

August 19, 2005

Attorney General Peter Harvey
Hughes Justice Complex
P.O. Box 080
Trenton, NJ 08625-0080

Dear Attorney General Harvey:

We are greatly concerned about the voting rights of ex-offenders in New Jersey and believe that you, as Chief Election Officer, need to issue regulations to ensure uniformity and compliance with the law with respect to voter registration procedures for citizens who have completed terms of probation, incarceration, or parole. The historical discretion of local election officials to implement state and federal election law cannot be tolerated when election officials choose to defy the law, as in this case, and violate voters' rights; your job is to make sure that local officials follow the law and do so in a manner that is consistent throughout the State.

Your June forum on Voting Rights for Ex-Felons missed a critical opportunity to instruct election officials that their job is to register citizens who are eligible to vote, not to demand documents that state law does not require such potential voters to produce. After you spoke and promised to protect the voting rights of people with prior convictions, an election official from Burlington County publicly informed the panel that her office would continue to demand documentation from ex-offenders such as proof of release, despite the fact that doing so is contrary to state law (and is unnecessary, as counties are provided with release dates by the Prosecutor's Office). No one from the Office of the Attorney General corrected the official, instructed her to obey the law, or explained the proper process to her and all attendees. This lack of response from your staff in face of a stated intent to continue to violate the law is troubling, to say the least. It is our understanding that at least nine counties do not follow procedures that are in accord with state law.

Prior to the forum, the ACLU-NJ had alerted both county and state election officials to the problems many ex-offenders encounter when trying to register to vote. We received little response. We then systematically reviewed the voter registration practices of county election offices with respect to citizens who had completed their sentences. Results confirmed the anecdotal evidence we had gathered: Nine of the twenty-one counties continue to demand unnecessary documentation from ex-offenders.

A May article in the *New Jersey Lawyer* stated that in response to our survey your office planned to promulgate regulations to provide clear instruction about the voter registration process for persons who have completed their sentences. Deputy Attorney General Marcus Green also stated at the June forum that your office intended to provide guidelines on this issue. However, he did not mention a timeline. We therefore anticipate that this situation will be addressed promptly.

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Another election is fast approaching and many county election officers require direction from your office.

In New York, the Brennan Center for Justice conducted a survey similar to ours that uncovered illegal voter registration practices in several New York counties. The State Board of Elections reacted swiftly to the survey results, issuing a memorandum to all County Commissioners that laid out clear procedures when registering citizens with prior convictions to vote. (We are enclosing a copy of that memorandum for your review).

As Chief Election Officer and Chief Law Enforcement Officer of New Jersey, your duty is clear and compelling. We respectfully request that you require the election officials of the nine counties illegally hindering the voter registration of people who have done their time to comply with the law, and that you issue regulations governing this process. Short of regulations, we respectively demand that you issue a directive to all county election offices about their obligations to follow the law in registering ex-offenders to vote. Ex-offenders cannot be effectively denied the opportunity to vote simply because they reside in one of the nine counties that we have found refuses to follow the law. Your attention to this matter is urgent, since voting is a fundamental constitutional right.

We would appreciate hearing back from your office with a timeline for this action within the next two weeks.

Sincerely,

Deborah Jacobs, Executive Director
American Civil Liberties Union of New Jersey

Deborah Goldberg, Director, Democracy Project
Brennan Center for Justice

Rev. Robert Moore, Executive Director
Coalition for Peace Action

Ludovic Blain, Associate Director, Democracy Project
Demos

Pamela T. Miller, Esq., President
Garden State Bar Association

Alaina C. Beverly, Assistant Counsel
NAACP Legal Defense and Education Fund

Renee Steinhagen, Executive Director
New Jersey Appleseed

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Ruth Martin
People for the American Way

Jo-Anne Chasnow
Project Vote

Frank Askin, Director
Rutgers Constitutional Legal Clinic

Susan J. Waldman
Women of Color and Allies, Essex County Chapter
National Organization for Women

Cc: Acting Governor Codey

Enc: ACLU-NJ News Release "Forty three per cent of County Election Offices Continues to Roadblock Ex-Offender Voter Registration" and Data Analysis of Survey of County Election Offices
October 29, 2003 New York State Board of Elections Memo to County Commissioners "Registration of Former Felons"