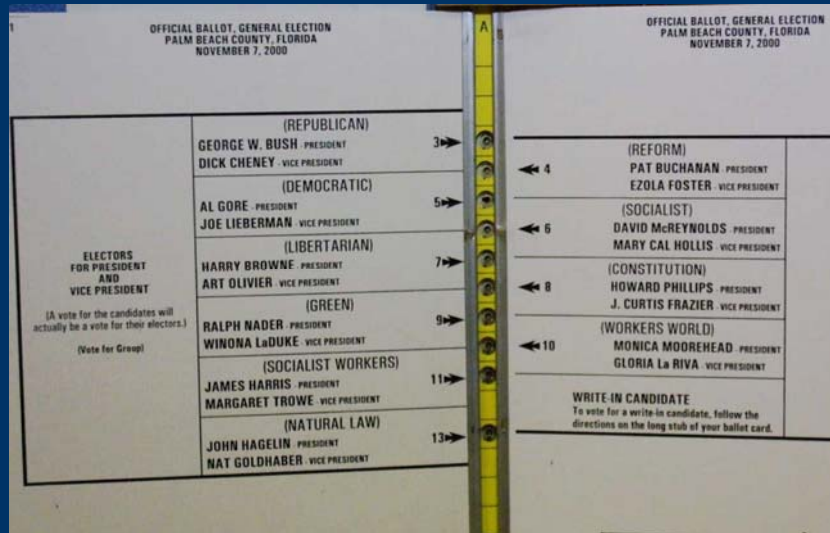


# Voting Challenges 2010

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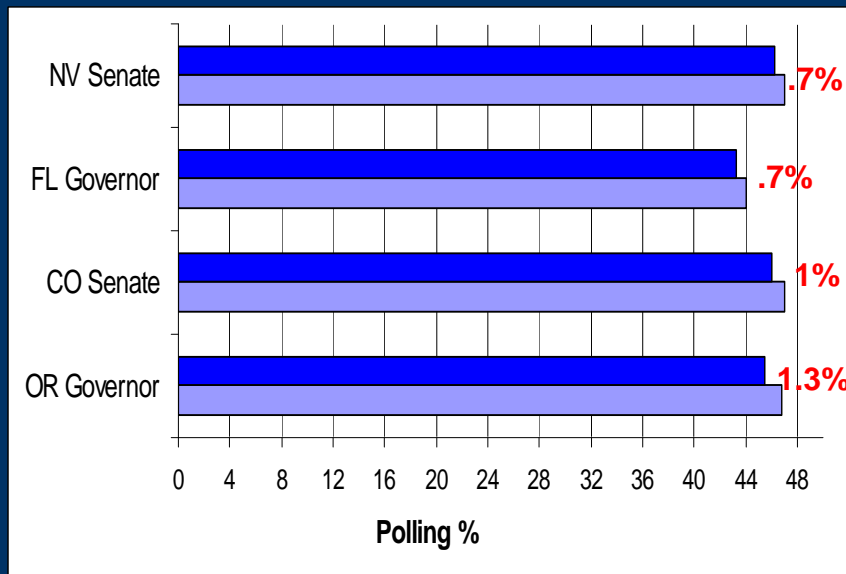
# A decade after Florida 2000



- 2006:** Threats from new vote suppressive laws and policies
- 2008:** Voter registration biggest threat; voting machine progress

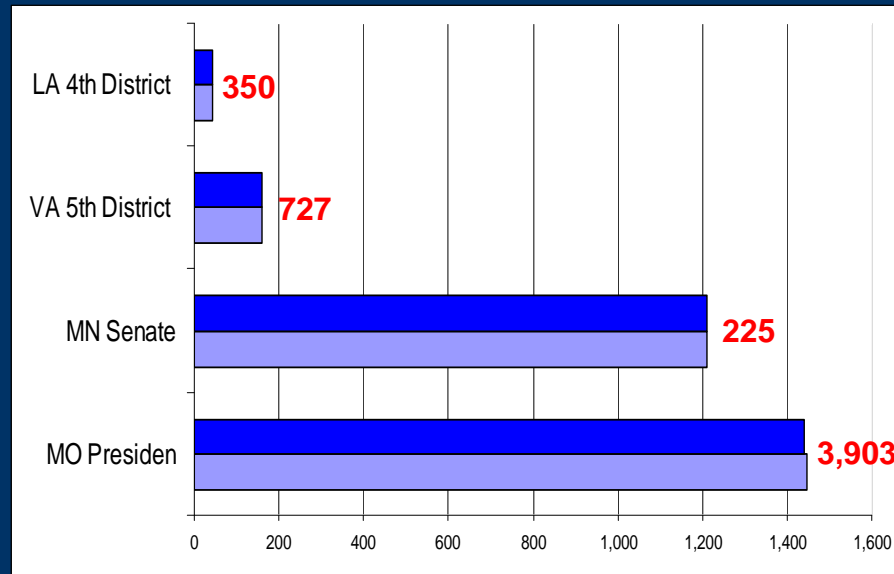
# Voting problems can affect election outcomes

How many votes make the difference?



## 2010 Close Races

(Source: Real Clear Politics average polling data)



## 2008 Close Races

(Source: election returns)



# Three main threats in 2010

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**1 Voter Registration**

**“Ballot Security”  
2 Operations**

**3 Voting Machines**

# 1 Voter Registration



# Voter registration #1 barrier to voting

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- #1 problem reported to voter protection hotlines
- #1 reason provisional ballots not counted
- #1 cause of pre-election disputes and lawsuits

3 million could not vote in 2008 due to voter registration problems (Harvard/MIT 2008)

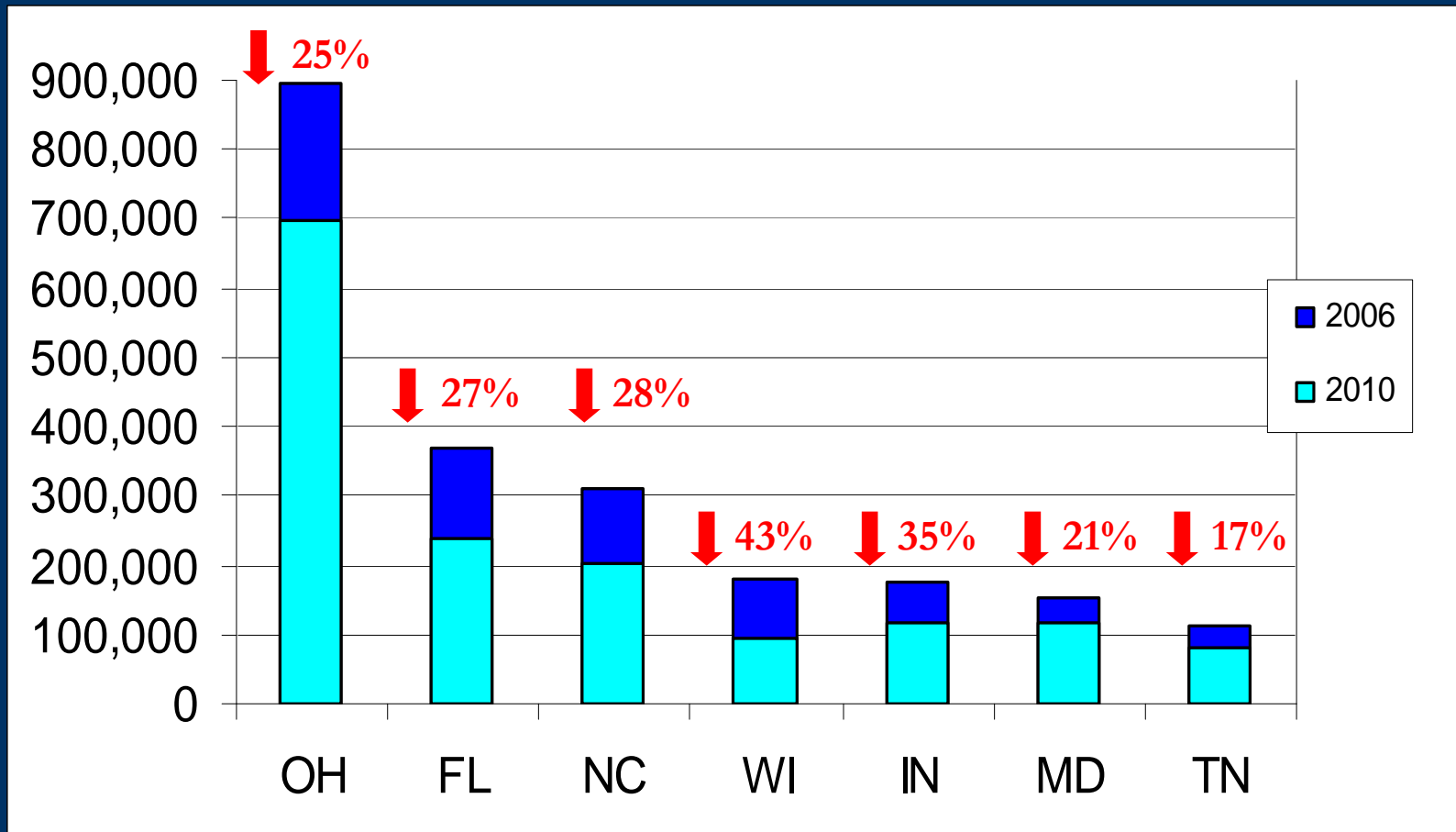


# Fewer voter registration efforts in 2010

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- **Registration drives are down**
  - 4-year wave of laws and media campaigns aimed at registration groups
  - Net effect: dramatic drop in large-scale registration efforts this cycle
  - From 2000 to 2008, registration groups registered millions, including more than 10 million in 2004
- **Federal mandates ignored**
  - States not registering voters or updating registrations as required by federal law
  - When they do, registration numbers shoot up

# Net effect: fewer voters registering in 2010



Exception: California

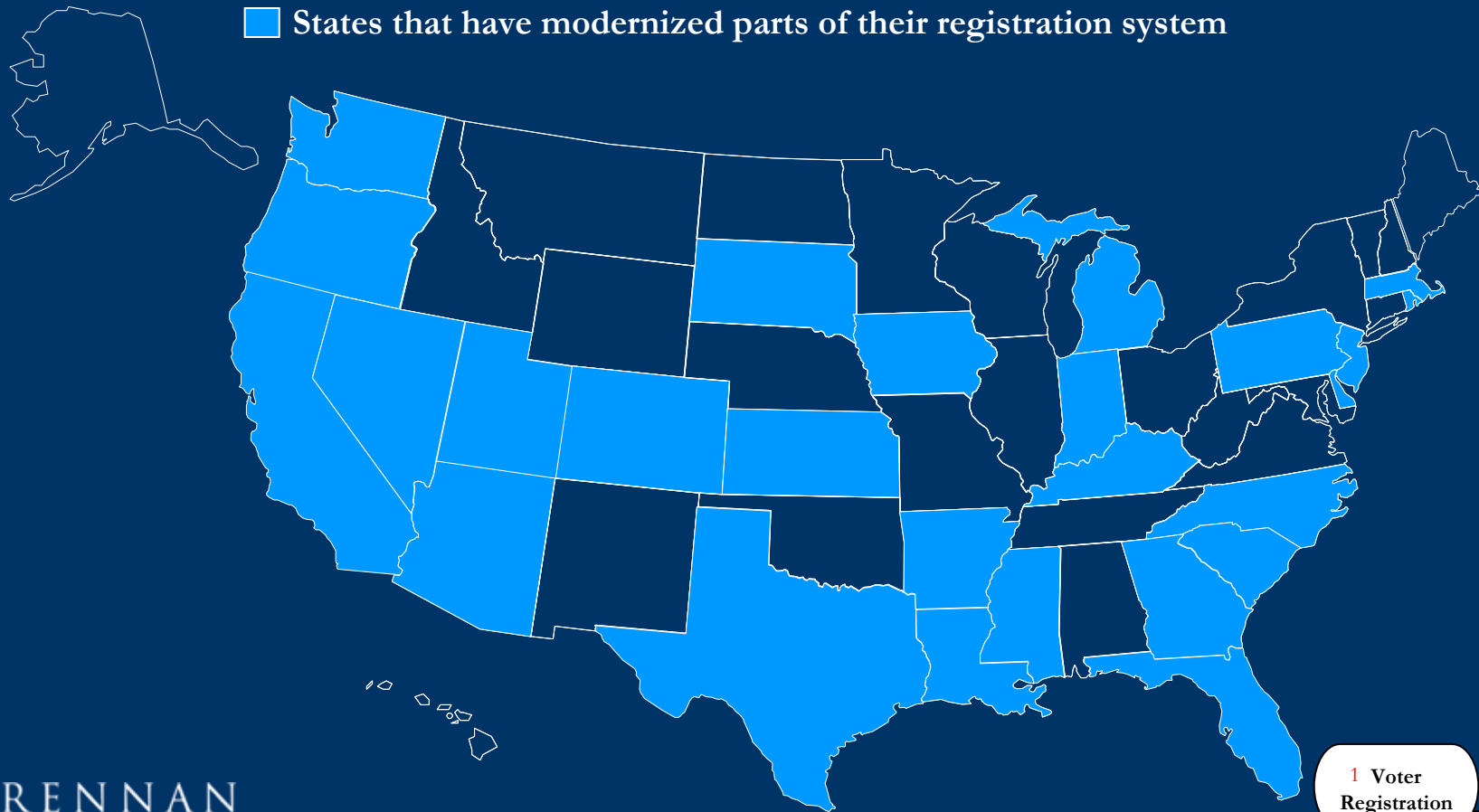


# Impact of foreclosure crisis

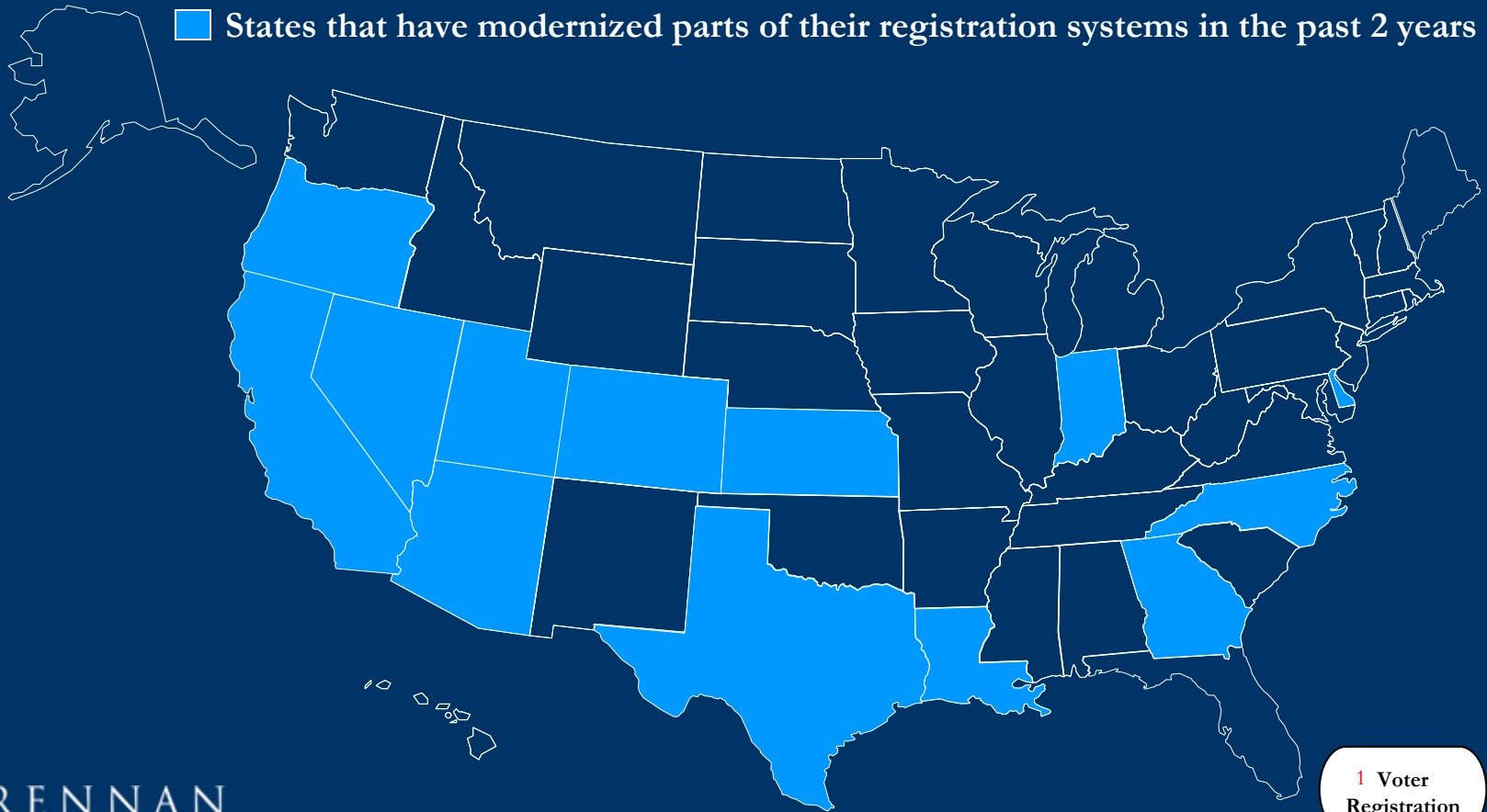


Highest rates in **Nevada**: 6% of properties had foreclosure filings in January - June 2010

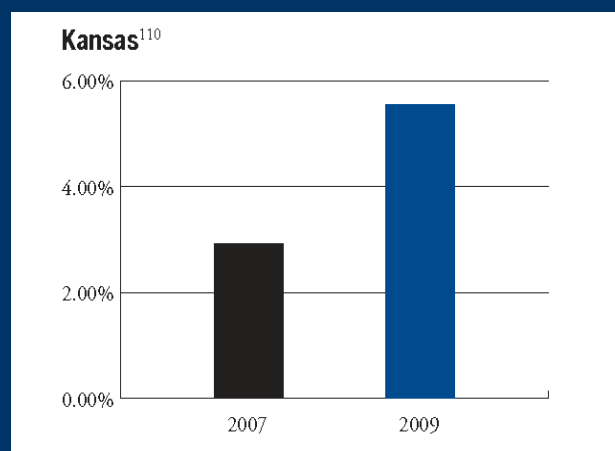
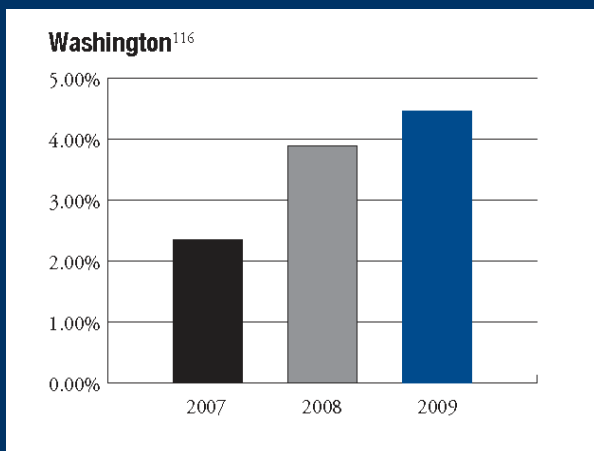
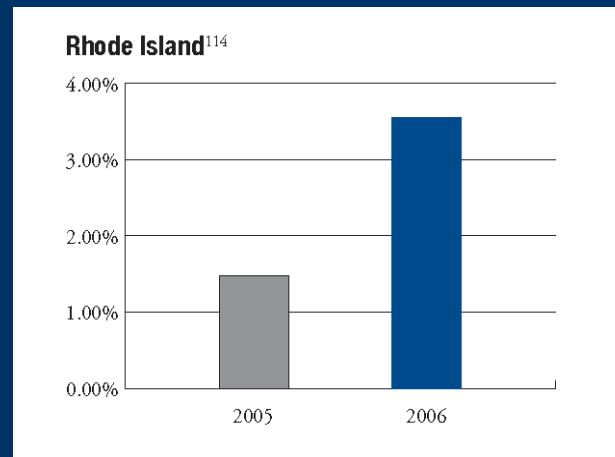
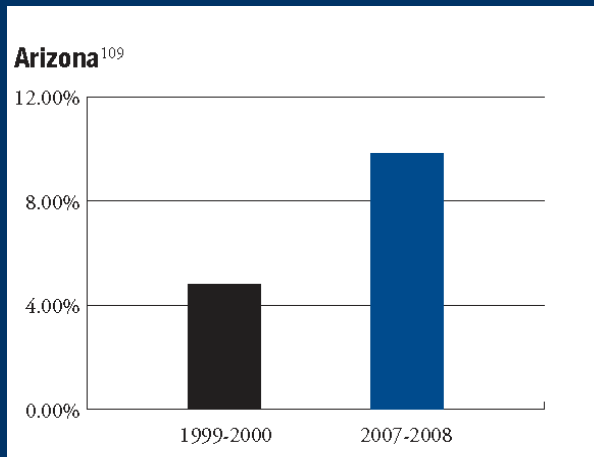
# The good news: reform momentum



# The good news: reform momentum



# Reform increases registration rates



# The good news: some states complying with voter registration laws

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## Registration efforts at public assistance offices make a difference:

- **North Carolina:** over 80,000 citizens registered at public assistance agencies from 2006 to 2008—compared to only 11,600 in the previous two-year period
- **Virginia:** compliance after June 2008 resulted in a five-fold increase in monthly registrations at public assistance agencies
- **Ohio:** more than 17,000 citizens per month registered at public assistance agencies in 2010—compared to only 1,775 per month in the previous two-year period

Source: Demos



**“Ballot Security”**

**2**

**Operations**



# Risk of vote suppression

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- Voter challenges and caging
- Voter Intimidation
- Deceptive practices

# Voter challenges threaten eligible voters

- Challenge to 6,000 voters based on returned mail (**Montana 2008**)
- Threat of challenge to voters on foreclosure lists (**Michigan, Ohio, Illinois 2008**)
- Threat of challenge to 600,000 voters whose registrations failed a computerized match with other government records (**Ohio 2008**)
- Lawsuit demanded voters use provisional ballots if registrations failed computerized match (**Wisconsin 2008**)

**Most eligible students and military personnel who forwarded their mail**

**Most were still living in their homes or still eligible to vote at old addresses**

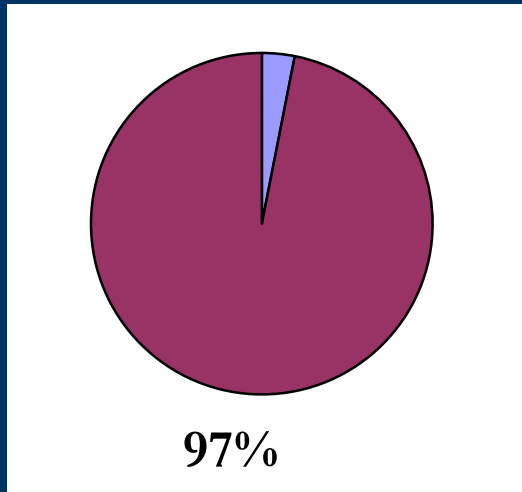
**Studies show that almost all non-matches are the result of typos and other list flaws**

**Government study showed almost all non-matches were due to list flaws**

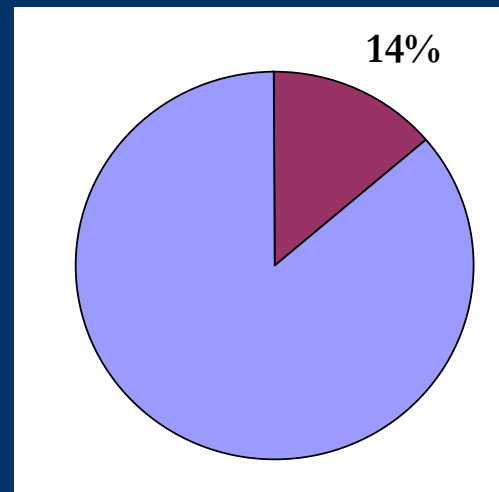


# Voter challenges often discriminatory

## *Spencer v. Blackwell* (Ohio 2004)

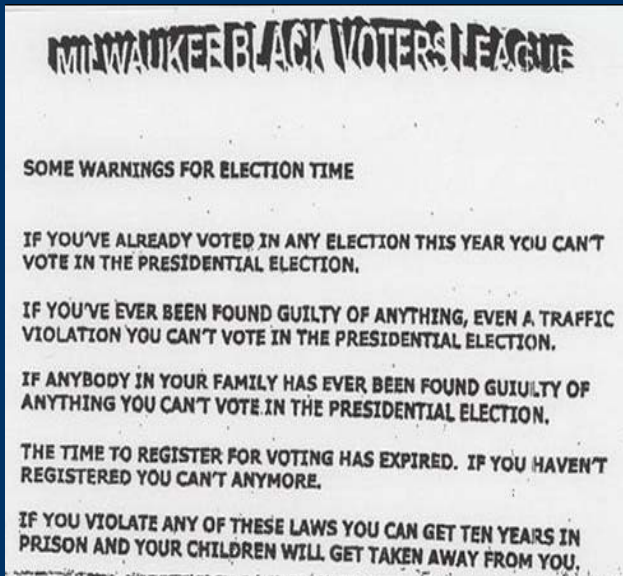


**97%** of new voters in majority **African American** precincts to face challengers

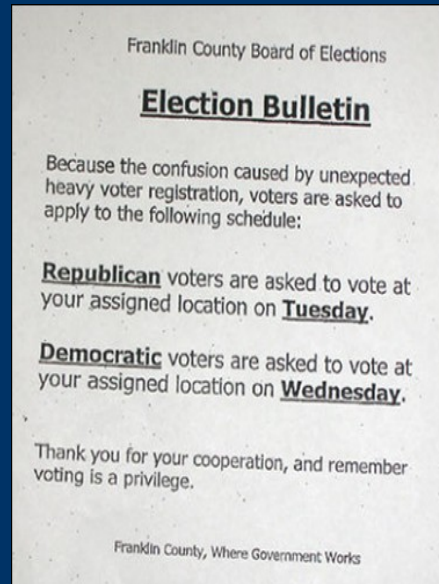


**14%** of new voters in majority **White** precincts to face challengers

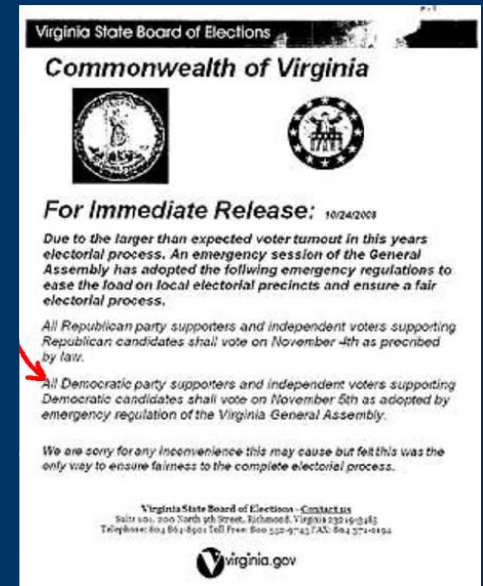
# Voter intimidation and deceptive practices



2004 Wisconsin flier



2004 Ohio flier



2008 Virginia flier

On election day “there will be undercover officers to execute warrants on those who come to vote...” 2008 Philadelphia flier

“It is illegal to video the polling place, but you can video the birds on top of the polling place or the dog sitting in front of it...”

2010 California Freedom Works Tea Party blog

# Threatened “ballot security” operations 2010



- Local Tea Party group—King Street Patriots and its voter fraud initiative True the Vote—executing major poll watcher program; already complaints of intimidation.



- Tea Party hosts **challenger training courses**.



- State GOP website details **plans to post 3,666 challengers** in 17 counties polling less than 35% Republican. Southwest Michigan Tea Party Patriots hosts **challenger trainings**.



- North Phoenix Tea Party: “We need **pitbull watchdogs** to stop illegal immigrant voting!”



- Central Valley Tea Party calls for “**Army of Independent and Republican Poll Watchers**.”



- Senate candidate reportedly planning largest “voter integrity program” in state in 15 years. Report suggests effort may concentrate in precincts with many African-American voters.

# Challenges in Wisconsin 2010



- Uncovered documents suggest far-reaching caging and voter challenge plan coordinated among GrandSons of Liberty Tea Party, state GOP, and Americans for Prosperity.

## Milwaukee challenge to 60,000 registrations

9) I am challenging: (1) the "qualified elector" status of the portion of the 18,433 who currently are listed on the City of Milwaukee Registered Voter List; (2) the "qualified elector" status of the portion of the 45,214 who currently are listed on the City of Milwaukee Registered Voter List.

## GrandSons of Liberty Tea Party Document

### Revised draft plan for "Election Observer Program" as of July 14, 5:00pm:

1. Voter Roll Cleanup:
  - A. Initial Mailing groups by AFP and return of undeliverable mail (expect up to 20 day delay) to WiGOL and then to District Attorneys. AFP is preparing first 500 (update: list derived from voter role in 16<sup>th</sup> district and will be mailed by July 16). Additional mailing as funding is obtained.
  - B. Second mailing after Jim K compiles state-wide list of suspect registrations. RPW to finance this process; RPW may coordinate with AFP. The sequence to investigate thereafter is:

- D. Consider another mailing to college campuses after primary elections.
- E. Publicity for VPA; AFP will send email blast regarding the Voter Public Access(VPA). AFP will forward VPA info to Vicki McKenna. AFP will feature VPA message on billboard. (Consider "Did your deceased uncle vote in 2008?")

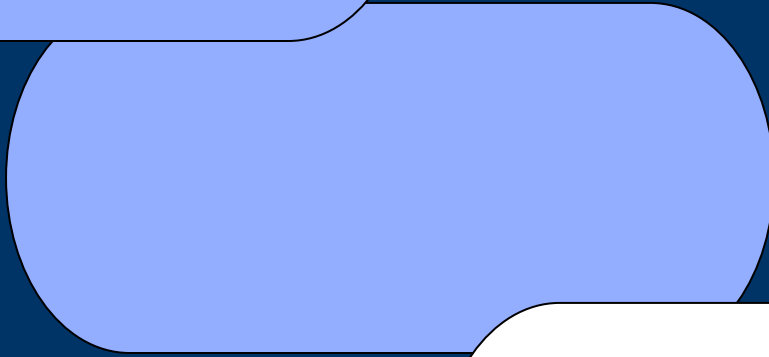
3. Thwarting New Fraudulent Registrations - Volunteer Observers needed at:
  - A. Nursing homes- City Clerks have list and dates so observers can participate.
  - B. Polls
  - C. Open registrations - Clerks' offices 20 days before election.
  - D. Event pre voting registrations



# Regulatory flaws

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- Laws insufficiently enforced
- Lack of clarity as to what constitutes illegal conduct
- Challenge procedures create disruption at polls
  - Too much discretion for poll workers
  - Insufficient limits on who can mount a challenge, on what basis, and how
  - Procedural burdens for voters



**3 Voting Machines**

# Voting machines: progress since 2000

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- Fewer lost votes
- Paper trails
- Audits
- Accessibility & privacy





# Problems persist

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- Usability issues
- Machines drop/add votes
- Tally servers miscount votes



Early voting in Tennessee 2008





# Repetition of previous problems

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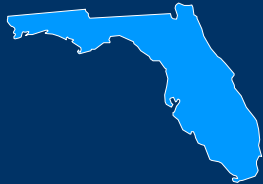


Butler County, Ohio (2008)

**Tally servers drop votes**



DuPage County, Illinois (2004)



Orange County, Florida (2006)

**Machines fail to read optical scan**



Napa County, California (2004)



New York (2010))

**Confusing screen message causes lost votes**



Florida (2008)

# No mandatory disclosure as with other products

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# Problems compounded by state budget woes

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## Examples of budget impact on running elections in 2010

- Election officials in an **Ohio** county are suing the county for \$29,000 in emergency funds to run the election
- Cuts in number of precincts, including in **Hawaii** and parts of **Ohio**
- Eliminating sample ballots to early voters in **Arizona**
- To save money, a **Wisconsin** county appointed a new clerk rather than holding a special election



# What Can be Done?

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## Modernize

- Automated voter registration with fail-safes
- Voting machine clearinghouse

## Strengthen

- Deceptive Practices Act
- Caging Prevention Act
- State laws and administrative rules or directives

## Enforce

- Motor Voter law
- Voting Rights Act
- State voter protection laws

## Educate

- Voter vigilance
- Public watchdogs



# Voting Challenges 2010

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BRENNAN  
CENTER  
FOR JUSTICE

For more information, contact  
[wendy.weiser@nyu.edu](mailto:wendy.weiser@nyu.edu)