

APPROVED

November 17, 2014

MEETING OF THE MONTGOMERY COUNTY BOARD OF ELECTIONS
18753-210 North Frederick Avenue, Gaithersburg, Maryland

In Attendance:

Board Members:

Mary Ann Keeffe, President
Donice Jeter, Vice President
Graciela Rivera-Oven
Nahid Khozeimeh
Jacqueline Phillips
David Naimon

Board Attorney:

Kevin Karpinski

Staff:

Margaret Jurgensen, Election Director
Alysoun McLaughlin, Deputy Election Director
Laletta Dorsey, Acting Voter Registration Manager
Lisa Merino, Office Services Coordinator
Janet Ross, Information Technology Manager
Marjorie Roher, Management and Budget Specialist III
Christine Rzeszut, Operations Manager
Gilberto Zelaya, Outreach Coordinator

Guests:

Kate Alexander
Ed Amaritti
Linda Del Castillo
David Drake
Gary Featheringham
Richard Fidler
Daniel Gray
Lewis Porter
Robin Sachs
Barbara Sanders
Tanzi Stafford
Michael Subin
Josephine Wang
Gail Weiss

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Convene the Board Meeting and Declare a Quorum Present

Ms. Keeffe called the Board Meeting to order and declared a quorum present at 2:30 p.m.

Ms. Keeffe noted that Mrs. Dacek is unable to attend the Board meeting today.

Public Comments (Incorporated as attachments A-F)

Josephine Jung-Shan Wang, Poll Watcher at Bohrer Park during Early Voting, asked to address the Board in advance. She expressed her request that election judges obtain better training, especially with communication and friendliness. (A)

Ms. Keeffe thanked Ms. Wang for her comments and agreed that election judges should be respectful and friendly.

Robin Sachs, President of the Maryland Voter Alliance, asked to address the Board in advance. She reported on three classes of complaints that were brought to her attention on Election Day: non-citizens voting, voting machine problems, and voters who still appear in the registration rolls who moved away years several years ago or have been dead for more than five years. (B)

Ms. Keeffe pointed out that the non-citizen voting information provided by Ms. Sachs should be directed to the State Board of Elections. She noted that the public should be made aware that removing a voter from the registry is not an easy process, but instead is a clearly defined process. Ms. Keeffe thanked Ms. Sachs for her concerns. Mr. Naimon thanked Ms. Sachs for her testimony and asked if she had any evidence or specifics of non-citizens voting in Montgomery County. He added that Montgomery County cannot do anything with complaints outside of their jurisdiction. Ms. Sachs stated she would go through her data and provide information to the Montgomery County Board of Elections once it is compiled.

Lewis Porter, Poll Watcher in Baltimore City and longtime resident of Montgomery County, asked to address the Board in advance. He expressed his concern with issues experienced at his polling place in Baltimore City. Mr. Porter asked how a poll watcher registers a problem in real time and who should be contacted to report concerns. (C)

Ms. Keeffe thanked Mr. Porter for his time. She noted that he may report his concerns to the campaign he assisted, Baltimore City Board of Elections, and/or the State Board of Elections.

Linda Del Castillo, resident of Bethesda, asked to address the Board in advance. She expressed her concern with the Task Force recommendation to allow non-citizens to vote. She added that upon further research she has learned that, due to the Motor Voter Law, it seems very easy to register without the need to prove one's citizenship. Ms. Del Castillo asked how the State Board of Elections can devise a way to ensure that voter registration applicants at the MVA are, in fact, U.S. citizens. (D)

Ms. Keeffe thanked Ms. Del Castillo for her time. She noted that questions/concerns regarding MVA should be brought to the attention of the State Board of Elections. Ms. Keeffe noted that Montgomery County Board of Elections takes the MVA issue very serious, which is why the Board has begun discussion on conducting an audit of the MVA and voter registration process.

Gary Featheringham, Challenger/Watcher for Precinct 06-08, asked to address the Board in advance. As a member and Deputy Chair of the Montgomery County Council's Right to Vote Task Force he observed multiple issues. Mr. Featheringham brought forth the issue of several people having their votes switched from a Republican to Democrat. He stated that judges indicated nothing was wrong with the machines, but instead stated it was due to human error. Mr. Featheringham urged the Board to conduct an audit on the "vote flipping issues" that occurred during Early Voting and the General Election. (E)

Ms. Keeffe thanked Mr. Featheringham for his time. She added that the Board of Elections is aware of the issue and calls received. Ms. Keeffe stated that, during Early Voting, Board members and staff visited sites with vote flipping complaints, none of which could be confirmed to be valid technical issues. Staff conducted checks throughout polling places on Election Day and could not replicate the issues reported. She stated that in 2016 the touch screen units will no longer be used, as the State will transition to a new method of voting.

Daniel Gray, member of the Bar in Maryland, asked to address the Board in advance. He expressed his concern with non-citizens found on the voting rolls. Mr. Grey supports the Board's proposal of an audit. Ms. Keeffe thanked Mr. Grey.

Gail Weis expressed her concern with the omission of Ms. Lei, candidate for the House of Delegates, Legislative District 16, from the laminated sample ballot that is provided and created by the Board of Elections. Ms. Weis inquired what action will be taken to the staff who created and proofed the ballot prior to its distribution. She also inquired why it took three hours for the laminated sample ballots to be pulled from the affected polling places in Legislative District 16.

Ms. Keeffe acknowledged that she spoke with Ms. Weis at an affected polling place when she realized there was an issue. Ms. Keeffe stated that a call came in to the precinct and the laminated sample ballot was quickly pulled. She spoke with Ms. Jurgensen who confirmed that phone calls were made to Legislative District 16 precincts and all laminated sample ballots were in the process of being pulled. Ms. Jurgensen stated that staff has been identified and will be handled in accordance with Montgomery County Personnel Regulations. Ms. Keeffe stated that the Board did not review the laminated sample ballot prior to distribution, nor did it go through the proofing process as with other documents. She apologized on behalf of the Board for the error. Ms. Weis inquired further if staff would be identified to the public. Ms. Jurgensen responded that she will look into what the Montgomery County Personnel Regulations state. Ms. Jurgensen made herself available to Ms. Weis if she had further questions. Ms. Keeffe thanked Ms. Weis.

Richard Fidler served as a closing judge at Precinct 07-23. He expressed his concern with how long the closing process takes. Mr. Fidler asked that the Board consider different options for closing a precinct and returning critical items on Election Day in 2016. He stated that he will provide further written documentation of his concerns at a later date.

The Board thanked Mr. Fidler for serving. Ms. Keeffe stated that discussions have begun on how the closing process and reporting of results can be modified to avoid the long hours.

Tanzi Strafford expressed concern about the integrity of the voter registration and voting process in Maryland. She stated she has received complaints from residents who have received sample ballots from voters who do not live at the address. (F)

Ms. Keeffe thanked Ms. Strafford. She added that sample ballots are often mailed to registered voters who no longer live at the address. Due to the time it takes to take someone off the registration log, this action may take several years. Ms. Keeffe stated the directions to those who receive a sample ballot not belonging to them are to "return to sender" to ensure it is tracked at the Board of Elections.

Ms. Keeffe again thanked those in attendance; she noted that the issues brought to the Board's attention today are taken very seriously and the Board will be reviewing the election process in its entirety.

Additions/Changes to the Agenda

Ms. Jurgensen requested an Executive Session to discuss the FY16 budget, Executive Session minutes, and a personnel matter.

Approval of the October 20, 2014, Board Meeting Minutes

The Board was sent the October 20, 2014, Board meeting minutes in advance. Mrs. Khozeimeh made a motion to approve the minutes. The motion was seconded by Mrs. Jeter and passed unanimously.

Approval of the November 4, 2014, Board Meeting Minutes

The Board was sent the November 4, 2014, Board meeting minutes in advance. Mrs. Khozeimeh made a motion to approve the minutes. The motion was seconded by Mrs. Rivera-Oven and passed unanimously.

Election Director Status Report

Budget

The FY15 Operating Budget was provided in advance. Ms. Roher noted that significant changes will be reflected in the next update.

A detailed spreadsheet reflecting prior year surplus and/or deficit was provided in advance. The Board agreed to add this item to the December Agenda to discuss further.

Voter Registration

Ms. Jurgensen reported that staff is completing audit requirements and all testing documentation had been submitted prior to the election. Polling place evaluations have been completed – equipment has been returned to the Board of Elections and accounted for. The Provisional data review has been completed and the Absentee data is expected to be completed by close of business Tuesday. The precinct audit will also be completed by close of business Tuesday.

Ms. Jurgensen reported that registrations will be processed beginning this week once MDVoters is reopened. Confirmation mailings will commence after the backlog of registrations are cleared, beginning with Provisionals. On or before February 1, 2015, the State Board of Elections is expected to cancel voters who have not voted in two consecutive Federal elections, in accordance with rules and regulations under the Maryland law.

Ms. Keeffe inquired what documentation/notice will be provided to those individuals who were not registered to vote and voted a provisional ballot. Ms. Jurgensen responded that those individuals will now be registered voters and receive a voter notification card. Ms. Keeffe asked if those unregistered voters are notified that their provisional ballot was not counted. Ms. Jurgensen noted that when an unregistered individual votes a provisional ballot, the cover sheet they retain has instructions for them to determine whether their vote was counted or not (phone number or SBE website). Ms. Keeffe requested that staff add information on the VNC to notify those individuals who were not registered at the time they voted a provisional ballot that their vote did not count but they are now registered voters.

The Board discussed issues that occur when a voter requests an absentee ballot through the State website and the voter registration is updated and a VNC created. Ms. Keeffe suggested that the Board prepare a presentation for the State Board of Elections meeting to discuss issues and concerns with voter registration through MVA and other issues.

State Board of Elections

Ms. Jurgensen reported that the State has selected the new voting system and information was provided to the Board. The equipment is scheduled to be received in March 2015 for acceptance testing; however, distribution of equipment to local Board of Elections will occur at a later date.

Board Attorney Report

Mr. Karpinski updated the Board on a request regarding the external audit process. His research found that the Board will need to provide a letter to the Joint Audit Committee outlining issues and concerns. A draft letter was provided to Ms. Keeffe and Ms. Jurgensen prior to the Board meeting. Mr. Karpinski outlined four issues to be included in the letter.

1. Complaints regarding party affiliation changes at MVA from Democrat to Other Party. This includes registered voters who are already registered and are re-registered at MVA creating a duplicate VNC. Both issues are occurring without the knowledge of the voter/customer.
2. Individuals classed as permanent residents who visit MVA for identification cards/ drivers licenses and are registered to vote without their knowledge in many cases. Complaints have been received from those individuals inquiring how to be taken off the voter rolls. Included in this complaint is the issue of superimposing signatures taken from the identification card/driver's license onto a voter registration application without the knowledge of the customer.
3. The lack of any affirmative action, i.e. signature, at MVA if an individual declines to register to vote and no documentation is provided. The only record kept is in the MVA system where a verbal notice is received that the customer declined to register.
4. Individuals who fill out a voter registration application and drop it off at a local MVA drop box. The concern is how to keep the chain of custody of applications and security of the system.

Ms. Phillips stated that the Board should review the interfacing of the Jury list and the voter registration rolls. Ms. Jurgensen responded that the Jury list is a combination of the voter registration roll and driver's license list. Mr. Naimon stated there was a complaint that a Republican had her party affiliation changed to Democrat. Mrs. Rivera-Oven stated that, for the record, a U.S. Resident is a legal resident, but not a U.S Citizen; several of these U.S. Residents' names do not show on the Voter Registration roll; however, they do show on the jury list. Many of these legal residents make several attempts to be removed from the jury list with no success. She stated that there is a problem with the process and the Agency's need to cross check information within the system for accuracy. The system is failing at MVA.

Mr. Karpinski stated items discussed in the meeting today will be added to the draft letter prior to distribution to the Board. The Board agreed that Mr. Karpinski move forward with the letter to the Joint Audit Committee this week. Mr. Karpinski stated a copy of the letter will be provided to the Montgomery County Delegation in Annapolis. Ms. Keeffe asked that the State, members of the State Board of Elections, County Executive and County Council also receive a copy of the letter.

Old Business

Other Old Business

No items were discussed.

Board Observations

The Board will provide information via email to Ms. Jurgensen in preparation for the December Board meeting.

Attorney Observations

Board Attorney will provide information to Ms. Jurgensen via memo.

Election Night Tabulation (Incorporated as attachment G)

Ms. Jurgensen reported on the process of reporting preliminary election results from polling places on Election Day and the timeline followed on November 4, 2014. A graph detailing the time results were posted was provided to the Board.

Mrs. Jeter requested that staff provide information on how many polling places do not have modem capability.

Mrs. Ross briefed the Board on the closing process. She added that training requires that Chief Judges close machines in pairs and create an assembly line. Every card needs to be read and zeroed, the results accumulated and then modemed. She stated that the VAC count is independent to the closing of the machines. More often than not judges think this process goes hand in hand and are waiting together to close the precincts. Mrs. Rivera-Oven agreed that there is confusion during the closing process.

Ms. Jurgensen noted that the local Board of Elections must receive confirmation if the results will be modemed in 2016 (pending new equipment). She recommend that additional modem lines be added at each polling place, DTS support staff assist election judges at polling places, and/or establish several satellite sites in Montgomery County and modem to BOE. These items are all pending available funding in 2016.

Mr. Subin addressed the Board. He stated that he will brief Mr. Leggett on the election process. Mr. Subin requested that staff provide him with a "wish list" in priority order. Ms. Roher suggested that the letter attached to the OMB FY16 submission be provided to him. The Board requested that additional time be added when BOE meets with the County Executive to discuss the budget submission.

New Business

There was no new business discussed.

Future Meetings

A. December 15, 2014 – 2:30 p.m.

Staff will include 2015 dates in the December agenda.

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Convene as Board of Canvassers

Mrs. Khozeimeh made a motion to convene as the Board of Canvassers at 4:41 p.m. The motion was seconded by Mrs. Rivera-Oven and carried unanimously.

Late Ballots

The Board Attorney distributed four late absentee ballots received at the Montgomery County Board of Elections. Mrs. Khozeimeh made a motion to reject the four ballots. The motion was seconded by Mrs. Rivera-Oven and carried unanimously.

With no further items to discuss, Mrs. Khozeimeh made a motion to adjourn as the Board of Canvassers at 4:44 p.m. The motion was seconded by Mrs. Rivera-Oven and carried unanimously.

*** The Board took a brief recess ***

Mrs. Rivera-Oven made a motion to go into Executive Session. The motion was seconded by Mrs. Khozeimeh and passed unanimously.

Report on Executive Session

The Montgomery County Board of Elections convened in Executive Session at 4:53 p.m., pursuant to State Government Article 10-508(a)(3)(13) to discuss the FY16 operating budget, Executive Session minutes, and a personnel matter.

The Montgomery County Board of Elections met in closed session on this date. The following members of the Board and staff were in attendance: Mary Ann Keeffe, Donice Jeter, Nahid Khozeimeh, Graciela Rivera-Oven, David Naimon, Jackie Phillips, Margaret Jurgensen, Alysoun McLaughlin, Marjorie Roher, Lisa Merino, and Board Attorney Kevin Karpinski.

The Board discussed the FY16 operating budget.

The Board reviewed the October 20, 2014, Executive Session minutes.

The Board discussed a personnel matter.

With no further business, Mrs. Khozeimeh moved to adjourn the Executive Session and reconvene in Regular Session. The motion was seconded by Mrs. Rivera-Oven and carried unanimously.

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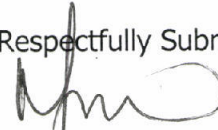
Executive Session Minutes

Mrs. Khozeimeh made a motion to approve the October 20, 2014, Executive Session minutes. The motion was seconded by Mrs. Rivera-Oven and passed unanimously.

Adjournment

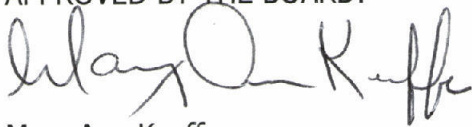
With no further business, Mrs. Khozeimeh moved to adjourn the meeting. The motion was seconded by Mrs. Rivera-Oven and carried unanimously. The meeting adjourned at 5:20 p.m.

Respectfully Submitted,



Lisa Merino
Office Services Coordinator

APPROVED BY THE BOARD:



Mary Ann Keeffe
President

Monday, November 17, 2014
Josephine Jung-shan Wang

Testimony at the Board of Elections (BOE)

Good afternoon, ladies and gentlemen!

My name is Josephine Wang and I am here to give a few observations during the Early Voting period at Bohrer Park, Gaithersburg, Maryland. As you recall Early ^{Voting} was from October 23, through October 30, 2014 from 10 am until 8 pm. I was a Poll Watcher for the first time.

It was for 8 mornings and evenings which meant that I needed to be at Bohrer Park twice daily. Little did I know that I was met with "unwelcome" attitudes from the judges, I was to take the numbers from each voting machine twice a day. I was told that I was NOT allowed to do this.

I objected to this refusal.

After my protest, I was then given the opportunity to do my job. Then about the second day, Ms. Marjorie Jergenson came in and spoke with me and probably her chief judge about the "law" which did not allow me to take the numbers from each machine. It was only the tamper tape from each machine. But it did NOT specify that I could not take the numbers from

Margaret

each machine. Afterwards, I was able to take the numbers each morning and evening before 10 am and after 8 pm for 7 and a half days. All the while, most judges were friendly and helpful, except one chief judge.

During the 8th day in the evening, everyone was busy trying to close the place and I thought I should get it done before closing time. No, I was denied and then I waited until 8 pm came and then I was totally denied as the machines were being closed up.

There is inconsistency here:

Why was it OK for 7 ½ days and then the very last part was NOT permitted???

I would have gladly followed the directions if I was totally denied on the first day. I would have gone to my organization attorney to straighten the confusion.

Better communication and training of the judges are desired for the next election cycle.

Bohrer Park has excellent parking facility and a good physical lay-out for Early Voting!

Thank you for listening!

MC BOE Testimony (11-17-14):

- Good afternoon, I appreciate the opportunity to testify, sometimes I feel like I work for the BOE, during early voting and around the election, I was getting 5-10 e-mails/calls per day!
-
- My name is Robyn Sachs, I am the President of the Maryland Voter Alliance, we are committed to the integrity of our election process, making sure every legitimate vote counts.
- I'm sure, like me, everyone in this room believes that the people of our great State should have the utmost confidence in our election system in the State and here in Montgomery County. I was happy to see from a recent Gazette article that the County will be seeking an audit of voter registrations, in addition to what was mentioned in the article, I wanted to add some items that were reported to us during the last election.

The 3 categories fall into:

- Non-Citizen Voting
- Voting Machines Behaving Badly – I know these were calibration issues and a new voting system is coming in 2016, so I am not going to expand on this class of report.
- Registrations in Montgomery County that showed up for people who moved away years ago or are dead for more than 5-years.

-Since I only have a few minutes, I want to focus on the non-citizen voting, here is a report we received from Jose Flores:

“Good morning,

My name is Jose Flores and I have some Facebook screen shoots of an elections board person in Maryland bragging on bringing non-citizens to vote because his governor Omalley had brought the first state to issue driving licenses to undocumented non-citizens. This is a big brag because Omalley had his "Acorn" voting fraud. If any good to show evidence that more democrats knew their fraud was covered I have screen shoot. And what's the legal way to show the evidence? Ok thanks”

-Or this report from Garth Phoebus:

"Here is something you may want to look into. Attached is a photo of a voter registration deadline mailer sent "only" to my wife. My wife is not a citizen? Why would Maryland elections send this to my non-citizen wife who cannot legally vote? Seems like they are trying to commit fraud."

-You may have also heard about the Virginia Voter Alliance, through a FOIA request, got the list for Frederick County of people excused for Jury Duty because they were not citizens. We took a small sample of these, 120 out of about 1,200 and crossed them over with the 2012 Election Rolls to see if any were still on the active voter rolls and if they voted. What we found was disturbing, it seemed like:

- 10 seemed to have voted in 2012
- 6 seemed to have bogus addresses
- 6 who are on the rolls but have not voted

-So, as the Washington Post article mentions, if non-citizens are voting they could be turning close elections. They are also "cancelling out" the votes of legitimate citizens and threatening our election system.

-In closing, merely cross-checking Jury Commissioner Lists of non-citizens against the active voter rolls is insufficient. Only a small % of people are called for Jury Duty each year. We obviously need better controls when people register, since as Jose stated, non-citizens are getting on the active voter rolls and they are voting.

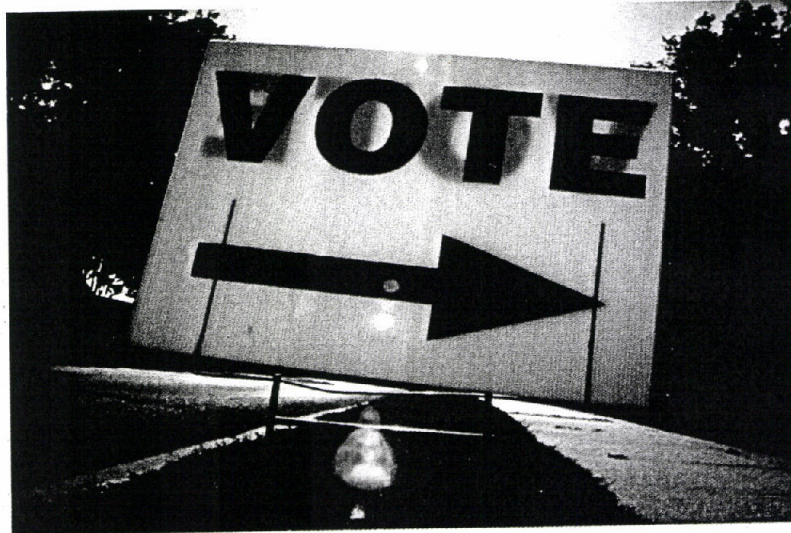
-Thank you for your time this afternoon and I look forward to tracking this issue closely.

The Washington Post

Monkey Cage

Could non-citizens decide the November election?

By Jesse Richman and David Earnest October 24



(AP Photo/Orlin Wagner)

Could control of the Senate in 2014 be decided by illegal votes cast by non-citizens? Some argue that incidents of voting by non-citizens are so rare as to be inconsequential, with efforts to block fraud a screen for an agenda to prevent poor and minority voters from exercising the franchise, while others define such incidents as a threat to democracy itself. Both sides depend more heavily on anecdotes than data.

In a forthcoming article in the journal *Electoral Studies*, we bring real data from big social science survey datasets to bear on the question of whether, to what extent, and for whom non-citizens vote in U.S. elections. Most non-citizens do not register, let alone vote. But enough do that their participation can change the outcome of close races.

Our data comes from the Cooperative Congressional Election Study (CCES). Its large number of observations (32,800 in 2008 and 55,400 in 2010) provide sufficient samples of the non-immigrant sub-population, with 339 non-citizen respondents in 2008 and 489 in 2010. For the 2008 CCES, we also attempted to match respondents to voter files so that we could verify whether they actually voted.

How many non-citizens participate in U.S. elections? More than 14 percent of non-citizens in both the 2008 and 2010 samples indicated that they were

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registered to vote. Furthermore, some of these non-citizens voted. Our best guess, based upon extrapolations from the portion of the sample with a verified vote, is that 6.4 percent of non-citizens voted in 2008 and 2.2 percent of non-citizens voted in 2010.

Estimated Voter Turnout by Non-Citizens

	2008	2010
Self reported and/or verified	38 (11.3%)	13 (3.5%)
Self reported and verified	5 (1.5%)	N.A.
Adjusted estimate	21 (6.4%)	8 (2.2%)

Because non-citizens tended to favor Democrats (Obama won more than 80 percent of the votes of non-citizens in the 2008 CCES sample), we find that this participation was large enough to plausibly account for Democratic victories in a few close elections. Non-citizen votes could have given Senate Democrats the pivotal 60th vote needed to overcome filibusters in order to pass health-care reform and other Obama administration priorities in the 111th Congress. Sen. Al Franken (D-Minn.) won election in 2008 with a victory margin of 312 votes. Votes cast by just 0.65 percent of Minnesota non-citizens could account for this margin. It is also possible that non-citizen votes were responsible for Obama's 2008 victory in North Carolina. Obama won the state by 14,177 votes, so a turnout by 5.1 percent of North Carolina's adult non-citizens would have provided this victory margin.

We also find that one of the favorite policies advocated by conservatives to prevent voter fraud appears strikingly ineffective. Nearly three quarters of the non-citizens who indicated they were asked to provide photo identification at the polls claimed to have subsequently voted.

An alternative approach to reducing non-citizen turnout might emphasize public information. Unlike other populations, including naturalized citizens, education is not associated with higher participation among non-citizens. In 2008, non-citizens with less than a college degree were significantly more likely to cast a validated vote, and no non-citizens with a college degree or higher cast a validated vote. This hints at a link between non-citizen voting and lack of awareness about legal barriers.

There are obvious limitations to our research, which one should take account of when interpreting the results. Although the CCES sample is large, the non-citizen portion of the sample is modest, with the attendant uncertainty associated with sampling error. We analyze only 828 self-reported non-citizens. Self-reports of citizen status might also be a source of error, although the appendix of our paper shows that the racial, geographic, and attitudinal characteristics of non-citizens (and non-citizen voters) are consistent with their self-reported status.

Another possible limitation is the matching process conducted by Catalist to verify registration and turnout drops many non-citizen respondents who cannot be matched. Our adjusted estimate assumes the implication of a "registered" or "voted" response among those who Catalist could not match is

(continued)

the same as for those whom it could. If one questions this assumption, one might focus only on those non-citizens with a reported and validated vote. This is the second line of the table.

Finally, extrapolation to specific state-level or district-level election outcomes is fraught with substantial uncertainty. It is obviously possible that non-citizens in California are more likely to vote than non-citizens in North Carolina, or vice versa. Thus, we are much more confident that non-citizen votes mattered for the Minnesota Senate race (a turnout of little more than one-tenth of our adjusted estimate is all that would be required) than that non-citizen votes changed the outcome in North Carolina.

Our research cannot answer whether the United States should move to legalize some electoral participation by non-citizens as many other countries do, and as some U.S. states did for more than 100 years, or find policies that more effectively restrict it. But this research should move that debate a step closer to a common set of facts.

Jesse Richman is Associate Professor of Political Science and International Studies at Old Dominion University, and Director of the ODU Social Science Research Center. David Earnest is Associate Professor of Political Science and International Studies at Old Dominion University, and Associate Dean for Research & Graduate Studies in the College of Arts and Letters.

<http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/10/24/could-non-citizens-decide-the-november-election/>

The Frederick News-Post

State, county to respond to voter identity lawsuit

■ Official: It is 'possible' noncitizens are voting

Posted: Thursday, October 30, 2014 2:00 am

By Sylvia Carignan and Danielle E. Gaines News-Post Staff scarignan@newspost.com dgaines@newspost.com | 4 comments

The state and Frederick County election boards are expected to respond today to a lawsuit alleging that noncitizens who are registered to vote could influence the Nov. 4 election.

It is "possible" that noncitizens are voting, said Mary Cramer Wagner, director of voter registration for the Maryland Board of Elections, because no verification system exists.

"There's no database that I can or local boards can turn to and say, 'Aha, Mary Cramer Wagner is not a legal citizen,'" she said.

The voters in question in the lawsuit were on Frederick County's registered voter list: when called for jury duty, they were required to tell the county if they were U.S. citizens.

"They answered no and continued to vote," said Cathy Kelleher, president of Election Integrity Maryland.

The lawsuit was filed by John Miller and Virginia Grant, of Frederick, and Kathy Troxell and Robert Bogley, of New Market, on Friday in U.S. District Court.

It was served on the attorney general's office Tuesday, according to online court records.

The four residents state in the lawsuit that a comparison of voter rolls and juror qualification questionnaires show residents who told the courts they were not citizens but were nevertheless registered to vote.

The residents' lawyer, Daniel M. Gray, declined to comment on the motivation behind filing the suit.

The state attorney general's office entered its appearance on behalf of the state and Frederick County boards of election Wednesday afternoon.

Judge Ellen Lipton Hollander filed an order Tuesday afternoon seeking a response from the boards by 10 a.m. Wednesday.

Alan Brody, spokesman for the attorney general's office, said the government has asked for an extension to file its response today.

Frederick County Board of Elections Director Stuart Harvey declined to comment Wednesday through Frederick lawyer Daniel Loftus.

Hollander has issued two orders in the case, noting the "time-sensitive" claims.

The second order allowed the plaintiffs to refile a document to seek an injunction before Election Day. The group wants the elections boards to remove the names of all noncitizens from the voter rolls before Tuesday.

According to Kelleher, noncitizen voters have been a persistent issue in Maryland.

"This is a problem that has been whispered in back rooms for years," she said.

(continued)

Election Integrity Maryland has not directly contacted any of the voters in question, citing an invasion of privacy.

"It's up to the state board of elections to investigate," Kelleher said.

Wagner said she is unsure how the board would verify voters' citizenship status on its own.

"We don't have any tool for investigative work," she said.

Local boards, such as the Frederick County Board of Elections, process registration information, but the boards do not combine voter information and citizen information.

Follow Sylvia Carignan and Danielle E. Gaines on Twitter: @SylviaCarignan and @DanielleEGaines.

Lewis T. Porter

November 17, 2014

Montgomery County, Maryland Board of Elections

Members of the Board:

I am Lewis Porter and I have been a life-long Montgomery County citizen. I come to you today with some concerns that I have from serving as a Poll Watcher in Baltimore City. I know that is not your jurisdiction, but my questions are generic to the voting process so I thought I would begin with you.

On Election Day, I went to one polling place in the city and was then redirected by the Hogan campaign to go to a different polling place. The first polling place I went to I found the judge and told her I was a poll watcher and she welcomed me in and said have a seat. That was not the case with the second one where the judge told us that we had to watch from the hallway. We had to sit in front of the door in order to see in, but we could not hear well. Actually, it was double doors and we asked if we could open the second door. She responded that she did not want it opened. Later in the day she complained that our one chair was in the way so she asked us if we would move. If we moved our observer would not have been able to see the voting machines so we did not move. We were in an assisted living home and had already been moving when necessary to allow voters full use of the single door.

One of us had been a poll judge before, so we counted heads that were voting at the machines. There were a number of people milling about that were not voting. Our watcher said he believed one person came in and had voted 3 times. I looked in to confirm, but although I had seen her in the room before could not testify to the happen sake. There were other problems, but the last main one of note was at the end of the day when a man came in and started taking numbers off the machines and directing the break-down of the equipment. We asked the judge who is this man, what is he doing with the machines and could we get his name and she said no!

Now my question for you is how as a poll watcher are we suppose to register a problem of note in real time and who should we call on when we have concerns? Thank You.

Good Afternoon, Members of the Board of Election..

Thank you for this opportunity to speak today.

My name is Lynda del Castillo and I have lived in Bethesda for more than 30 years. This is my second time to publicly offer my opinion before a board setting like this in the three decades I have lived here in Bethesda.

My topic is the same, however.

In July of this year, I became aware, through a chance email I received, that the County Council was reviewing the suggestion made by its Fair Vote Task Force. One of the Task Force recommendations was to allow non U.S. citizens to vote in county elections. I spoke then that I disagreed and argued that it violated Maryland state law.

Just before the recent November election, I read about a lawsuit filed in Frederick County, Maryland alleging that massive and fraudulent voting by non U.S. citizens was

occurring in the county. The group contends that such illegal voting has been going on for years because jury duty and voter registrations did not match for many people.

I consider this a serious problem and upon some independent research of my own, have become very disturbed to learn that due to the Motor Voter laws, it seems very easy to register to vote without the need to prove one's U.S. citizenship.

I found a quote attributed to Maryland State Board of Elections Administrator, Linda H. Lamone, stating the following on the subject of verifying required U.S. citizenship:

“There is no way of checking. We have no way of doing that. We have no access to any information about who is in the United States legally or otherwise.”

So it seems this situation has been going on for some time now.

The issue here is whether or not an applicant is here legally or not. The issue is whether the applicant is a U.S. citizen.

There are many applicants for drivers Maryland drivers licenses who might be here legally but are not U.S. citizens, and therefore, not eligible to register to vote. Legal residency is not enough; one must be a U.S. citizen in order to vote.

My reading has also revealed another disturbing fact.

Federal agencies don't always assist in clearing up records and confirming the citizenship of applicants, resulting in state election officials relying almost entirely on the "honor system" to keep non-citizens from the polls.

For some non citizens, getting a voter registration card, easily obtained by just checking a box at the MVA office, opens the door to getting many federal government benefits which should only be received by U.S. citizens. The voter registration ID can be a critical pathway to identifying as a US citizen.

The accuracy and integrity of voter registrations is critically important to honest and fair voting, ensuring we have a system people believe in.

I would like to hear from the Board of Elections to learn of how the State of Maryland can devise a way to ensure that voter registration applicants at the MVA are in fact, U.S. citizens.

Thank you very much

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Thank you very much

Montgomery County Board of Elections
17 November 2014

My name is Gary Featheringham, a resident of Montgomery County for 27 years. I want to first, thank the Montgomery County Board of Elections for permitting me to speak today. I wish to speak about a few of my experiences at the Early Voting site in Germantown in October and on election day at Precinct 06-008 of Legislative District 15 in North Potomac. In addition to greeting voters outside as they approached the voting sites for the Republican Party, I also was designated as a Challenger/Watcher at those poll sites. The Republican Party of Montgomery County requested that I observe some of the activities at the sites. I also was suggested to observe the voting process as a member and Deputy Chair of the Montgomery County Council Right to Vote Task Force.

There are multiple issues that I could address at this time, but time permits me only to focus on the most important. My main concern that I wish to bring forward is the multiple occurrences of people having their votes switched from a Republican vote to a Democrat vote. I personally had two people from the General Election and one from Early Voting coming to me and indicating that their votes were flipped. I heard that there were quite a few throughout the county. I would like to ask the Montgomery County Board of Elections, just how many similar complaints were registered and what is being done about it? The voters with whom I spoke said the judges were responsive, but the judges indicated that nothing was wrong with the machines and the flippings were voter errors. I asked several people working at sites about the issue and was told that voters with long fingernails accidentally selected the wrong candidate listed above when touching the screen for the candidate listed below. This was dubbed as a calibrations issue. It should be noted that a fingernail cannot activate a screen and the touch screen is only sensitive to the finger tip. As of October 28th, the Maryland State Board of Elections announced that it had received reports that about 20 voting units allegedly had displayed a candidate different than what the voter selected. How many more were reported since then and during the General Election? How many votes were cast on those machines? Were any machines taken off line? How many Democratic votes were switched to Republican or other party? I did not hear of any such switches in the opposite direction. Isn't it odd if only Republican votes were flipped? On November 10th it was announced that Montgomery County Board of Elections plans to seek an independent audit of voter registrations handled by Maryland's Motor Vehicle Administration (MVA), after reports that voters' registrations were being changed without consent during visits to the MVA. I believe the Montgomery County Board of Elections should do the same for vote flipping and conduct an independent audit of vote flipping during the Early and General voting of this year. Thank you for your consideration.

Montgomery County Board of Elections Office
18753 N. Frederick Ave. #210
Gaithersburg, MD 20879

November 17, 2014

My name is Tanzi Strafford, I am testifying to express major concerns about the integrity of the voter registration and voting process in Maryland.

Full participation of all eligible voters should be the goal of every election. Fair voting rules that are enforced are necessary to create and sustain a democratic society. Without fair rules, evenly enforced, citizens' trust in the process and their government could be eroded. Over the past several years, the State of Maryland has focused on making the voter registration procedure a lot easier, but has removed many safeguards that would ensure the registration was limited to only eligible voters. The U.S. Constitution stipulates that only U.S. citizens are eligible to register to vote and participate in voting process. The U.S. Constitution, Amendment 14, Section 1 states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

Today, the State of Maryland Board of Elections' current practice is to register people to vote:

- 1) With a state ID or drivers licenses without a Social Security number
- 2) Only with a last 4 digits of a Social Security number
- 3) Moreover, Maryland has made it is so easy that people can register to vote without any IDs and Social Security numbers.

For more than two years, Maryland has been taking the word of a person that he or she does not have any ID and Social Security number when registering them to vote. This will lead to fraud. Frederick County, MD recently discovered that non-citizens are registered to vote. Moreover, some of the non-citizens have already participated in the voting process in Frederick County, MD. In addition, I

personally met a stranger who told me he was a non-citizen residing in Kensington, MD (Montgomery County) but voted in past primaries. Ironically, when I mentioned this to an election judge at the Early Voting Center in Germantown, I was told "it is only one. "

Based on all these facts, the State of Maryland has been violating the law and the 14th Amendment of the U.S. Constitution. The current practices of voter registration do not ensure the eligibility of a voter. For example,

- 1) Registration to vote with only a driver's license doesn't allow the verification of U.S. citizenship. The State of Maryland offers driver's licenses to undocumented immigrants who crossed the border in violation of federal law without due process of law. Nowadays, almost anyone who is older than 16 can get a driver's license, but MVA doesn't verify U.S. citizenship.
- 2) Registration to vote with the last 4 digits of a Social Security number doesn't allow verification of U.S. citizenship either.
- 3) Registration to vote with no documents (or confirmation that the applicant does not have any of these three items of identification.) How can someone verify that someone doesn't have something? You cannot prove a negative.

Moreover, for some strange reason, there are voters that the Board of Elections is aware of who are "inactive." And yet, they are on the active voter rolls. For example, for the upcoming election I received a current sample ballot in the mail for a Mr. Daniel Ruben Odio-Paez. I have been living at my current address for the past 4 years and have never gotten a piece of mail for this person before this sample ballot. When I called the local Board of Elections, I was told that they don't know why it was sent to me, because this voter is inactive. I was also told that they would get back to me, but that never happened. Unfortunately, these cases are not isolated. On November 4th, 2014, I was a poll watcher at Wheaton High School in Montgomery County. Some voters at that location told the election judges about getting sample ballots for years for people that don't reside at their addresses. They responded to direction by election judges to send the sample ballots back to the Montgomery County Board of Election, by saying that they had already done that and that they continue to get sample ballots for the same voters that don't reside at their addresses. There are multiple reports by precinct chairs that dead people and people that have moved are also on the voter rolls.

It doesn't stop there. During the voting process, there have been multiple cases of "fraud" that the Board of Elections knows about and simply calls "irregularities." In the last election, media reports indicate that voters trying to cast ballots had their votes switched from a Republican candidate to a Democrat candidate. During early voting, it was reported that 20 machines across Maryland switched votes from Republicans to Democrats.

The State Board of Elections needs to revise its current voter registration policies in order to ensure the integrity of the election process. Integrity is the key to a democratic society and voter turnout. If people don't trust in the legality and integrity of the election process, they will not trust the government.

Respectfully submitted,

/s/ Tanzi Zh Strafford

Tanzi Zh Strafford

Comparison of Time Results Posted for the Gubernatorial Election

