

**Opening Statement of
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**Public Hearing of the State Government Committee
on HB 934 and HB 647 – Voter Fraud**

Good Afternoon. I'm Michael Bekesha, an attorney at Judicial Watch. Judicial Watch is a Washington, D.C.-based public interest group dedicated to promoting transparency, accountability, and integrity in government, politics, and the law.

Thank you Chairman Metcalfe for inviting me here today. It is an honor for me, on behalf of Judicial Watch, to appear before this Committee. As you know, Voter Fraud is an important issue, not only in Pennsylvania, but around the country.

As part of our mission to investigate and prosecute government corruption, Judicial Watch sought access to FBI records related to voter fraud. Specifically, we uncovered election law violations and voter fraud in Missouri and Connecticut. According to FBI records, in 2007, the FBI investigated and ultimately arrested eight St. Louis, Missouri workers from the "community organization" Association of Community Organizations for Reform Now ("ACORN") for violation of election laws and voter fraud.

The FBI records include handwritten notes from FBI investigators interviewing canvassers working with Project Vote, an ACORN affiliate. The FBI found that those working for Project Vote and ACORN sought to "cause confusion on election day to keep polls open longer," "allow people who can't vote to vote," and "allow [people] to vote multiple times." Moreover, the FBI found instances of canvassers thinking that if they "used a completely fake name it would be less like ID Theft."

These are just a few examples of how voter fraud may occur. Unfortunately, these are not isolated incidents.

According to Judicial Watch's ongoing investigation, ACORN and its various affiliates (most notably Project Vote) have been implicated in at least 35 well-documented election fraud schemes in 17 states. Here, in Pennsylvania, after the last election, there were media reports that organizations, such as ACORN, were busing people from New Jersey and New York to vote in Philadelphia. Moreover, a former ACORN staffer pled guilty last year to charges stemming from his involvement in ACORN voter fraud in Pittsburgh. Six fellow ACORN employees were indicted along with him. In 2008, the organization was found to have submitted tens of thousands of fraudulent voter registrations in Philadelphia alone.

Reports of ACORN's demise have been greatly exaggerated. Although ACORN's vast network has been nominally disbanded, many of its former state-level branches have been reconstituted as distinct and legally independent non-profit entities. Nearly all of these "new" organizations are led by former ACORN executives and employees, and most occupy former

ACORN office space. They continue to perform the same type of work that was previously done by ACORN, ACORN Housing and their state-level offices. In essence, it is the same organization operating under different names.

In Pennsylvania, specifically, Judicial Watch has discovered that ACORN PA has been reconstituted. The office continues to be located at the former location of ACORN PA. Moreover, the Board members and staff with former ACORN affiliations remain prevalent.

Because of well-documented voter fraud over the past few elections, states around the country have started to re-examine their voter registration and election laws. At last count, approximately 27 states are in the process of passing or have just enacted new laws to prevent voter fraud in the future. As the Supreme Court (*Purcell v Gonzalez*, 549 U.S. 1, 4 (2006)) has stated:

Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised.

Of course, in an attempt to prevent voter fraud, states must be mindful of any burdens new laws may impose on citizens. Too rigorous restrictions or requirements may lead to disenfranchisement. To that end, the courts have nicely laid out the dos and don'ts with respect to laws focused on voter identification.

Quite simply put, under the federal Constitution and most, if not all, state Constitutions, states may require voters to present photo identification before voting. Yet, there are some caveats.

First, to avoid establishing a "poll tax," states must not charge any fees to receive appropriate photo identification. If a state is to require a voter to show proof of identification, which must include a photograph of the voter, the state must provide free photo identification for every voter.

This requirement, however, does not necessitate that the state abolish any fees associated with obtaining the primary documents needed to register to vote and receive an approved voter identification card. Such fees, courts have found, are not burdensome.

Second, because various reasons may prevent a voter from having an approved photo identification card on Election Day, states must ensure that all registered voters have the ability to vote. Many states therefore allow registered voters the ability to cast a provisional ballot. Courts have found the availability of such a mechanism to be an adequate remedy. The provisional ballot allows the voter to cast a vote and within an allotted amount of time, correct the failure to provide proper identification, either through a sworn affidavit or presentment of an approved voter identification card.

Some states, to avoid burdening the voters from having to travel to a second state agency, usually within ten days, allow a voter to cast a ballot if the voter presents two forms of non-photo identification. A bill currently working its way through the Texas Legislature allows just that.

Third, states must undertake voter outreach and public education efforts to ensure that voters know of the changes in the law. This can be easily accomplished by providing brochures and other information through the mail, over the internet, and making such information available at various state agencies. The importance here is that voters will understand the change and have time to receive the appropriate voter identification card.

Many examples of constitutional legislation can be found across the country. This includes Pennsylvania. In preparing for today's hearing, I have reviewed both House Bill 934 and House Bill 647.

HB 934 requires registered voters to present "proof of identification" at the polls. Under the bill, proof of identification is a document that was issued by the United States or the Commonwealth and contains at least the name of the voter as well as a photograph of the voter. If a voter does not have an acceptable form of identification, the Department of Transportation will provide such photo identification at no cost. Moreover, the bill permits a voter to cast a provisional ballot, which will be counted upon the affirmation of an affidavit within six calendar days. Finally, the bill requires the Secretary of the Commonwealth to inform and educate the public regarding the new requirement for voting.

HB 647 similarly requires photo identification to be displayed prior to voting. To ensure conformity, the bill requires that every registered voter be provided a "voter registration card," which contains a photograph of the voter. Based on the language of the bill, it is unclear whether the voter registration card will be the only acceptable form of identification that may be presented when voting. Nevertheless, since the bill does not change the provisional ballot provisions already in place, this should not be a concern. This bill truly will ensure that anyone who registers to vote will have the proper identification, free of charge, necessary to vote.

With these two bills, Pennsylvania is on its way to ensuring fair elections for its citizens. Unfortunately, however, it is just the first step in the right direction. What is not addressed in these bills is voter fraud with respect to absentee ballots. Some citizens not only register to vote, but also vote, without ever appearing in person. To avoid disenfranchisement of those who simply cannot travel to register or to a polling place, the Commonwealth allows for registration and voting by mail. Although many legitimate votes are cast through absentee balloting, there is no question that voting by mail allows for those who want to cast fraudulent votes to do so.

Prior to and after the last election, there were various media accounts concerning absentee voter fraud in Pennsylvania. There were reports that voters were intimidated or purposefully tricked into submitting absentee ballot applications. Also, reports emerged that instead of being properly submitted for review, absentee ballot applications were being directed to private P.O. Boxes. Finally, for no other reason than the mechanics of our postal system, it can never be 100% certain that an absentee ballot was, in fact, submitted by the respective registered voter. Exactly how to fix such problems remains unclear. Based on a survey of states,

it does not appear as though there is any easy solution. Most states simply have not yet addressed absentee voter fraud.

In conclusion, Pennsylvania is one of many states willing to tackle voter fraud head on. Through HB 934 and HB 647, this Committee takes the first step in the right direction in restoring confidence in the integrity of Pennsylvania's electoral process. Although it is just the first step, it is a significant one. It will demonstrate to the citizens of the Commonwealth that they can trust their government and that their legitimate votes will not be outweighed by fraudulent ones.

Thank you.