

PRESS RELEASE

Congressman John Conyers, Jr.

Fourteenth District, Michigan
Ranking Member, Committee on the Judiciary
Dean, Congressional Black Caucus

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CONTACT:
Michone Johnson or
Ted Kalo (202) 225-6906

CONYERS RELEASES

FIRST FIFTY-STATE SURVEY OF ELECTION IRREGULARITIES

Today, Congressman John Conyers, Jr., Ranking Member of the House Judiciary Committee and Dean of Congressional Black Caucus, released the first national survey of irregularities in the 2000 Presidential election. The House Judiciary Committee Democratic Investigative Staff's report, "How to Make Over One Million Votes Disappear" is available upon request from the Judiciary Committee and will be posted on the internet later today at http://www.house.gov/judiciary_democrats/demhome.htm. An Executive Summary of the Report is attached. Conyers issued the following statement:

"Our broken electoral system was an accomplice to a magic trick that would make David Copperfield proud: millions of Americans went to vote on November 7, 2000 only to have their voice in our democracy disappear. This sleight of hand was accomplished in a variety of ways: primitive machines that routinely discarded votes and that were impossible for disabled voters and language minorities to use, haphazard purges of voting rolls, intimidation by officials, and undertrained poll workers.

It is also troubling that, over eight months since the Supreme Court decided *Bush v Gore*, the vast majority of states have subjective and non-uniform recount procedures that would likely fail under constitutional scrutiny.

Congress bears significant responsibility for this breakdown in our democracy. For far too long Congress has refused to exercise its constitutional responsibility to ensure fair and accurate federal elections.

The solution is clear: Congress needs to set minimum national voting rights standards that guarantee every voter in every state the right to cast a ballot on a competent and accessible machine and to cast a provisional ballot if the voter has been wrongly purged. The Conyers-Dodd 'Equal Protection of Voting Rights Act' takes such an approach. It is tri-partisan and has more cosponsors than any other election reform bill in Congress (51 Senate and 155 House)."



HOW TO MAKE OVER ONE MILLION VOTES DISAPPEAR:

ELECTORAL SLEIGHT OF HAND IN THE 2000 PRESIDENTIAL ELECTION

A Fifty-State Report Prepared for Rep. John Conyers, Jr.
Ranking Member, House Committee on the Judiciary
Dean, Congressional Black Caucus

Democratic Investigative Staff
House Committee on the Judiciary

August 20, 2001

EXECUTIVE SUMMARY

In response to a request from Minority Leader Richard A. Gephardt, Congressman John Conyers, Jr., Ranking Member of the House Judiciary Committee and Dean of the Congressional Black Caucus, asked the Democratic Investigative Staff of the House Judiciary Committee to analyze whether the election irregularities revealed in the 2000 Florida Presidential election contest were unique to Florida or representative of a larger, national problem. The purpose of this report is to respond to that inquiry.

This investigation has found that the problems exposed in Florida were replicated in the vast majority of states nationwide. This report finds that: (1) a number of states experienced rampant spoilage of ballots; (2) voters in the majority of states reported being improperly excluded or purged from voting rolls; (3) disabled voters faced obstacles to voting in nearly every state; (4) intimidation at the polls still casts a shadow over our elections; and (5) the vast majority of states appear to have recount laws that would likely be found unconstitutional under *Bush v. Gore*. In sum, there is a national epidemic of disappearing votes, through faulty machines, inaccessible polling places, intimidation at the polls and faulty recount procedures. We can partially quantify the number of ballots cast aside by machines -- at least one million -- but we may never know how many frustrated or intimidated disabled, elderly or minority voters left the polls without voting in the 2000 elections. Specifically, this report finds as follows:

- While statisticians have estimated that as many as 2% of all ballots cast for the office of President nationwide were discarded because of machine errors and voter errors, this report attempts to catalogue from states in which the data is available the actual number of discarded or unrecorded ballots. The numbers are staggering. **At least 1,276,916 voters in 31 states and the District of Columbia had their votes discarded with no vote for President, greater than the difference in the popular vote between Al Gore and George W. Bush. In fact, in at least four states, the number of unrecorded ballots was greater than the margin of victory of the prevailing candidate in that state and could have resulted in a switch in electoral votes between the candidates.**
- **Astoundingly, in 19 states, the Secretary of State or other appropriate election official indicated that they kept no statewide record of uncounted ballots.**
- **As in Florida, this problem was not just about the machines. Eligible voters in at least 25 states went to the polls and found their names were illegally purged from the rolls or were not timely added.**
- **Disabled voters in at least 18 states reported inaccessible polling stations and confusing ballots. In fact, few precincts in the United States have fully accessible voting machines and the vast majority deny voters with disabilities a fundamental right of American citizenship: the right to vote with privacy and independence.**
- Equally disturbing is the apparently frequent occurrence of intimidation by police and other officials on election day. **In at least 18 states, voters reported serious instances of election-related police misconduct or misconduct by other officials.**

- It appears that the problems with machines and voter error may have been exacerbated by undertrained and underpaid poll workers. **In at least 17 states and the District of Columbia, voters registered complaints about inadequate assistance at the polls.**
- **At least 38 states have recount standards and procedures that appear sufficiently discretionary that such laws would likely fail constitutional scrutiny under *Bush v. Gore*.**

As troubling as these findings are, even more troubling are the specific instances of voters who, 35 years after the passage of the Voting Rights Act, were effectively denied their franchise. The following are a few examples:

- In **Alaska**, a United States Marine Corps veteran had his ballot repeatedly rejected by the voting machine and left the polling place “frustrated, and not feeling [his] birthright as a citizen of the United States of America had been fulfilled.”
- In **California**, a disabled voter needed to use a portable ballot machine – but when one was requested, the only available one was a demonstration machine which listed either “George Washington” or “John Adams” as presidential candidates.
- In **Florida**, Donnise DeSouza, an African-American woman, said that when she finally got to the registration table on election day, after waiting 20 minutes to park, she was told her name was not on the list. She was then told to stand aside and wait with about 15 other people, and they were all finally told that they would not be allowed to vote. “Then I had to explain it to my 5-year-old son, and he couldn't understand,” she said, nearing tears. “He cried all the way home because we could not vote.” Also in Florida, Rev. Willie Whiting of Tallahassee said that he went to the polls and was told that he couldn't vote because of a felony conviction. But Whiting had been confused with someone else and had committed no crime. When asked how he felt, he said, “I was slingshotted into slavery.”
- In **Michigan**, voters at the Coleman A. Young Recreation Center in Detroit had to wait as long as three hours to vote.
- In **Missouri**, Mahina Nightsage, a 41-year-old woman, attempted to vote at 10:00 a.m. but was told by a St. Louis election judge that she was not registered for that polling place. Ms. Nightsage attempted to rectify the problem and arrived at the Board's downtown office by 12:30 p.m. Almost three hours later, at 3:15 p.m., she still had not been able to vote. During her long wait, Ms. Nightsage said that she spoke to many other frustrated voters at the Board's office, and some of them left without voting.
- In **New York**, disabled voters found widespread inaccessibility. In fact, a voter in North Tonawanda went to vote at a polling place that had a ramp for the disabled only to find that, on election day, it was locked and unavailable.

- In **Ohio**, a disabled voter found that there was no accessible path to his polling place. In order to vote, the voter was forced to park his wheelchair in the pathway leading to the poll and persuade poll workers to bring a ballot outside.
- In **Tennessee**, a voter reported that an election worker placed several white voters ahead of an African-American voter with the statement, “You know what it means to sit at the back of the bus.”
- In **Texas**, one of the major complaints centered around a leaflet distributed in African-American communities in which seven African-Americans who were actively involved in elections were accused of voter fraud and “selling votes to the highest bidder.”

These statistics and specific complaints can leave no doubt that serious deficiencies exist in the conduct of elections of virtually every state and that these deficiencies block voters from exercising their constitutionally protected right to vote. What this investigation uncovered was that ***Florida is just the tip of the iceberg***. Lying underneath the water are dozens of states which could find themselves unable to determine the victor of a close election. If any of these states were decisive in a Presidential election, our nation could once again find its electoral system thrown into chaos and, in turn, public confidence in democracy would -- once again -- be seriously undermined.

Some have argued that there can be no federal solution to this national problem. The basis for this viewpoint is unclear. While it is true that Congress has long generally deferred to the states to regulate elections, it is also clear that ***the Constitution gives Congress the primary responsibility to regulate federal elections***. Article I, Section 4 of the United States Constitution provides that “(t)he Times, Places and Manner of Holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; *but the Congress may at any time by Law make or alter such Regulations...*” (Emphasis added).

If Congress does not take action, who will? While Florida recently passed election reform legislation, nearly half of the state legislatures adjourned after finishing their work for the year, with only Georgia and Maryland having enacted comprehensive election reform legislation. Even those two states, however, failed to approve funding for their reforms. State legislatures are simply not acting quickly enough to repair our election systems prior to the 2002 and 2004 elections.

Most importantly, voting is a civil right and the federal government has traditionally taken the lead in ensuring that every eligible voter in every state has the right to cast a ballot and have that vote counted. If voting rights were left to the option of states over the past four decades, as some would suggest we approach voting reform today, there can be little doubt that millions of Americans would still be subjected to poll taxes and literacy tests.

It should also be noted that electoral deficiencies in one state have the potential to disrupt the entire electoral process, as Florida clearly demonstrated. Only the federal government has

the ability to ensure that every eligible voter in every state has the ability to cast a ballot and have that ballot counted. Congressional action is needed and the clock is ticking.