

***Citizens Without Proof* Stands Strong: A Response to Von Spakovsky and Ingram**

Wendy Weiser and Keesha Gaskins

In November 2006, the Brennan Center for Justice published *Citizens Without Proof*, a report documenting the findings of a survey conducted by the Opinion Research Corporation, a prominent independent research firm, about the extent to which American citizens possess government-issued photo ID and documentary proof of citizenship.¹ The report detailed the study's methodology, its principal findings, and the associated margins of error. Most prominently, the study found that 11% of voting-age American citizens—and an even greater percentage of African American, low-income, and older citizens—do not have current and valid government-issued photo IDs.

Since its publication, *Citizens Without Proof* has been widely cited by scholars, legal experts, and the media, and its findings have been widely accepted. What is more, its principal findings have been repeatedly confirmed by multiple independent studies. For example:

- The 2001 Carter-Ford Commission on Election Reform found that between 6 and 11 percent of voting-age citizens lack driver's licenses or alternate state-issued photo IDs.²
- A 2007 Indiana survey found that roughly 13 percent of registered Indiana voters lack an Indiana driver's license or an alternate Indiana-issued photo ID.³
- A 2009 study in Indiana found that of the citizen adult population, 81.4% of all white eligible adults had access to a driver's license, compared to only 55.2% of black eligible adults. It also found that strict photo ID requirements have the greatest impact on the

¹ CITIZENS WITHOUT PROOF: A SURVEY OF AMERICANS' POSSESSION OF DOCUMENTARY PROOF OF CITIZENSHIP AND PHOTO IDENTIFICATION, BRENNAN CENTER FOR JUSTICE (2006), available at http://www.brennancenter.org/dynamic/subpages/download_file_39242.pdf.

² THE NATIONAL COMMISSION ON FEDERAL ELECTION REFORM, TO ASSURE PRIDE AND CONFIDENCE IN THE ELECTORAL PROCESS, (2001), available at <http://f11.findlaw.com/news.findlaw.com/hdocs/docs/election2000/electionreformrpt0801.pdf>.

³ MATT A. BARRETO, ET AL., WASHINGTON INSTITUTE FOR THE STUDY OF ETHNICITY AND RACE, THE DISPROPORTIONATE IMPACT OF INDIANA VOTER ID REQUIREMENTS ON THE ELECTORATE, (2007) available at http://depts.washington.edu/uwiser/documents/Indiana_voter.pdf.

elderly, racial and ethnic minorities, immigrants, those with less educational attainment and lower incomes.⁴

- A 2007 report based on exit polls from the 2006 elections in California, New Mexico, and Washington State found that 12% of actual voters did not have a valid driver's license.⁵
- A prominent national survey conducted after the November 2008 election found that 95% of respondents claimed to have a driver's license, but that 16% of those respondents lacked a license that was both current and valid.⁶

Recently, however, *Citizens Without Proof* has come under attack by political operatives supportive of strict photo ID requirements for voting. On August 24, 2011, Hans von Spakovsky and Alex Ingram, through the Heritage Foundation, published a memorandum⁷ seeking to discredit the study, criticizing the study's methodology and the Brennan Center's reporting of its results. This document responds to their baseless criticisms.

The Study's Data Collection Methods Follow Best Practices

Citizens Without Proof reports the results of a national survey conducted by the well-respected independent research firm, Opinion Research Corporation (ORC), in November 2006. The *Citizens Without Proof* survey was part of a broader telephone survey conducted by ORC that month, for which ORC followed standard industry practice in terms of survey design, selecting the appropriate number of survey participants for statistically significant results, random selection of survey participants, and method of questioning survey participants. ORC used its standard demographic screens—*i.e.*, questions to determine demographic characteristics of survey participants, such as race, citizenship, and age—for the entire survey. In other words, the survey methodology used for *Citizens Without Proof* was the same widely respected methodology typically used by ORC and similar survey research entities. With respect to the survey questions relating to photo ID and citizenship documentation, before conducting the survey ORC analyzed and revised the proposed survey questions and corrected for any potential bias.

Notwithstanding these facts, von Spakovsky and Ingram criticize the survey because it “could have included illegal and legal aliens.” This is baseless. As *Citizens Without Proof* clearly

⁴ Matt A. Barreto et al., *The Disproportionate Impact of Voter-ID Requirements on the Electorate—New Evidence from Indiana*, PS: POLITICAL SCIENCE AND POLITICS, 111 (January 2009), available at http://faculty.washington.edu/mbarreto/papers/PS_VoterID.pdf.

⁵ MATT A. BARRETO ET AL., VOTER ID REQUIREMENTS AND THE DISENFRANCHISEMENTS OF LATINO, BLACK AND ASIAN VOTERS (2007), available at http://faculty.washington.edu/mbarreto/research/Voter_ID_APSA.pdf.

⁶ R. MICHAEL ALVAREZ ET AL., 2008 SURVEY OF THE PERFORMANCE OF AMERICAN ELECTIONS (2009), available at http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Election_reform/Final%2520report20090218.pdf.

⁷ HANS VON SPAKOVSKY AND ALEX INGRAM, HERITAGE FOUNDATION, WITHOUT PROOF: THE UNPERSUASIVE CASE AGAINST VOTER IDENTIFICATION, (2011), available at <http://www.heritage.org/Research/Reports/2011/08/Without-Proof-The-Unpersuasive-Case-Against-Voter-Identification>.

reports, ORC specifically questioned survey participants as to whether they were U.S. citizens, using questions generally accepted in the industry. The survey results were limited to U.S. citizens of voting age and did not include illegal or legal aliens.

Von Spakovsky and Ingram also try to criticize the survey on the ground that it was not limited to “actual or likely voters, registered voters, or even eligible to vote at all” [sic]. This too is baseless. First, *Citizens Without Proof* does not purport to present findings of how many actual, likely, or registered voters do not have the documents studied. Despite von Spakovsky and Ingram’s insinuation, the report does not in any way misrepresent its survey pool. To the contrary, it clearly says that the survey’s findings relate to all voting-age American citizens, and not to the survey participants’ likely participation in any election. That statement remains true.

Second, contrary to von Spakovsky and Ingram’s assertion, the survey was, in fact, essentially limited to eligible voters, since it focused exclusively on U.S. citizens over the age of eighteen, the main determinants of voter eligibility across the country. (While it is theoretically possible that the survey could have captured a small number of individuals rendered ineligible to vote because of disqualifying criminal convictions, based on the national rate of those disqualifications, that number would be miniscule and would have a statistically insignificant effect on the study’s results.)

Third, von Spakovsky and Ingram are wrong that a more appropriate survey pool for assessing the fairness of photo ID or proof of citizenship requirements for voting would have been actual, likely, or registered voters. While it is true that citizens in those groups are more likely to vote in any given election, they are not the only citizens who have the *right* to vote. It is certainly relevant to assess how many people of those entitled to vote would be prevented from doing so if they tried because of a photo ID or proof of citizenship requirement. The fairness of photo ID and proof of citizenship requirements is not solely a factor of their effect on overall turnout in run-of-the-mill elections; it is also a factor of their effect on the ability of every eligible American—whether or not she has voted recently—to participate in future elections. Indeed, it is often people who do not frequently participate in elections who periodically become excited by a new candidate, mobilize to vote, and change the outcomes of elections.

The Study’s Survey Questions Are Valid and Transparent

As noted above, the survey questions used in *Citizens Without Proof* were analyzed and revised by the independent Opinion Research Corporation to ensure that they did not reflect any bias. And indeed they did not. To enable peer-reviewers and other readers to assess the questions for themselves, *Citizens Without Proof* reprinted them in full. But von Spakovsky and Ingram apparently neglected to read them.

The question that led to the bulk of the report’s findings was the following question: “Do you have a current, unexpired government-issued ID with your picture on it, like a driver’s license or a military ID?” Eleven percent of all survey respondents said that they did not, and even higher percentages of African-American, low-income, and older citizens said that they did not. It is hard to imagine how such a straight-forward question can be interpreted as biased in any way.

Nonetheless, von Spakovsky and Ingram try to claim that the question was indeed biased. They do so by completely misquoting the question, claiming that the survey “did not ask respondents whether they had government-issued IDs but rather asked whether respondents had ‘readily available identification.’” That is completely untrue. Although the term “readily available identification” might indeed be confusing if used in a survey, it was not used in this survey at all.

Von Spakovsky and Ingram further criticize this question because it does not include a more comprehensive list of all government-issued photo IDs, including military IDs and student IDs, as examples. Again, they misread the question, which expressly *includes* military ID as an example. And while the question does not list state-issued student photo IDs as an example, those IDs are clearly covered as a form of “government-issued ID with your picture on it.” Moreover, possession of student photo IDs is not especially relevant to the question of the fairness of voter ID laws; only some states that require photo ID to vote accept student photo IDs.

In addition to their failed attempt to discredit the photo ID question, von Spakovsky and Ingram criticize the study’s question relating to documentary proof of citizenship. That question was: “Do you have any of the following citizenship documents (U.S. birth certificate/U.S. passport/U.S. naturalization papers) in a place where you can quickly find it if you had to show it tomorrow?” Seven percent of survey participants answered no. Von Spakovsky and Ingram claim that the inclusion of the clause, “in a place where you can quickly find it if you had to show it tomorrow” biased the results. That clause was included to differentiate between people who actually had possession of their birth certificates and those who believed that at some point in their lives their parents obtained a birth certificate for them and thus that the document must exist somewhere. Absent that clause, test survey participants who did not have birth certificates but who assumed they should have access to their birth certificates were likely to erroneously answer yes. What is more, *Citizens Without Proof* accurately reported its results. Specifically, it reported that 7% of respondents “do not have *ready access* to citizenship documents.” In other words, unlike with the photo ID question, it did not purport to reflect findings of how many people have citizenship documents *somewhere*, but rather only those who have those documents readily accessible to them. Even if the survey could have accurately determined how many people have citizenship documents somewhere—and we concluded that it could not because of the confusion relating to birth certificates—the number of people with ready access to those documents is arguably more relevant to the question of the fairness of proof of citizenship requirements for voting.

The Study Accurately and Ethically Discloses Its Results and Limitations

Without any basis, von Spakovsky and Ingram repeatedly suggest that the Brennan Center misrepresented the findings of its survey. To the contrary, *Citizens Without Proof* very scrupulously and accurately reports each of the survey’s findings. Indeed, before the Brennan Center publishing the findings, the report was reviewed in full by the independent Opinion Research Corporation to make absolutely sure that the results were accurately described. ORC also provided the Brennan Center with the margins of error for each of the findings reported, and all such margins of error were fully included.

Von Spakovsky and Ingram try to cast aspersions on the accuracy of the survey's reporting by criticizing the study's weighting of survey responses to account for the underrepresentation of minority respondents. This again displays their ignorance of proper survey methodologies. In fact, this type of weighting of survey responses is standard practice in the field. Weighting removes sample bias from a survey sample so that the results better reflect the target population.⁸ For example, imagine a random survey of 100 Americans ages 15 to 64, where respondents include 60 males and 40 females. In that age range, the general population is 50% male and 50% female. To correct for the demographic discrepancy between the random sample and the population, a researcher would weight each male respondent as 0.83 and each female respondent as 1.25. Consistent with accurate, ethical and responsible survey practices, ORC weighted the survey results to accurately reflect the rate of photo ID possession among all American citizens.

Von Spakovsky and Ingram also find it ominous that 135 survey respondents indicated that they have both a U.S. birth certificate and U.S. naturalization papers, suggesting that this means that results were not fully reported. While this does indicate some misunderstanding among respondents about the nature of the documents described in the question, the misunderstanding in no way biased the survey's results in favor of lack of documentation. All 135 of those respondents were *included* in the reported results as individuals who have citizenship documents. Had they been excluded from the results, the study would have found an even higher percentage of Americans without citizenship documents.

Finally, von Spakovsky and Ingram raise the baseless criticism that the report improperly relies on 2000 Census data. Again, this is highly misleading. Nothing in the survey findings depends on Census data. For example, the finding that 11% of all voting-age citizen survey respondents said they did not have government-issued photo ID has nothing to do with Census data. Rather, the Census data was used only narratively, to provide readers with an understanding of the total number of people who are "11% of all voting-age citizens." According to 2000 Census data, that number was around 21 million people; the number is almost certainly higher in 2011. (Although it is completely irrelevant, von Spakovsky and Ingram are also wrong that the Census uses non-citizen population numbers to estimate the number of voting-age citizens.)

The Study's Findings Have Been Repeatedly Confirmed, Not Undermined

As noted above, the findings of *Citizens Without Proof* have been repeatedly confirmed in subsequent studies. Nonetheless, von Spakovsky and Ingram try to undermine the *Citizens Without Proof* by citing studies that supposedly came to different results. Again, their criticism is baseless. First, unlike *Citizens Without Proof*, none of the studies they cite attempt to survey the number of voting-age Americans who have current state-issued photo IDs. And second, those studies each have serious problems.

⁸ For general illustration of this principle see: Eric L. Dey "Working with Low Survey Response Rates: The Efficacy of Weighting Adjustments" Research in Higher Education Volume 38, Number 2, 215-227. Available at <http://www.eric.ed.gov/PDFS/ED387018.pdf>.

The 2006 survey they cite for the proposition that only 23 people out of 36,000 nationwide were unable to vote because of an ID requirement is both irrelevant and misleading.⁹ First, in 2006, only one state (Indiana) required voters to present government-issued photo ID to vote. Thus, the lack of photo ID would not have prevented voters in other states from voting. Second, and more importantly, the 2006 survey did not ask whether people voted by regular ballot or by provisional ballot; it merely asked whether they voted. But under federal law, anyone whose vote will not count because they cannot meet a photo ID requirement is still entitled to vote a provisional ballot. In other words, it is possible that thousands of people who voted a provisional ballot in 2006 and thus told survey questioners that they voted in fact did not have their ballots count because they did not present photo IDs.

Similarly, the American University survey they cite, in addition to being an outlier, has serious methodological problems.¹⁰ Although the study concluded that few registered voters in Maryland, Indiana and Mississippi lacked photo ID, the way the survey sampling was done assured that the results would dramatically underestimate the number of voters without ID. Specifically, contrary to common practice, the study did not adjust for underrepresentation of minority and poorer populations, which are less likely to be included in a random sample. These populations have been shown in virtually every other study on the topic to disproportionately lack photo ID. In fact, the authors of the survey noted, “[s]ome of the limitations of the study stem from the unanticipated results. We expected that a much larger number of registered voters would lack a photo ID, and so we did not over-sample any specific population.” Moreover, even if the results were not skewed, unlike *Citizens Without Proof*, the American University survey focused only on registered voters as opposed to eligible voters.

Finally, von Spakovksy and Ingram erroneously rely upon reports from state and federal agencies that more photo IDs are issued than there are registered voters. Specifically, they point to a July 2011 article from the Columbus Dispatch reporting that Ohio has 28,000 more driver’s licenses than voting-age residents.¹¹ But a simple comparison of the total number of state-issued photo IDs to the number of registered voters is inadequate to determine whether how many registered or eligible voters there lack current, valid photo ID required by some states to vote. A closer review of Ohio’s drivers’ license list management practices shows clear reasons why the number of IDs may exceed the number of voting-age citizens without changing the fact that there are many citizens who lack photo ID. First, the Ohio motor vehicle agency (BMV) only removes people who have moved out of state from the BMV rolls if they apply for a license in another state and that state notifies Ohio. If the BMV does not receive notification, the license is marked as expired but remains on the rolls. The holder of that license, however, is not an eligible voter in the state. Second, Ohio only removes deceased people from the BMV rolls after a family

⁹ Stephen Ansolabehere, *The First Big Survey Of Voter ID Requirements—And Its Surprising Findings*, SLATE, March 16, 2007, <http://www.slate.com/id/2161928/>.

¹⁰ ROBERT PASTOR ET AL., CENTER FOR DEMOCRACY AND ELECTION MANAGEMENT, AMERICAN UNIVERSITY, VOTER IDS ARE NOT THE PROBLEM: A SURVEY OF THREE STATES (2008), available at http://brennan.3cdn.net/9dfd902a36ac8a7a27_aqm6b0w84.pdf.

¹¹ Bill Bush, *Ids Exceed Voter-Age Residents*, THE COLUMBUS DISPATCH, July 25, 2011, <http://thevotingnews.com/state/ohio/ohio-ids-exceed-voter-age-residents-the-columbus-dispatch/>.

member sends the BMV a copy of the death certificate.¹² A BMV Drivers License attendant estimated that “many” of the 105,000 individuals over 18 who die in Ohio every year¹³ remain in the BMV driver database, as local counties do not automatically send death certificates to BMV. Family members tend to do so only if they receive a renewal notice for the deceased, which may occur several years after death. And third, Ohio’s driver’s license list includes significant numbers of permanent residents and other non-citizens who cannot vote. According to the American Community Survey, there were 191,439 residents of Ohio of voting-age who were not citizens in 2009. This is equal to 2.17% of Ohio’s voting-age population. (There are no statistics available on how many people with driver’s licenses were not citizens.) In other words, the total number of entries on bloated drivers’ license lists does not at all reflect the number of voting-age citizens who have or do not have state-issued photo ID.

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In short, in their ill-conceived diatribe, von Spakovsky and Ingram fail to raise any legitimate criticism of *Citizens Without Proof*. It is for good reason that *Citizens Without Proof* remains the foremost study of the number of voting Americans who lack government-issued photo ID and citizenship documentation.

¹² In order to have a spouse's or relative's Ohio driving record marked as deceased, a copy of the death certificate or a letter from the coroner's office must be provided. You can mail to the Ohio Bureau of Motor Vehicles, Attn: License Support Verification Unit, P.O. Box 16784, Columbus, Ohio 43216-6784 or fax to (614)752-7987.

¹³ According to the Centers for Disease Control, 972,223 people died in Ohio between 1999 and 2007. Less than 3% of deaths are among those below 24. Accordingly, if we conservatively estimate that 2.5% of deaths were among those below 18, we can safely estimate that between 105,000- 108,000 people in Ohio age 18 and older die every year.