Voting Challenges 2010
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

1. Voter Registration
2. "Ballot Security" Operations
3. Voting Machines
1 Voter Registration
Voter registration remains #1 barrier to voting

- #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

- Dramatic decrease in voter registration drives
  - 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

- States not registering voters as required by federal law
  - When they do, registration numbers shoot up
Net effect: fewer voters registering in 2010

**Florida**: down 26.7% from 2006

**Maryland**: down 21.4% from 2006

**Tennessee**: down 16.9% from 2006

**Clark County, NV**: down 2.8% from 2006

Exception: California up from 2006
Impact of foreclosure crisis

Highest rates are in Nevada, where 6% of properties had foreclosure filings in Jan.-June 2010

Source: RealtyTrac
The good news: reform momentum

States that have modernized parts of their registration system
The good news: reform momentum

States that have modernized parts of their registration systems in the past 2 years
Reform increases registration rates

DMV voter registrations received each year as a percentage of voting-age citizen population

Source: *Voter Registration in A Digital Age* (Brennan Center 2010)
The good news: some states improved compliance with voter registration laws

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”
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Operations
Risk of vote suppression

• Voter challenges and caging
• Voter Intimidation
• Deceptive practices
Voter challenges threaten eligible voters

- Challenge to 6,000 voters based on returned mail (Montana 2008)
  Most were eligible students and military personnel who forwarded their mail

- Threat of challenge to voters on foreclosure lists (Michigan and Ohio 2008)
  Many were still living in their homes; most were still eligible to vote at old addresses

- Threat of challenge to 600,000 voters whose registrations failed a computerized match with other government records (Ohio 2008)
  Studies show that almost all non-matches are the result of typos and other list flaws

- Lawsuit demanded voters use provisional ballots if registrations failed computerized match with other government records (Wisconsin 2008)
  Government study showed almost all non-matches were due to list flaws
Voter challenges often discriminatory


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

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—host multiple poll watcher trainings.
• Houston registrar shares voter records with True the Vote, prompting lawsuit from Democratic Party.

• 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.

• Central Valley Tea Party discussion board calls for “Army of Independent and Republican Poll Watchers.” 600 meeting attendees are urged to sign up for poll watching and voter verification efforts.

• Tea Party hosts challenger training courses, registers 85 poll challengers.

• North Phoenix Tea Party encourages meeting attendees to serve as “pitbull watchdogs” to stop illegal immigrant voting

• 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 18,453 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.
Regulatory flaws

• Laws insufficiently enforced

• Lack of clarity as to what constitutes illegal conduct

• Challenge procedures create disruption at polls
  • Too much discretion for poll workers and election officials
  • Insufficient limits on who can mount a challenge and on what basis
  • Procedural burdens for voters
3 Voting Machines
Advancements in voting technology over the past decade

- Reduction of lost votes
- Voting machines with a paper record
- Post election audits
- Accessibility and privacy for disabled voters
Problems persist

- Usability issues
- Machines dropping/adding votes
- Tally servers miscounting votes

Voting machine glitches add to problems of already long lines during early voting in Tennessee 2008
Repetition of previous problems

- Butler County, Ohio (2008)
- Orange County, Florida (2006)
- Napa County, California (2004)
- New York (2010)
- Florida (2008)

- Tally servers drop votes
- Machines fail to read optical scan
- Confusing screen message causes lost votes
No mandatory disclosure as with other products

Regulated Products

NHTSA Database
Problems compounded by state budget woes

Examples of budget impact on running elections in 2010

• Election officials 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?

• Modernize voter registration system nation-wide
• Vigorously enforce federal Motor Voter law
• Ensure state challenger laws protect against abuses
  • Pass federal Caging Prohibition Act; reform state laws; administrative rules or directives
• Enforce and strengthen laws against voter intimidation and deception
  • Pass federal Deceptive Practices Act
• Create mandatory national clearinghouse of voting machine failures and solutions
• Vigilance by election officials, law enforcement, and public
• Voter education
Voting Challenges 2010

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