Using Justice to Suppress the Vote

June 7, 2007
The U.S. Attorney scandal is only a part of the story
Broader attempt to use government institutions for partisan ends

- United States Attorneys
- Civil Rights Division of DOJ
- Election Assistance Commission
- State government institutions
- Federal and state legislatures
Four connected pieces of the strategy

- Dismantling infrastructure of Justice
- Fomenting fear of voter fraud
- Politically motivated prosecutions
- Restricting registration and voting

Hans von Spakovsky
- Counsel, Assistant Attorney General for Civil Rights
- Fulton County, Georgia Board of Registration and Elections

Brad Schlozman
- Acting Ass’t Attorney General for Civil Rights
- United States Attorney, W.D. Missouri
Overview of the effort

- **2004**
  - Texas mid-decade redistricting precleared

- **2005**
  - DOJ argues no private right in HAVA
  - DOJ says no provisional ballots w/o ID

- **2006**
  - “No match, no vote” agreement with CA
  - Missouri purge lawsuit
  - DOJ says OK to cast but not count provisional ballots

- **2007**
  - Indiana purge lawsuit
  - Maine purge lawsuit
  - Georgia photo ID law precleared
  - Voter ID bill passes House
  - New Jersey purge lawsuit
  - U.S. Attorney purge

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“No match, no vote” letter to MD

Pressure on EAC to change AZ ID decision

Election-eve fraud indictments
Dismantling the infrastructure of Justice

2007  55% of attorneys leave Voting Section in 2 years

- Partisan hiring process
- Altered performance evaluations
- Political retaliation on the job
Chasing the voter fraud phantom . . .

Alleged “hotbeds” of individual voter fraud

- Missouri 2000: 0.0003%
- New Jersey 2004: 0.0004%
- Ohio 2004: 0.00004%
- Washington 2004: 0.0009%
- Wisconsin 2004: 0.0002%

Struck by lightning: 0.0004%
“Among Republicans it is an ‘article of religious faith that voter fraud is causing us to lose elections,’ [Royal] Masset[, former political director of the Republican Party of Texas,] said. He doesn’t agree with that, but does believe that requiring photo IDs could cause enough of a dropoff in legitimate Democratic voting to add 3 percent to the Republican vote.”

- Houston Chronicle
May 17, 2007
Fear of fraud has been used to justify all sorts of restrictions

- Restrictive voter ID
- Limits on voter registration
- Purges
- Proof of citizenship requirements
- Provisional ballot restrictions

“Vote fraud: Milwaukee purge demonstrates the need for W.Va. officials to act”

“Photo IDs could end voter fraud”
Pushing illegal voter ID laws that keep voters from the polls

- Georgia law signed, subject to DOJ preclearance  
  April 22, 2005
- von Spakovsky “Publius” article endorsing voter ID  
  June 2005
- Career staff recommend objection under Voting Rights Act  
  August 25, 2005
- Political appointees approve law  
  August 26, 2005
- Law **struck down** by federal court  
  October 18, 2005
Restrictive photo ID laws lock out eligible voters

- **10 %** of the voting-age population no government photo ID (> 20 million voters)
- **36 %** of voters over 75 no driver’s license in Georgia
- **78 %** of African-American men 18-24 no valid driver’s license in Wisconsin
- **97 %** of students no current address on a Wisconsin driver’s license
Pushing illegal “matching” that keeps voters off the rolls

• von Spakovsky’s “no match, no vote” opinion
• Schlozman’s “model” agreement with CA

BUT

• 20-30% initial rejection rate of new registrants
• Struck down by federal court
Pushing aggressive purges

Significant registration deadwood

EAC 2004 survey
Pushing proof of citizenship requirements

22,000 voters rejected in Arizona

EAC decision: additional proof (on top of federal form) is illegal and then...

From: pdegregorio@eac.gov <pdegregorio@eac.gov>
To: von Spakovsky, Hans (CRT) <Hans.VonSpakovsky@crt.usdoj.gov>
Sent: Mon Aug 29 22:58:26 2005
Subject: e-mail from Jack Bartling

Hans,

Is the e-mail below from Jack Bartling a product of some phone calls you have made regarding the AZ case? Is it an attempt by you to put pressure on me—and the EAC? If so, I do not appreciate it.
• “With the extreme level of polarization in the district, Hispanic voters simply no longer have any ability to elect their candidate of choice.”
  – Career attorney memo, December 12, 2003

• “The Attorney General does not interpose any objection to the specified changes…”
  – DOJ approval letter, December 19, 2003

• “In essence the State took away the Latinos’ opportunity because Latinos were about to exercise it.”
  – U.S. Supreme Court, LULAC v. Perry
Pushing other legal rules that harm voters

• DOJ: Voters can’t go to court to enforce the Help America Vote Act

• DOJ: States can prevent voters from casting provisional ballots

• DOJ: Provisional ballots can be cast but not counted

• DOJ: Uphold Ohio’s discriminatory challenger law
Pushing politically motivated prosecutions

• “I believe the primary reason for my forced resignation is that I was not engaged in filing criminal complaints … in advance of the '06 election.”

• “At least one other recently ousted United States attorney, John McKay of Seattle, said he believed that Bush administration officials were similarly angry that he had not prosecuted voter fraud cases involving Democrats.”
SCHLOZMAN: I was aware of the general policy that the Department refrains from indicting certain election-related crimes before an election.

* * *

LEAHY: Would it have affected your ability to bring the prosecution if you had just waited a few weeks until the election was over?

SCHLOZMAN: I doubt there would have been any impact on the actual prosecution.
DOJ has been involved throughout . . .

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Missouri purge of voter rolls

Missouri photo ID law

“No match, no vote” registration policy

Missouri last-minute indictment

Bradley J. Schlozman
Acting Assistant Attorney General

Hans A. von Spakovsky
Counsel to the Assistant Attorney General
... and wrong throughout

- Georgia photo ID law: Struck down by court
- “No match, no vote” registration policy: Struck down by court
- Missouri purge of voter rolls: Struck down by court
- Arizona proof of citizenship: Tens of thousands blocked
- Texas mid-decade redistricting: Struck down by court
- Missouri last-minute indictment: Effect on election???
What must be done?

• Thoroughly question von Spakovsky
• Carefully investigate government vote suppression efforts
• Reject von Spakovsky nomination
• Pass election agenda that protects the vote