration workers by the form. Other regulations seem so poorly tailored that, with tens of millions of citizens unregistered and 12% of the population moving every year (and therefore needing to reregister), the regulations create more problems than they solve.]**

Could it be that, like the voting rights violators of the Jim Crow era, the primary participants in today's voter crimes are Democrats? At least one columnist thinks so. According to Jack Kelly, this year all but one of the states in which election investigations or convictions occurred involved Democrats.<sup>9</sup> **[Note the hypothetical question and the careful sourcing of the allegation to Jack Kelly. Who is wrong, wrong, wrong. (Of course, malfeasance is still malfeasance, no matter who the perpetrator.)]**

Instead of distancing themselves from these irregularities, senior members of the Justice Department and advisors in the White House have hindered or delayed efforts to prevent and deter voter fraud.

Already this year, Texas and South Carolina have had to sue the President's Department of Justice in order to enact voter ID laws overwhelmingly supported by the citizens of their states and the country at-large. Polls show that over 80% of the public supports laws that would require voters to show some sort of photo ID when voting at the ballot box.<sup>10</sup> **[True, albeit unsurprising when more than 80% of the public has the ID required. Individual constitutional rights aren't subject to majority polls.]** The Supreme Court has upheld such laws, ruling in 2008 that "the inconvenience of making a trip to the DMV, gather the required documents, and posing for a photograph surely does not qualify as a substantial burden on the right to vote, or even represent a significant increase over the usual burdens of voting."<sup>11</sup> Justices Scalia, Thomas, and Alito concurred with the plurality opinion, and noted "The burden of acquiring, possessing, and showing a free photo identification is simply not severe, because it does not 'even represent a significant increase over the usual burdens of voting.'"<sup>12</sup> **[The Supreme Court has upheld one particular ID law against a challenge lodged before that law was ever put into place, based on the facts presented in that case. Six justices noted that the degree of justification required to sustain such a law would vary with the demonstrated burden.]** Recent studies have shown little to no evidence that voter integrity efforts hurt minorities. **[If "voter integrity efforts" refer to strict photo ID requirements, this appears untrue. Surveys usually show the opposite. Though the magnitude of the impact varies depending on the jurisdiction surveyed and the precise question asked, the studies usually find that minority electors are disproportionately less likely to own specific documents requested. There are a few studies, including the most recent study in Pennsylvania, where the difference is not statistically significant.]** In fact, new photo ID laws in Georgia, Indiana and Mississippi resulted in higher black voter turnout in subsequent elections.<sup>13</sup> **[Actually, Mississippi has not yet run an election with a strict photo ID requirement, so I'm not sure how the author justifies this conclusion. As for Georgia and Indiana, I've repeatedly discussed ([here](#), [here](#), [here](#), [here](#)) the problems with the turnout measure. Briefly, an attempt to gauge voter activity in**

**Georgia and Indiana before and after the 2008 election ignores the effect of the 2008 election, in which both states were new battlegrounds with a black candidate at the top of a major party ticket. Black turnout should have shot through the roof, no matter what the effect of any particular law. These elections can't tell us much, one way or another, about the impact of the new photo ID laws.]**

And still liberal advocacy groups and the Justice Department trample upon the constitutional principle of equal sovereignty and stymie state initiatives attempting to protect the rights of legal voters. If states such as Indiana, Florida, Pennsylvania, Michigan, Tennessee, Georgia, and Kansas (to name a few) can combat voter fraud by requiring photo-ID at the polls **[Neither Florida nor Michigan requires a government issued photo ID in order to cast a valid ballot.]**, why not Texas and South Carolina? The answer, unfortunately, is political, not legal. **[Actually, the answer is legal, not political – it's the Voting Rights Act of 1965. See below.]**

The Voting Rights Act of 1965 was passed by Congress with overwhelming majorities in both houses, and signed by President Johnson, to keep America's commitment that citizens who are eligible to vote will have their vote count. Upon affixing his signature, President Johnson explained "Every American citizen must have an equal right to vote. Yet the harsh fact is that in many places in this country, men and women are kept from voting simply because they are Negroes."<sup>14</sup> The Voting Rights Act was regrettably necessary, as the President admonished, because

Every device of which human ingenuity is capable has been used to deny this right. The Negro citizen may go to register only to be told that the day is wrong, or the hour is late, or the official in charge is late, or the official in charge is absent. And if he persists and he manages to present himself to register, he may be disqualified because he did not spell out his middle name or because he abbreviated a word on his application. And if he manages to fill out an application he is given a test. The register is the sole judge of whether he passes his test. He may be asked to recite the entire constitution, or explain the most complex provisions of state laws. And even a college degree cannot be used to prove that he can read and write.

Through schemes and plots and invidious conniving, blacks were disenfranchised and denied their right to vote for their representatives and government officials. Those schemes targeted and were carried out most effectively against the poor, the uneducated, and the elderly black Americans. As a result, laws were passed to ensure that every rightful vote was counted. **[All true.]**

Then and now the goal of these fraudsters is to thwart those lawfully allowed to vote and ultimately substitute their own preferred representatives and policy initiatives. Before the Voting Rights Act of 1965, these schemes included separate reading and writing tests for poor and uneducated blacks, as well as fees or so-called poll taxes assessed against those who could least afford them.

Today's schemes often target the same black voters once deprived under Jim Crow. As former Democratic Congressman-turned Republican Artur Davis has acknowledged, voter fraud is rampant in African-American districts such as his former district in Alabama,<sup>15</sup> and the schemes are less obvious and even more clever because voters often don't realize that their vote has been negated. In cases of "absentee ballot harvesting" **[Which, sadly, happens, though the Help America Vote Act provides some protections that prevent many wholesale harvesting schemes.]** and "ghost voters," **[Which happens with remarkable rarity.]** citizens may become aware that they've been defrauded either after showing up at the poll and being turned away, or worse, only after the election is over. In both instances, lawful citizens' rights to select the policies or representatives of their own choosing are stolen by the fraudsters. Similarly, non-citizen and felon-voting schemes counteract the intentions of the lawful voter by voting for policies and representatives contrary to the real desires and interests of the legal voter. Counterfeiters print phony money and devalue a hard-earned currency. Election fraudsters print phony votes and devalue the democratic voice of the disenfranchised voters. **[True.]**

Unfortunately, these schemes are common and pervasive. **[No citation, and no evidence.]** They are hard to stop and even harder to prove in court, which is why states are wise to bolster their election laws, require early registration, ask for photo ID at the polls, and close absentee-ballot loopholes that can be exploited by the fraudsters.

If the Justice Department was truly committed to enforcing voting rights, instead of frustrating the efforts of states and localities to combat election fraud, it would lead the charge to end this type of fraud. Instead of using the Voting Rights Act to delay anti-fraud measures, the Justice Department should use its authority to identify the jurisdictions where voter fraud is pandemic and insist that states take measures to counteract it.

Regrettably, the Attorney General and some of his fellow Democrats do not share this concern. They would rather twist the Voting Rights Act to serve their political agenda than live up to the fundamental ideals it was enacted to defend. **[The Justice Department's job is to enforce the law. The law prevents covered states from implementing new election practices – including practices intended to deter fraud – unless the state can demonstrate, with real data, that the new practices do not make it more difficult for minorities to effectively exercise the franchise. Neither Texas nor South Carolina was able to do so, and so the DOJ applied the existing law. In this context, failing to enforce the Voting Rights Act would actually demonstrate the political agenda alleged.]**

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<sup>1</sup> Mark Bowes, "Va. Investigates Voter Fraud," *Richmond Times-Dispatch*, April 22, 2012, available online at <http://www2.timesdispatch.com/news/2012/apr/22/tdmain01-va-investigates-voter-fraud-ar-1859666/> as of June 11, 2012.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> See: Eric Shawn, Fox News, "Voter Fraud 'A Normal Political Tactic' in Upstate NY City," January 17, 2012, available online at <http://www.foxnews.com/politics/2012/01/17/voter-fraud-normal-political-tactic-in-upstate-ny-city/#ixzz1sy38YyGC> as of June 11, 2012.

<sup>5</sup> Ibid.

<sup>6</sup> Kenneth C. Crowe II, "Voters are Victims in Ballot Trial," *Albany Times-Union*, February 12, 2012, available online at <http://www.timesunion.com/local/article/Voters-are-victims-in-ballot-trial-3308048.php> as of June 11, 2012.

<sup>7</sup> Debbie Siegelbaum, "GOP Says 5,000 Non-Citizens Voting in Colorado a 'Wake-up Call' for States," *The Hill*, March 31, 2011.

<sup>8</sup> Cleta Mitchell, The Daily Caller, "Setting the Record Straight on Voter ID Laws," January 17, 2012, available online at <http://dailycaller.com/2011/07/06/setting-the-record-straight-on-voter-id-laws/#ixzz1szUgsiQV> as of June 11, 2012.

<sup>9</sup> "This year there have been investigations, indictments or convictions for vote fraud in California, Texas, Minnesota, Wisconsin, Michigan, Indiana, Ohio, Georgia, North Carolina and Maryland. In all but one case, the alleged fraudsters were Democrats." The one exception was Maryland. See: Jack Kelly, "Voter Fraud is Real," *Pittsburgh Post-Gazette*, March 12, 2012, available online at <http://www.post-gazette.com/stories/opinion/jack-kelly/voter-fraud-is-real-224753/> as of June 11, 2012.

<sup>10</sup> *82% Say Voters Should Be Required to Show Photo ID*, Rasmussen Reports, August 19, 2010.

<sup>11</sup> *Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008).

<sup>12</sup> *Id.* (Scalia, J. concurring).

<sup>13</sup> In Georgia, black voter turnout for the midterm election in 2006 was 42.9 percent. After Georgia passed photo ID, black turnout in the 2010 midterm rose to 50.4 percent. Black turnout also rose in Indiana and Mississippi after photo IDs were required. See: Jack Kelly, "Voter Fraud is Real," *Pittsburgh Post-Gazette*, March 12, 2012, available online at <http://www.post-gazette.com/stories/opinion/jack-kelly/voter-fraud-is-real-224753/> as of June 11, 2012.

<sup>14</sup> Lyndon Baines Johnson, speech on the Voting Rights Act (March 15, 1965).

<sup>15</sup> "The most aggressive contemporary voter suppression in the African-American community is the wholesale manufacture of ballots at the polls and absentee, in parts of the Black Belt," according to Mr. Davis. See: Jack Kelly, "Voter Fraud is Real," *Pittsburgh Post-Gazette*, March 12, 2012, available online at <http://www.post-gazette.com/stories/opinion/jack-kelly/voter-fraud-is-real-224753/> as of June 11, 2012.