



**Judicial Watch**<sup>®</sup>  
*Because no one is above the law*

## **ELECTION INTEGRITY UPDATE PANEL**

### **MODERATOR:**

**TOM FITTON, PRESIDENT OF JUDICIAL WATCH**

### **PANELISTS:**

**J. CHRISTIAN ADAMS,  
FOUNDER OF THE ELECTION LAW CENTER VIRGINIA,  
AUTHOR OF *INJUSTICE: EXPOSING THE RACIAL  
AGENDA OF THE OBAMA JUSTICE DEPARTMENT***

**CATHERINE ENGELBRECHT,  
PRESIDENT OF TRUE THE VOTE**

**HANS VON SPAKOVSKY,  
SENIOR LEGAL FELLOW AND MANAGER OF THE CIVIL  
JUSTICE REFORM INITIATIVE IN THE CENTER FOR  
LEGAL AND JUDICIAL STUDIES, HERITAGE FOUNDATION;  
CO-AUTHOR OF *WHO'S COUNTING?: HOW FRAUDSTERS AND  
BUREAUCRATS PUT YOUR VOTE AT RISK***

**THURSDAY, OCTOBER 11, 2012**

**TRANSCRIPT PROVIDED BY  
DC TRANSCRIPTION – [WWW.DCTMR.COM](http://WWW.DCTMR.COM)**

TOM FITTON: Thank you for joining us here and on the Internet, hopefully. Thank you.

I'm Tom Fitton. I'm president of Judicial Watch. Judicial Watch is a conservative, nonpartisan educational foundation dedicated to transparency, integrity, and accountability in government politics and the law. Through educational activities, we advocate high standards of ethics and morality in our nation's public life and seek to ensure that political and judicial officials are accountable to the American people. Judicial Watch does not endorse or oppose candidates for public office.

We're pleased to present this panel to give you an update from key players in the debate about the integrity of the 2012 elections. We'll update you on current legal battles over voter ID laws, legal challenges to ensure clear voter rolls, the debate over early voting, military voting rights, and the role, of course, of the Department of Justice in all of this.

In 2012, earlier this year, we announced – Judicial Watch did in league with Christian Adams at the Election Law Center, and Catherine Engelbrecht of True to Vote, our 2012 Election Integrity Project. And the project focused initially on the issue of whether or not the voting rolls were clean and accurate pursuant to the federal law known as the National Voter Registration Act. And that's the law that's typical as the motor voter ID law, the motor voter bill. And there's a provision, obviously, in that law that provides access to voter registration through DMVs and public assistance centers and places where you have interaction with the government.

But there's another provision of the law that requires concurrently to that increased access to registration reasonable efforts by state and local governments to clean up the rolls. So you have all these extra people registering, there's got to be a process in place so that, when people die or move away or become ineligible otherwise, that their names be removed. And, of course, the left was not terribly interested in cleaning up the rolls but increasing registration. And that's not what the law is about.

So Judicial Watch did an analysis last year, compared Census Bureau data to voter registration data, and found that there were at least a dozen states where they had counties where they had over 100 percent of the eligible population on the rolls, meaning they had more people living there – they had more people on the rolls than were actually living there and eligible to vote. And that's a pretty good indication they're not cleaning up their rolls.

Now, what's interesting is that there's a provision under the section the law requiring the cleanup of the rolls that allows aggrieved parties, whether there be citizens or groups to sue to maintain the clean election rolls. And Judicial Watch with True to Vote as a co-plaintiff and client, and also working with Christian Adams through his Election Law Center, initiated the first ever lawsuits by private entities to try to clean up the rolls. And we sued in Ohio and in Indiana, and we've intervened in Florida to protect efforts to clean up the rolls that were made, frankly, in response to some of our inquiries about dirty rolls in Florida.

But let me give you a better context, because, you know, the issue about over 100 percent of the rolls, that's a more narrow issue. When you look at it in a broader – from a broader point of view, it looks like in many of these key states, and, frankly, it probably goes across the country, places like in Ohio, and in Pennsylvania, and Colorado, as much as a fifth of the people on the voting rolls ought not to be there. They're either inactive, they're dead, they've moved away, or they're registered in more than one state, a fifth.

And so that makes it quite sensible, when we get into our next topic, to have voter ID. Certainly if you know – if there's any temptation to vote illegally on behalf of these – the 20 percent of the electorate that's not there, that task is going to be a lot more difficult if you have a reasonable voter ID measure.

Now, the Department of Justice is supposed to be enforcing the law to clean up the rolls, but they're not doing it, and Christian Adams will talk about that. In fact, what they're doing is they're pressuring states improperly, in my view, to maximize the voter registration numbers through these welfare food stamp offices, DMVs, throwing out, and improperly throwing out safeguards or trying to strike down safeguards against voter registration fraud.

And who are they working with? They're working with the Project Vote ACORN crowd. Now, Project Vote and ACORN were responsible for massive voter registration fraud in 2008. And we have documents showing that they've been working with the Department of Justice on these voter registration litigation efforts. And to have this group in the halls of the Justice Department working on election integrity issues is like having the mafia help the FBI in anti-racketeering enforcement. It's that bad.

So you can't trust the Department of Justice to fairly enforce the law here. They've been AWOL on this cleaning up the voting rolls. And it's a real crisis for the integrity of our elections. And on top of that, you have the Obama campaign specifically attacking – a presidential campaign attacking voter integrity efforts in places like Ohio and Florida.

And, of course, Holder making all of these racially inflammatory comments about sensible voter ID laws, and he's been making all of this noise, and we'll talk about how despite all of his noise, the courts in a bipartisan fashion, from judges from Republican and Democratic ranks have brushed back his outrageous racial demagoguery on this in court.

So you can see that the Justice Department not only is on the wrong side of the law, but is actually inflaming the situation by making these false allegations related to race in the campaign.

And the other thing I'd like to call attention to, when you think of the Justice Department, for instance, suing in Florida to stop Florida from even asking whether someone is a citizen and is voting, whether they can even investigate whether there are non-citizens on the rolls, you have to wonder why on earth the Justice Department would object to a state making some reasonable inquiries as to the citizenship status of folks that they believe may not eligible to vote under the laws of the United States.

And I would tie all of this into the president's lawless amnesty measures to provide temporary protective status to individuals under 30, and Lord knows who else under their rules. And in my view, it's not about the Hispanic vote. When you tie it all together, it's about the illegal alien vote, the attack on voter ID, the hostility to even asking whether there are citizens on the rolls, the failure to clean up the rolls, and then the push to legalize more or less illegal aliens. I'm confident that they're happy, if need be, to have these folks voting illegally come this election cycle.

So my view when it comes to the integrity of the elections, the establishment is whistling past the graveyard. The integrity of our elections is taken for granted by many Americans and the integrity of our electoral process 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.

And let me just be clear – it's not only important that the elections be actually free, fair, and clean, but that they appear free, fair, and clean, because if you don't have confidence in the election system, people are not going to vote because they think their votes won't count. So these measures that we're talking about in our litigation and all the work here being done at the table was designed actually to reassure people that their votes count and get them to participate in this system. And fraud and the perception of fraud and the concern about all these dead people on the rolls, that keeps people away from the polls as opposed to bringing them to the polls.

Now, we're being honored to be joined by really folks who have been on the frontlines. And there are only a handful of individuals and groups out there on the conservative side that have been taking an active role in raising questions about election integrity. And this has been the playground of the left for years and years. And the left is infuriated that conservatives are trying to vindicate the franchise on behalf of all Americans. And so the leaders here have all been attacked by the left, but they're supported by the American people. And we'll talk about that as we bring folks on.

And I'll just introduce everyone together and then I'll let everyone talk.

At the end of the table, furthest from me is Hans von Spakovsky, who is senior legal fellow and manager of the Civil Justice Reform Initiative in the Center for Legal and Judicial Studies. He concentrates on voting, elections, campaign finance, civil justice and tort reform, civil rights, immigration, enforcement, and government reform. He's the author, along with John Fund, of *Who's Counting: How Fraudsters and Bureaucrats Put Your Vote at Risk*. And I think we have some of those books available here for you today. He also served as commissioner on the Federal Election Commission and general counsel to the assistant attorney general for civil rights from 2002 to 2005, where he actually – one of his duties and responsibilities was to have – direct the enforcement of the Voting Rights Act and the Help America Vote Act of 2002. Let me just personally about Hans is that he really is an intellectual leader and legal force behind the approach that we're talking about in terms of election integrity. And his leadership has been essential and has been magnified beyond belief because of his activism and his leadership.

Also joining us – we're honored to be joined by Pennsylvania State Representative Daryl Metcalfe, who drove down from up the Pittsburgh area today, recognized by the *Pittsburg Post Gazette* as Pennsylvania General Assembly's number one conservative. State Representative Daryl Metcalfe, who represents Butler County, the area just north of Pittsburgh, is serving his seventh term in office. Representative Metcalfe serves as the Republican majority chairman of the Pennsylvania House State Government Committee which is responsible for reviewing legislation dealing with all aspects of state government, including proposed amendments to the Pennsylvania Constitution, statewide initiative and referendum in the Public Official Employee Ethics Act – good luck with that – and campaign finance and election code reform. He was the author of the Pennsylvania Voter Identification Protection Act, which requires voters to show valid photo identification each and every time they vote. And for over a decade, Representative Metcalf – and this is how we first met – has worked to protect the integrity of one of the most important fundamental American freedoms, the right to vote.

And our friend and client, Catherine Engelbrecht, is here. She is founder and president of True to Vote. She started True to Vote in 2009. It's a citizen-led effort to restore honor, integrity in our electoral system. True to Vote educates voters, researches the veracity of voter registries, trains and mobilizes volunteers to work in polling places and advocates for comprehensive election code reform legislation. And they developed an excellent program of training technology and support to equip citizens to participate in the electoral process. And they're on target to mobilize a million voters still for – or a million volunteers for 2012.

CATHERINE ENGELBRECHT: A million voters. Yes.

MR. FITTON: Voter volunteers. I guess you don't need to be a voter to be a volunteer. But their effectiveness at the grassroots level on this issue is really unmatched. And, as I said, she's been attacked for trying to monitor the election system processes here in the United States. It's really quite extraordinary, not only her work but the nature of the attacks against her.

Also joining us is another leader in the election reform effort is J. Christian Adams, who's the founder of the Election Law Center based in Virginia. His *New York Times* bestselling book on elections and the Obama Justice Department is called *Injustice: Exposing the Racial Agenda of the Obama Justice Department*. He served in the voter section of the United States Department of Justice, where he brought a wide-range of election cases to protect racial minorities in South Carolina, Florida, Texas, and Mississippi. In private practice, he represented the presidential campaigns of Gingrich, and Santorum in Hudson in access lawsuit in Virginia federal court. And he brought the voter intimidation case against the New Black Panther Party, which the Holder DOJ dismissed. And he successfully litigated the first case brought under the Voting Rights Act on behalf of discriminated against white minority. And where was that?

CHRISTIAN ADAMS: Mississippi.

MR. FITTON: That was a Mississippi case. And between Metcalf, Von Spakovsky, Engelbrecht and Adams, you've got all the folks practically speaking. I'd like to think we're causing the left some angst. But the left is very anxious about the activities of this panel, individually and collectively, on voter integrity and the election integrity.

But the truth is the American people support these efforts. And I'm honored to be joined by this esteemed group of leaders and heroes who are out there on the front lines and taking a lot of flak for their work.

I'm going to start off with Representative Metcalfe, who will talk about voter ID in Pennsylvania and the long slog he had in getting that law enacted and validated by the courts.

REPRESENTATIVE DARYL METCALFE (R-PA): Thank you. Thank you very much. It's an honor to be with all today and I appreciate the opportunity to share with your regarding our efforts, our fight in Pennsylvania.

My name once again is State Representative Daryl Metcalfe. I'm from Butler County in Western Pennsylvania, about 20 miles north of Pittsburgh. I was elected to legislature in 1998, and began working on this issue probably about a decade ago. My staff had pulled out some of our news clippings back in 2002 when I was working on voter ID and we tried to get it through the first time; ended up having our Pennsylvania Senate kind of water it down on us, and they sent it back to the House for concurrence with just requirement to have ID the first time you voted at a precinct. So they didn't help us move in the direction of every time, as I was hoping for, but have been pushing for this over the last 10 years with some of my colleagues.

And the beginning of this legislative session, as we came in the session December of 2010, reintroduced the bill in the beginning of 2011, and actually had Hans up to testify at one of our committee hearings, the state government committee about election

fraud and helped us to bring some information together that helped us to move the bill along last year. So it's been a long fight.

When you talk about the integrity of the election process, one of the bills that I proposed, or an amendment that I proposed back – 10 years back when I was proposing photo voter ID for the first time was also to change our law in Pennsylvania so that when you signed in to vote in the voting booth, the voting book, that you'd actually have to sign in ink, because at the time, the law would allow you to sign in pencil. It was really unbelievable that the law would have allowed you to sign in in pencil and then have that record altered at some time in the future very easily.

And you wouldn't have believed the debate that we had on the floor just because I wanted to change us from voting in pencil or crayon or whatever other writing implement they would have used and requiring a blue, black – or black, blue ink rather than just going with a pencil or some other writing implement. But we had a battle on that, and was effective in our debate, and ultimately had that passed into law back more than a decade ago now, but the voter ID took a little bit longer.

We actually have – I've talked about this issue over the years with my constituents. And besides the stories that you've read about the notorious processes that occur in Chicago, in Philadelphia, some of the – especially the large city areas of our country and some of the outrageous antics that have been perpetrated against the people in some of those processes for election, folks in my area really just have kind of viewed it, as I think the majority of Americans do, as common sense, that you require that somebody actually prove they are who they claim to be when they show up to be part of the process, to be part of “we, the people” to choose who's going to govern us. And it's just common sense that you'd show that you are who you claim to be, isn't it? And that's how a lot of voters that I've talked to over the years have viewed it.

It hasn't been – I never really perceived it as a partisan issue. I was surprised that the Democratic Party, especially this cycle, has chosen to make it such a partisan fight. I actually had one of my Democratic colleagues sign on to my legislation this year. By the time the bill actually passed, he'd pulled his name off the legislation, was no longer co-sponsoring it. And our majority leader at one time was actually pushing me to let the Democrats actually prime sponsor the legislation. And what ultimately happened with him pulling his name off it is what would have happened I think if he would have prime sponsored the bill as they didn't really want to see it move forward because it did turn into a partisan battle that shouldn't have been partisan. It's just common sense.

And if you look across the base of the electorate, the majority of people, and poll after poll after poll across the state of Pennsylvania, as we've watched the national polls, believe that it's just a common sense requirement to prove that you are who you claim to be when you show up to vote.

We actually introduced the legislation at the beginning of this session. We held a hearing with the Pennsylvania State Government Committee. As I said, Hans had

testified, and had a number of other testifiers that came and testified. We had one of the attorneys that's involved in Pennsylvania with some of the overview of our processes, election cycle to election cycle. And she testified and talked about some of the fraud that was occurring as she had perceived it through various election cycles in the past.

We've had – in Pennsylvania we had an election overturned in 1993 for election fraud, a state Senate race. We had a congressman prosecuted back in 1998 for election fraud. So we've had a very rich history of election fraud being perpetrated in Pennsylvania. And the ID that we were proposing to use was just a common sense requirement that would instill more confidence in the electorate and ultimately help us to fight some of that fraud that's being perpetrated, and to ensure that the forces of corruption don't win on Election Day, but that the people do.

So as we moved that bill through the process early last spring, we ultimately passed it before we had our summer recess, when we're normally working in the districts for the summer. We passed the legislation, sent it to the Senate, and then I negotiated through the summer last year with the Pennsylvania State Senate on the legislation and there was quite an effort from the Senate side to water the legislation down from where we'd passed it.

And as a Republican majority member in the House, the Republicans also have a majority in the Senate, and not really seeing this as a partisan issue but, of course, it was turned into one, it came down to where we ended up passing it through the House without one Democratic vote for it. And the Senate was the same way. We lost a few Republicans on both sides, both chambers.

But when we had modeled our legislation based on testimony of Hans and the other folks that testified, when we ultimately passed our legislation out of committee, it modeled after the Indiana law. And as a majority of you sitting here I'm sure know, the U.S. Supreme Court upheld the Indiana law as being constitutional.

Ultimately, when we passed our legislation, House Bill 934, out of the Pennsylvania Senate, we ultimately did not have it as strong as the Indiana law any longer. They allowed for some college IDs to be utilized, senior facility IDs, municipal IDs we'd structured coming out of the House so would mirror Indiana and be more drawn to ensuring that we had secure IDs presented in the form of a state ID or a federal ID.

The law was passed last summer. The Senate amended it. We ultimately put it on the governor's desk early this year in March. And then the rest of the year we've been kind of tied up in court battles in Pennsylvania. So we had a court challenge by the ACLU and company, some other groups joining in with them.

It went to the Commonwealth Court. Judge Simpson ruled in our favor, upholding it as constitutional, and that it should move forward at the Commonwealth Court leveled. They appealed to the Pennsylvania Supreme Court where we have a three/three split right now, three Democrats, three Republicans. We have one of our

judges indicted so that goes back to the ethics overview that you were talking about. We do have a challenge in Pennsylvania regarding that. We have a couple of former speakers in prison right now because of some of the ethics violations and crimes being committed while in office. So we do have our work cut out for us.

But as far as on the voter ID front, as that was thrown up to the Supreme Court, the Supreme Court really dealt with the issue in a way that they wouldn't be held accountable by the people as quickly, and they sidestepped it, sent it back the Commonwealth Court and told them pretty much that it is constitutional but you have to make sure that there's access for the voters and that no one is going to be disenfranchised.

And the directive that they gave them somehow in their opinion they found liberal access written into the law that I had been the architect of, and I can assure you I didn't provide for liberal access in our law. We provided for access that should be available to every law-abiding citizen who wants to exercise their vote. And we provided for a free ID card if somebody needed an ID to vote and they didn't already have a photo ID. We provided for a free ID, but that ID would be secure. It would be issued by our Pennsylvania Department of Transportation. It would be under the regulatory scheme that's already in place and under the current statute for those types of IDs.

The administration, during the process of the court battle, decided that they needed to back-peddle and they came up with a new form of ID that wasn't authorized in statute, had no regulatory scheme to control it because it was an illegal card. So now we have our executive branch that's issuing an ID that's not authorized in statute, and our judicial branch, who's directing the executive branch to make sure that those illegal ID cards are readily accessible to every voter. So we have quite a complex equation to figure out as we move forward with that.

The good news is that the courts, both levels of our courts in Pennsylvania, did not find it unconstitutional, but in fact found that it was within the responsibility of the legislature to enact this type of law, and they couldn't find fault with it according to our constitution so they directed it – they had a direction of telling the Commonwealth Court to look at it from the access of IDs.

The Commonwealth Court just came back and gave a limited injunction so that our law will not be in effect for this November's election, although we did a soft rollout of the law in the primary and required the election workers to ask for ID when anybody showed up to vote. So the election workers in this year's November election will have to ask for ID, but the voter will not be required to show it.

Hopefully, we'll see it in full effect in next year's election, in the primary. There's a status hearing that will be held in December on a permanent injunction filing by ACLU against our law, but hopefully we'll see it move forward.

And I'm hoping the executive branch, the Republican executive branch will come back in line with what the law says and within the boundaries of the rule of law, and the constitution, and the statute and do what they're supposed to in issuing the IDs.

But I'd be happy to entertain any questions at the end of the event that might come up. And I look forward to hearing my fellow panelists. Thank you for having me.

MR. FITTON: Thank you, Representative Metcalfe. Hans von Spakovsky.

HANS VON SPAKOVSKY: Well, one of the myths you constantly hear is that there's no voter fraud in the United States. That's the false narrative that too many people in the mainstream press put.

And let me quote some language for you: examples of such fraud have been documented throughout this nation's history by respected historians and journalists, and not only is the risk of voter fraud real, but it could affect the outcome of a close election. Those aren't my words. Those are the words of the United States Supreme Court when it upheld Indiana's photo ID law. And that was not written by one of the conservative justices, because in fact, it was a six/three decision, and the opinion was written by Justice John Paul Stevens, one of the liberal stalwarts of the United States Supreme Court.

Now, the book that John Fund and I have published goes through and has case after case of voter fraud, real cases, prosecutions, and cases where sometimes it changed the outcome of an election.

Now, what is not in this book, and which you don't – I'm sure many of you have not heard of because it just doesn't get covered is all these cases of fraud have occurred just in the law month.

Two weeks ago, a Little Rock, Arkansas, state legislator resigned from office after pleading guilty to voter fraud in Arkansas along with three other individuals, and other five people have been indicted in that scheme. And the voter fraud that he committed was in a race that he only won by eight votes.

Not too long ago, I think another two weeks ago, a Mexican drug dealer, who was illegally in the United States, was indicted in California. Amongst the many charges against him was that he registered and voted in U.S. elections.

Two weeks ago, as you know, the Maryland Democratic Party had to write a letter to the governor withdrawing their candidate for the first congressional district after they had discovered that she had registered and voted in both Maryland and Florida, a situation that True to Vote has been researching, finding out. Now, that did get some coverage, but what's most interesting about that that I saw that was not covered was the fact that she could have done this and gotten away with it because it's easy to do. Most states don't compare their voter registration lists. The only reason it was discovered was

because she had run for office. And, obviously, some researcher, perhaps an opposition researcher, started looking into her record. If that had not occurred, she could have continued to do that and gotten away with it.

Florida has already found almost 200 individuals as part of their new program to check non-citizens who are registered to vote, 200 individuals who are non-citizens, who are on the voting rolls down there. They may not sound like a lot, but then, on the other hand, the 2000 presidential election was decided by only 537 votes in that state and they've only just gotten started with that program.

In Colorado, they've also started checking non-citizens on the voter rolls. When news about this got out into the press there, 430 individuals wrote letters to the Secretary of State Scott Gessler saying, well, I'm registered to vote, but I'm not a United States citizen, please take me off the rolls.

He checked with eight counties, only eight counties in Colorado recently and asked them for the names of individuals who were detained in the local jails who were in the United States illegally, particularly individuals for whom there were detainer warrants issued by the Department of Homeland Security. He found 153 of those individuals in just eight counties in the state who were in the United States illegally who were registered to vote, 29 of whom had voted in prior elections. Now, again, that may not sound like a lot, but about 10 years ago, I believe it was the seventh congressional district in Colorado, you had a congressional seat decided by a little over 100 votes in that state.

All of this shows you that what the Supreme Court said in 2008 was absolutely correct, that voter fraud could make the difference in a close election. Is there fraud everywhere in the United States, in every election? Well, no. Of course not. And none of us up here are saying that. But we have enough cases of this kind of fraud that we need to take the basic steps that are needed to protect the elections.

Tom Fitton was talking about the efforts they are making to go after certain states who are not cleaning up their voter rolls. What has gotten almost no coverage is that – was it I think 2010, Christian, there was sworn testimony before the United States Commission on Civil Rights by the former chief of the voting section that he had sent a recommendation to his bosses within the Justice Department to investigate eight states for not complying with federal law, the National Voter Registration Act, and not cleaning up their voter rolls, not removing people who have died and moved out of state. And nothing was done about it because the policy of this administration is not to enforce this provision, which puts in danger the integrity of the American election process.

What all of this means is that we need private groups like Judicial Watch working on this issue. We need and should welcome groups like True to Vote, who are now frankly doing the jobs that election officials don't do of checking the reliability and accuracy of voter registration list, because we want a clean election so that at the end of the day, whoever wins, everyone believes they won fairly, and whoever lost is willing to say and believes that, yes, I lost the race, but it was a fair election.

Now, voter ID is just one of the recommendations that has been made. And I would point out that a number of states have passed photo ID laws. Those laws have now been in place in several states for more than five years. Georgia and Indiana have had the laws in place for two federal elections and numerous state and local elections.

And this constant myth you hear that this will somehow suppress the vote has been proven to be untrue by the actual turnout data in those states. Every time I hear that this is some kind of plot, for example, to keep Barack Obama from winning, I just have to laugh because in Indiana, in 2008, when their photo ID law was in place for the first time, the law that the United States Supreme Court said was the strictest photo ID law in the country, Barack Obama won the state, the first Democrat to win in I think in 30 years. So the idea that it will somehow keep people from voting we know is not true, and yet that myth, that false narrative is constantly repeated in the press.

Now, is that the only thing that should be done? No. Another step that needs to be taken – and, fortunately, a number of states have taken them, including Pennsylvania, Kansas, Alabama – is to also require photo ID for absentee ballots because absentee ballot fraud is one of the biggest ways that elections are stolen.

And we've had case after case after case like that, one of the most prominent of which is the 1997 mayor's race in Miami for which the *Miami Herald* won a Pulitzer Prize for its investigation. And the race was eventually overturned after a judge found that 5,000 fraudulent ballots had been cast in that election.

Now, the other thing we should be concerned about are current efforts, quite frankly, to commit election fraud. And we, unfortunately, may have seen that happening yesterday when James O'Keefe released a video, an undercover video, and I – again, there's been some press coverage of this, but not as much as there should be, showing the director of Organizing for America in its Houston office helping an undercover reporter providing the forms needed to vote twice in both Texas and Florida. It's very clear that the director knows exactly what's going on, is facilitating the double voting, and in fact does not say to the person, you can't do this, it's illegal. In fact, he's helping them to do that. We should all be concerned that someone who, according to the FEC records is listed as the employee of one of the major political parties is facilitating voter fraud.

Now, I should say on that issue that I've already heard some people say that actually she did not commit a crime because it was an undercover report and they weren't actually going to cast a fraudulent ballot. Well, the people that are saying that obviously don't know federal law as Christian and I do who enforced the Voting Rights Act and the National Voter Registration Act.

And I want to just say that one of the criminal penalties under the NVRA is for someone to knowingly and willfully deprive, defraud or attempt to deprive or defraud the resident of a state, of a fair and impartially conducted election process by the procurement or submission of ballots that are known by the person to be materially false,

fictitious or fraudulent. So trying to procure, or attempting to procure a fraudulent ballot is a federal felony.

And I am simply amazed, given the evidence that came out yesterday, that the individual who was doing this for this particular political party has not immediately been terminated, and that the party is not saying that – has not issued a statement saying that they do not condone this kind of behavior and that this should not be occurring. In fact, there's been complete silence on this. And that concerns me even more on the election integrity front.

The final thing I'll say about this is – I want to quote actually the *Chicago Tribune*, which is not exactly a conservative editorial page, who ran an editorial this week that said the following: “The weak ID laws are an invitation to cheating and the best time to close an avenue to such behavior is before it happens, not after.” Now, that is absolutely correct.

And I could tell you, fortunately, there are some people in the past who've been opposed to this who are now understanding that this is not a partisan effort. This is an effort to have fair elections.

And that's why, for example, in Rhode Island, which passed a photo ID law, that law was sponsored by the Democrats in the state legislature. One of the chief sponsors was an African-American Democrat who said that he sponsored this legislation because he had seen voter fraud, his family has experienced it, and he thought this was, as Representative Metcalfe said, this was a common sense reform.

Also in Kansas, for example, a majority of Democrats voted for the voter ID provision that they put into their law. And none of them have had any of the problems that organizations like the Brennan Center have for years been claiming they would have, which is that it would keep people out of the polls.

And, in fact, the – I should say the legal battle on this, actually the long-term legal battle opponents are losing that battle. Voter ID has been upheld in court after court after court. There have been occasional decisions the other way, but the majority of the decisions have upheld it, like the decision yesterday by a three-judge panel from the district of Columbia federal court, in which they basically made minced meat and threw out the false claims made by the Justice Department that the photo ID law was racially discriminatory.

And, in fact, Christian, I think you should speak about the fact that – again, this is something that Mr. Adams published, which has gotten almost no attention. Sources inside the Justice Department told him that, in fact, the career lawyers within the civil rights division recommended approval of South Carolina's law when it was first submitted because there was no evidence to be racially discriminatory, but they were overruled by the political appointees there who had absolutely no counter-legal analysis showing that the career folks were wrong. And it's because they then objected and put

up a fight in court, wasting taxpayer money and taxpayer resources that the court yesterday said this law is perfectly okay under the Voting Rights Act. It's not discriminatory, but it's not going to be in effect for this election because there's too short a time between now and November 6<sup>th</sup> to implement.

Well, why is there too short a time? Because the Justice Department put up a completely unjustified objection to the law, and that's the only reason the law won't be in effect. That is not the kind of Justice Department we want. We want people working there who actually believe in election integrity.

And I would say to reporters who are here today, given the very strong evidence of a felony and a violation of federal law that was released yesterday, they should be asking the head of the public integrity section, which is the section within the criminal division at the Department of Justice in Washington, who has responsibility to enforce and prosecute election crimes. The head of that public integrity section is a man named Jack Smith. They should be asking him whether he's going to investigate the evidence of the federal crime that occurred yesterday.

And they should also be asking the United States attorney in Houston, where this occurred, whose name is Ken Magidson, when he's going to open up an investigation of this because if they don't, then they are ignoring their responsibilities and duties as lawyers in the Justice Department to fairly and impartially enforce the law and prosecute violations. Thanks.

MR. FITTON: Thank you, Hans. Christian Adams, take that ball. Run with it.

MR. ADAMS: Thank you, Tom. Normally, I talk about nuts and bolts in these sorts of things. Thankfully, Representative Metcalfe and Hans have covered a lot of it so I'm going to start with some nuts and bolts. I'm going to close with some nuts and bolts, but I want to talk about a bigger philosophical issue in between.

So let's start out with the issue of military voting. In 2009, Congress amended the law called the MOVE Act, and every service member serving overseas has a right to have a ballot mailed to him or her 45 days before a federal election, 45 days before a federal election. And the Justice Department is charged with enforcing this.

Two thousand and ten was the first year that this law was effective. The law was implemented clumsily but generally satisfactorily, and service members, though they participated at relatively low numbers, were just getting acclimated to this new environment.

Well, I'm here to tell you in 2012 the situation unfortunately has not gotten much better. Massachusetts has failed to send out military ballots in time. They're in violation of the MOVE Act. They did not mail their ballots 45 days in advance. The secretary of state of Massachusetts knows they're in violation of the law, the towns know they're in violation of the law, and the Justice Department has done absolutely nothing. The Justice

Department has not filed a lawsuit, has taken absolutely no enforcement action against Massachusetts for failing to get military ballots out in compliance with federal law. Massachusetts is not the only state where this has happened, but you have radio silence from places like the *Washington Post*, places like the *New York Times*, the *Boston Globe* Democrat – that’s what I call it. You have absolutely silence from these media outlets because they have failed. They have failed as institutions.

So that’s the first nuts and bolts. I want to talk about something philosophical now for a moment. If we can put it back up. I think it was out there a second ago, but it’s gone now. I want you all to take a look at this picture. This is a billboard that has been posted all around Cleveland, all around the city of Cleveland, and now it’s forever gone.

MR. FITTON: We turned it off. You all saw it when it was up there.

MR. ADAMS: You all saw it. I can see it over there. All right. The billboard says “Voter Fraud Is a Felony.” And then it cites the statute, tough stuff.

Now, when you saw that all, you all had a reaction. You probably said, darn right it is, or, wow, felony. I just thought it was a misdemeanor. I’ve got to stop this stuff. So either way, you had some sort of reaction.

This billboard is representative of what I want to talk about this deep philosophical divide. Just yesterday, in the *Cleveland Plain Dealer* – I’m sorry – this morning in the *Cleveland Plain Dealer*, there is an article about how the once esteemed and relevant Lawyers’ Committee for Civil Rights Under Law, a civil rights group, has sent a letter to the sponsors of this billboard, actually to the Clear Channel Communications, the people who own the actual turf saying, you must take this down. Why you ask? Because it’s racially insensitive. That’s exactly right. Absolute laughter.

And why this is important is because of – it demonstrates what I submit to you is a very pessimistic philosophical divide in this country between those of us who believe in the rule of law, and those of us who believe in election integrity and those who enable criminal conduct. The Lawyers Committee for Civil Rights once had the noble purpose of helping minorities overcome Jim Crow. There it is, right there. They once had an important purpose in this country, but they have now devolved to the sad and pathetic role of enablers of criminal conduct.

What is wrong with this billboard? Well, let me read to you the threatening nastygram sent by Eric Marshall of the Lawyers’ Committee for Civil Rights to Clear Channel: “This billboard stigmatizes the African-American community. It implies voter fraud is a more significant problem in African-American neighborhoods than elsewhere because it attaches an implicit threat of criminal prosecution to the civic act of voting.” It gets worse. “Clear Channel has a choice,” said Marshall. “Contract or not, it is not right to be putting intimidating message in predominantly minority neighborhoods.”

That's what we've become, folks, is there's a group of people out there and a group of their enablers in the Internet media that actually think this is a credible complaint. I would submit to you that 80 percent of America or more is on the side of the people at this table.

But I want to warn you, just as Representative Metcalfe, when he said, I just thought this bill was common sense, just show your photo ID. Folks do not understand this well-developed, nasty, racist, dishonest group of people that hold a philosophy that say this is racially insensitive.

Now, they will frequently package their complaints with factually inaccurate trappings such as this was targeting minority neighborhoods. False – it was a Cleveland wide campaign. But, see, race is an important issue to these folks. It's how they badger state election officials, federal officials that are taking certain steps.

So what you have now is civil rights organizations like Lawyers' Committee have become almost like a Tony Soprano where – yes, you can print that, Ryan (sp). They've become like Tony Soprano, where they threaten free speech, like you see behind me. And I might add, free speech that merely describes a fact. There's nothing up there about race. There's no threat. It's merely a fact. If you commit a crime, you could go to jail. Tough stuff. And in 2012 it's controversial. Okay.

I suspect you might get a taste of some of this when we're open to questions from some of the media folks in here, because there are groups who actually believe that this is somehow racially inflammatory. Let's turn to the use of race on attacks on election integrity.

A publication called the *Nation* has a Colorlines.com, a Colorlines.co, if you will segment on reporting on the elections. When True to Vote deployed poll watchers all over the country and in Wisconsin elections, you had a Colorlines.com reporter literally claimed that this activity was racially discriminatory because – and I'm going to quote – this is the Colorlines.com reporter – “There's obviously something really fishy about a bunch of white people from the tea party start showing up in the hood. And, obviously, that's going to be an unsettling thing,” in brackets. Obviously, question mark. If you were in the hood anywhere in America, that's going to be an unsettling thing these white people showing up with clipboards, okay?

This person is taken seriously by some people. This philosophy is taken seriously by some people. Is there really truly of group of people who are so afraid of lawful citizens monitoring the elections a state law gives them the right to do, that race is used as a weapon. Race is used to cloak efforts to shield the transparency in our elections. And I think that, frankly, is a vast philosophical divide that is not going to get any better until folks are willing to stand up and fight back and say, we're past this.

We don't believe in these sorts of things, because too often, folks shy away from racial fights. Clear Channel is going to back down, possibly. They're afraid of the

threatening letters they're getting from the Lawyers Committee for Civil Rights because they don't want to get dragged into a racial fight. They don't want to take the side of free speech against thugs. So that's how it goes.

But the good news is that this is not 2002. This is not 1992. There's a whole new generation of activists who are sick and tired of talking about race and they're simply not going to be cowed, and eventually the attacks will fail and fail and fail, and eventually the folks at this table will win and win and win, like they did yesterday in South Carolina.

Let me turn to something nuts and bolts to close with, and Hans mentioned this briefly. And that's the role of the Justice Department. It is true that Christopher Coates testified that he recommended investigations into eight states that had problems with their voter rolls, too many voters on the rolls compared to their population. I testified to the same thing.

What's fascinating is that the Justice Department has never denied that that testimony was truthful. They have never denied that there were in fact recommendations to investigate these states. And, indeed, this Justice Department refuses to enforce the law to force states to clean up the voter rolls. There has not been a single case brought under motor voter by this Justice Department since Chris Coates testified. So the facts have proven his testimony also to be accurate.

This is a real tragedy. And we're heading into the 2012 election with 2.5 million ineligible voters on the rolls, according to Pew. This is not anybody at this table coming up with these numbers. This is Pew coming up with these numbers, the Pew Charitable Trust, that there are dead people, ineligible people who should not be on the election, participating in the election.

True to Vote has discovered people who have participated from two different states in the last presidential election. They voted in both Florida and Ohio, Florida and New York, and they've passed the names of these people onto the Justice Department and they've passed the names onto state election officials. And this is just the tip of the iceberg. They're going to keep data mining so that anybody who is going to vote twice in this election is going to get caught this time because private groups like True to Vote are doing the job that election officials should have been doing for the last 20 years and have, frankly, just not gotten the job done.

So my message that I'll close with is this is going to be an entirely different election year compared to anything else in the past. There's going to be armies of citizen volunteers in the polls trained up, monitoring, recording what's happening, not talking to voters, not badgering voters, not saying a word to voters, but simply standing sentinel over the process to make sure the law is followed.

That same army of volunteers are going to be reviewing the data rolls, the voter rolls for problems in the data, people who don't have complete addresses, people who have died, places that have hundreds of people registered to the same single house.

Those activities should have been done by the Justice Department, should have been done by state election officials, but no state has ever compared their voter rolls with another state. New York and Florida have never talked. We call it Project (Snowbird ?). They've never compared voter activity in these two states. Groups are doing it now and America's the better for it. We're not the worst for it.

And that's what's going to be different about this year is there's going to be people on the field fighting when bureaucrats in the past have not done their job. So thank you very much for your time.

MR. FITTON: Thank you, Christian. Thank you very much. Catherine Engelbrecht. Catherine.

MS. ENGELBRECHT: Thanks. Thank you for the opportunity to be here. And you've already heard so much good information about the state of affairs as it relates to election integrity.

What I bring to the panel is a little bit different. True to Vote started quite by accident in 2009 when a group of people in Harris County, Houston, Texas, went to go to work at the polls and we saw problems, problems like you've heard about today. We saw confusion about process, just not having enough people there to actually facilitate the operation of a polling place. We saw election fraud. We saw people who would come in with multiple identifications, multiple voter registrations. We saw people who came in to vote and the poll book was opened for them to sign, and lo and behold, there was always a signature on their line. It wasn't their handwritten but someone had signed for them.

When we saw that, we thought, you know, maybe we can do something. Maybe there's something that citizens can do. And so True to Vote takes a look quite literally at every stage of our election process and how citizens can make a difference using current law and just showing up, just showing up and helping. We are now in 35 states we're helping to support hundreds of citizen-led groups.

And I think the important point here that I don't want to overlook is that it is not okay for us not to feel that our elections are insecure. When Pew research came out with their report in February-ish and it contained data like there are roughly two million dead people on the rolls, roughly three million people registered in more than one state, one in eight records is inaccurate – that's nearly 13 percent of our electorate – that's not okay. But what did we do? We just sort of took the data in and said, wow, that's a mess, huh. I hope somebody fixes that.

So True to Vote is attempting, I believe in a way that's not been done before, to encourage citizens to say, guess what, we are the government. It was always intended that our elections would be run at the most fundamental level by citizens. And voting is not enough. It's not enough to vote and get your "I voted" sticker and then just assume that the rest of the process takes care of itself. There are so many ways for citizens to get involved.

And I have been stunned at some of the responses that we've gotten. You know, I want to make it very, very, very clear that what True to Vote is about is about engaging citizens in a non-partisan way to protect the rights of legitimate voters. How can you be against election integrity? As divided as we are as a country about so many things, can't we at polling places come together and say, you know what, this country needs two parties.

But we also need election integrity. How can we not agree on that? How can we not even discuss that without it becoming so vitriolic? I have great hope because I see people across the country who are saying, you know what? As Christian pointed out, the race card doesn't work anymore. It's not true. There's no there there. Citizens just want to be able to believe in their elections. Citizens want to be able to believe in their government.

But everything else that we discuss as a country, be it immigration or fiscal responsibility or health care, you pick it – all of that presupposes that we got to those discussions by way of a fair and honest vote. If that is undermined, there's very little way to reel back.

And when you have the condition that we do in our country where we have about half the number of election workers that we really need and we have questionable accuracy in our roles, and we have a current Department of Justice who seems to attack states that try to clean the rolls, at some point, citizens have to say, not on our watch. Enough is enough.

And that's what True to Vote is trying to do is just find ways that citizens can serve in the existing roles and serve. It's a pretty simple concept. Stunning that it's gotten some of the reactions that it has.

I want to leave time for questions so I will close with this. We are so much more alike than we are different. In this election season, knowing what is at stake, knowing how divided we are on so many issues, can we not just on November 6<sup>th</sup> say, it's important that we all vote, it's important that we participate so that our voices are heard so that we can collectively decide the direction of our country? I think that's a pretty simple request.

I hope that everyone in here on November 6<sup>th</sup> is working in some capacity inside of the poll because there's a need for it. And True to Vote will stand by to help train you, to help equip you, and you will be a part of a mass amount of people who have for the first time in most of their lives said, I'm going to get involved. I'm going to get involved because fundamentally, this is the cornerstone of everything that we are as a Republican. Without it, our very identity is at stake. And we're going to carry on.

So that's True to Vote. That's what it's about. I know there are many people in this room who have very different opinions, and that's unfortunate, but I appreciate the opportunity to be here.

MR. FITTON: I thank you, Catherine. Excellent presentations all. You know, it occurs to me the significant point is that you would think based on the discussions that voter ID is a controversial law or a controversial notion, but the fact remains come November, over 30 states, if you show up at the polls, there will be some type of voter ID requirement.

And so it's just not – my perception is the left has ceded the ground to us and it's just a matter of what type of IDs will be required, what you need to get in order to get a voter ID and the security of the voter ID, not so much the concept. So that battle has been won. That war has been won in many respects. And the South Carolina decision today I thought was – I think should put to bed any of this racial – any of these fraudulent racial allegations.

You know, and secondly, concerning the partisanship of this, we've sued in Indiana and Ohio. And who are the officials that we sued? Republican office holders who have refused to clean up the rolls. You know, they've been warned – we warned everyone. They know what the problem is if you ask them. They know exactly. They just simply refused to clean up the rolls.

And, you know, a fun story, or a sad story out of Indiana, the previous secretary of state was forced to resign, a secretary of state charged with enforcing election integrity laws in the state of Indiana was forced to resign for what issue? Election fraud. I think he voted from an address he wasn't living at.

The idea that this is a partisan issue is false in the sense that you have Republicans who are hesitant to clean up the rolls. And, you know, we hear in Ohio that there are lots of local officials, Republican, who don't like the idea of cleaning up the rolls because they want to be able to engage in election fraud too, in Florida. In Florida, you have mass resistance by local election officials who initially were asked by the governor in the state to begin researching this issue of non-eligible citizens from voting. You have Republicans refusing to take these folks off the rolls or even answer questions on this. So that's – I should remind everyone to turn off their cell phones, if you haven't already.

So the idea that these are only Democrats that stand in the door on election integrity is false. There are significant Republican office holders in key places like Ohio and Indiana and elsewhere that aren't doing their job as well. And both parties need to be reproached on this issue. And so that's something I would raise.

And I want to get one topic covered that is in the news I don't think we've addressed yet, and it's this debate I guess in Ohio on the issue of early voting. Could you describe, Hans, or I guess, Christian, the debate in Ohio over early voting and what that is about?

MR. SPAKOVSKY: That issue has really been misconstrued by many folks, including the press. What happened in Ohio was that they used to have early voting up until the Monday before the Tuesday election which was, frankly, a nightmare for election officials. And I could tell you that because I'm actually a county election official in Virginia.

And the reason it was a nightmare for election officials was because even though we have a lot of people who early vote these days, the vast majority of people still vote on Election Day. Early voting is up to probably 25, 30 percent in some states, but the vast majority of people still vote on Election Day.

And election officials on the weekend and the Monday before the Tuesday election are trying to get ready to open up thousands of polls, get thousands of workers into those polls and having to run early voting sites with no break. It was very difficult for them.

Also, it was an administrative problem because whenever someone early votes, that fact has to be noted in that person's voter record, and that has to be appended to the voter registration records that are then sent out to be in each polling place so that the person can't double vote. And election officials wanted the early voting period to end so they would have three days before the election.

Now, the Ohio legislature did that, but they made one exception. And the one exception was going to be for members of the military. Now, that is a very small group of individuals, but that was an important exception. And the reason for that exception was that unlike the vast majority of other voters, members of the military have no control over where they may be or the fact they may get an order telling them that within 24 hours they've got to move.

For example, Wright-Patterson Air Force Base in Ohio, they have a big transport wing there. And a pilot might get on a Saturday an order saying that he's going to have to fly a transport mission to Afghanistan and they wanted those individuals to be able to continue the early vote.

The Obama campaign filed a lawsuit claiming that this was a violation of equal protection. Unfortunately, a federal district court agreed with them. A judge with the Sixth Circuit just refused to overturn the injunction that he issued.

And the problem with that argument is very simply. Under federal law, we make – we treat members of the military different than other voters. The whole federal statute on this, the Uniformed Overseas Citizens Voting Act (?), has special provisions in it like the fact that local officials have to send out absentee ballot at least 45 days prior to the election. That rule doesn't apply to other absentee voters. And we treat military voters differently because of the exigencies of military service to which they are subject and other voters are not.

And if it is an equal protection violation, to treat military voters in Ohio differently than all of the other voters who early vote, then that means basically that the validity of the entire federal statute and all of the special exceptions we make for military voters is thrown in question. And that is why I think at least 15 veterans' groups filed in the case on the side of the state, not on the side of the plaintiffs in that action. I'm hoping that this will be appealed at the Supreme Court.

MR. FITTON: I think they did ask for a review. Yes. Go ahead, Christian. Do you have a point?

MR. ADAMS: No. No.

MR. FITTON: Representative Metcalfe, can you talk about – you were presuming a common sense solution for voter ID, but you got quite a reaction. You've been taking leadership roles on illegal immigration. That's actually where we first met. We had worked together on states' efforts to curtail the illegal alien invasion. But you thought this was kind of going to be a straightforward legislative initiative and it strikes me you've been a bit surprised by the vociferous reaction.

REP. METCALFE: I have. As being the number one conservative in the state of Pennsylvania's legislature, I'm also probably the number one controversial legislator in the state of Pennsylvania for pushing issues and doing it in a very aggressive fashion, kind of leading the offense rather than playing defense.

So a lot of the issues that I've been out there on over the years, I've attracted national attention. I've attracted attention across the state, and I've attracted my share of hate mail, if you will, regarding various positions that I've taken, people that oppose me.

But until we addressed the voter ID issue, I've never had so much e-mail and phone calls. The number of communications we've received, and those communications being vile, vulgar, profane, and threatening has been shocking for myself, my family, and my staff to the point that some of my staff at the Capitol were asking if I'm going to have security at some of the hearings that we've held over the years and the hearings that we'll be having in the future.

But I know I've picked up some attention off the *Huffington Post* and off of Chris Matthew's "Hardball." And as a result of those broadcasts of those blogs and the things that have been written, those postings, I've attracted a lot of attention across the country from LA to New York and across the state of Pennsylvania with folks that are so – they're so offensive in their reaction, it's just hard to believe that they would come across in such a vile manner with some of the things that have been written, really very shocking. I've never had to turn this high number of communications over to our legal counsel for follow-up by our security as I have during this voter ID battle.

MR. FITTON: Any other points before we open it up to the floor, Catherine or Christian? Well, we're here to accept questions.

You can – actually, I want to call on our guests, Susan Carleson, who's here, whose organization has been working with Attorney General Ed Meese. Susan, if you can stand and promote your efforts on election integrity as well and describe where people can find out more about you.

SUSAN CARLESON: Thank you, Tom. It's a real honor to be here amongst such illustrious leaders in protecting the integrity of our vote.

The American Civil Rights Union, the ACRU, is I suppose some will call it the conservative counterpoint to the ACLU. We've been operating for 12 years. And, recently, most of the cases that we've been involved in have been against our government, on the other side of the fence instead of the ACLU.

In a particular case, voter fraud, they are on the same side unfortunately, and have been, as you all pointed out, very adamantly opposed to efforts that we've all been taking.

We have been encouraging everyone to become informed about the voting laws in their states to take advantage of early voting if they can. I know that early voting is something that conservatives have generally been opposed to over the years. I personally think it's a good thing that everybody show up on Election Day and cast their vote.

And I think the Motor Voter Act probably opened a trend too far, too liberalized an approach to allowing everyone to vote. We don't want everyone to vote. Everyone doesn't have the right to vote. Citizens have rights to vote.

So I think we've gotten to these mantras about everybody having the right to vote that have led some people to think – to consider the wrong – the approach to this system we have.

So we've created [protectyourvote.us](http://protectyourvote.us). We were involved in drafting the voter ID law that was introduced by Representative Joe Wash last month. Please pardon my voice. I'm getting over an allergy.

MR. FITTON: I didn't tell you that I was going to call on you for forgive me.

MS. CARLESON: So this is the most important election –

MR. FITTON: What's that legislation specifically?

MS. CARLESON: It is the State Voter Integrity Act I think of 2012. I think Election Integrity Act.

MR. FITTON: And what does it purport to do?

MS. CARLESON: It requires a photo ID in all federal elections beginning in 2014. And we're hoping that it's going to get reintroduced in the new Congress and that it will be passed. And I hope that this election will benefit from the work that all of you are doing in raising the importance of this issue.

But one of the things that we are concerned about is the potential for disruptions on Election Day. And we've been encouraging people to vote early where they can, to bank your vote, to make sure that your vote gets counted.

And Catherine has been doing yeoman's work in soliciting hundreds of thousands of volunteers in this country. And we've all got to take it seriously. I mean, this is the fate of our country and it's what separates us from most of the other countries in the world. So thank you for having this panel, Tom, and I appreciate the opportunity to speak.

MR. FITTON: Thank you. So vote early but only once, right? Yes. If you could identify yourself when you call up. The gentleman in the second row.

Q: Hi. I'm Pat Spend (ph). I guess, Mr. Adams, I had a question. I remember a long, long time ago in the election of the fall of '70 voting absentee on a fire base in Vietnam and I don't remember any big deal. I think my parents got a hold of the local register in a little town in upstate New York, and I got a ballot in the mail, and I voted probably in September, October, and mailed it back. And I guess I'm a little confused. Have the rules changed now? Is this some of the – you no longer ask?

MR. ADAMS: Yes. No. The rules have totally changed from what I presume to be about 1970. First of all, you had UOCAVA past in the 1980s, and it set up a federal minimum – well, set up a generalized time that ballots have to go out.

MR. FITTON: What is UOCAVA?

MR. ADAMS: UOCAVA. Hans cited the full name. Thomas put me on the spot – the Uniformed Overseas Citizens Absentee Voting Act. That passed in the 1980s and essentially federalized the issue. So you used to only have a state law issue when you were in Vietnam. Now it's a federal issue. The law changed again in 2009. It's called the MOVE Act. It's a federal law that sets a 45-day mandate on states to get that ballot sent to you. This is the law that states are violating everywhere.

Q: (Off mike.)

MR. ADAMS: Sort of, but there's other provisions. And I'm reluctant to do a CLE lesson on UOCAVA, but one of the – you forced me into it. One of the things it does is set up something called the FWAB, Federal Write-In Absentee Ballot. And UOCAVA establishes the FWAB that allows you to ask for – this is going to get even

more complicated. You can request that ballot but if it doesn't come, you can send the FWAB, and the FWAB is a postcard. Okay.

I guess the short answer to your question is, yes. Everything has changed. And it's been federalized all in the name of helping service members. This is not some scam or scheme to hurt service members. This was an effort to help them.

There's also under MOVE the right to get an absentee ballot by e-mail that was passed in 2009 so there's a lot of new protections in the law that are totally different from your experience in 1970.

MR. SPAKOVSKY: But there's two issues here you all need to know about. The biggest problem that service members have, and this is why the 45-day period was put in, was because of the very long transit times for mails going overseas. Okay?

If you're in a fire base in Afghanistan, the amount of time it takes for you to request and absentee ballot, the absentee ballot to be mailed to you, you to receive it, have time to fill it out, and then mail it back takes a very long time. And there were all kinds of experts, including from the military postal system, who came in and said that 30 days was the absolutely minimum time, and actually it should be at least 45 days. And they did a whole bunch of studies when we had large forces in Iraq showing that the amount of time needed for someone in Iraq to get mail was extremely long.

That's why that 45-day time period is there. And it's essential that local election officials comply with that 45-day deadline because if they don't, the mail is probably going to get overseas too late. And by the time the service member fills it out and sends it back, they will have missed the deadline for the election.

But the second problem is, is that because members of the military move so often, they don't always update their addresses with their home state election officials. And so mail gets sent to the wrong place.

And about a month ago, the inspector general of DOD released a report that got no attention in the press in which they looked at the administration of this law by the Federal Voting Assistance Program Office. This is an office at DOD that's supposed to administer the federal voting rights of overseas military members. And one of the things the MOVE Act said was that every military base has to set up a voting assistance office. So this would be an office that would help service members update their addresses, help them request absentee ballots. And despite the law, DOD had only opened up office on half –

MR. ADAMS: Top priority of the Obama administration.

MR. SPAKOVSKY: – of military bases. And, in fact, even on the offices where they had opened offices, apparently when the IG folks tried to get hold of the people who were supposed to be working in them, they couldn't get a hold of them.

MR. ADAMS: And I might just cap that all off. DOD was given \$75 million to do this, \$75 million in the last two fiscal years and they blew it all and failed.

MR. FITTON: Obviously, it wasn't enough.

MR. ADAMS: Yes.

MR. FITTON: Any other questions? Yes. You have right in front of you. Wait for the microphone please.

Q: Thank you. My name is Carl Leidy (ph). And my question pertains to what happens after the polls close. We've heard a lot about voter identification, but what about the possible suppression of votes or mischief with the counting of votes after the polls have closed? Anybody care to comment on that?

MR. ADAMS: Well, the answer is transparency. And that's exactly why True to Vote is on the field is because you have to have the counting done in open fashion. That's what makes democracy work is transparency. And most state laws envision that and allow for it.

So observers can sit and watch the absentee ballots being opened. It's a dreadful process but necessary. And you can hear them call the name out, and everybody has to be in agreement. So that's the only answer.

Accountability – secretaries of state are elected. If you don't like the secretary of state of Minnesota, Mark Ritchie, vote him out. So we have safeguards like that. Is it perfect? Probably not.

MR. FITTON: Catherine, do you have any detail as to how your volunteers or what your programs are related to that?

MS. ENGELBRECHT: Christian was spot on – wherever ballots are present, observers have – in most states, because every state runs their elections a little bit differently, but in most states, election observers are entitled to be there to witness the counting of those ballots.

During the day inside of polling places, typically procedure would call for constant auditing throughout the day, making sure that the number of people who have signed the registry are in fact the number of votes that have been cast in machines or paper ballots or what have you. That requires enough citizens to make that happen and it requires observers to make sure that the process is being conducted appropriately.

So it all comes down – this is not an easy – none of this is an easy fix. None of this is an easy fix. It comes down to citizens making it a priority to ensure that our elections are kept fair and free.

REP. METCALFE: Tom, if I could jump in. We had a recent study released by one of our commissioners in Philadelphia. There's three commissioners that oversee the Philadelphia election process. And they found – through that study, he found that there were a number of instances where we had foreign nationals voting that shouldn't have been voting, people voting that weren't registered to vote.

But we also had precincts that were registering more than 100 percent vote. So we had one in particular that I recall where there were six votes over the number of people who were registered there.

And we have areas in Philadelphia that people have shared with me that work with our poll watchers and some of our election workers because of the nature of the way the city has developed their precincts. Some of the precincts have been in people's homes. I saw a picture of a precinct where they were actually voting in somebody's shower stall in a home.

So we have some situations where there's poll watchers that won't go into certain precincts because of that. And those precincts raise questions in how do we get that transparency so something more for us to struggle within our own election code in Pennsylvania.

MR. FITTON: Well, there's an awful joke there about clean elections and shower stalls. (Laughter.) Other questions? Yes, sir. Wait for the microphone.

Q: Hi. Dan Fromkin from the *Huffington Post*. Obviously, there's some tensions in this issue. And I'm just wondering – wanted to ask the panel – how do you guys balance, on the one hand, the right of people who don't have ID to vote, and, on the other hand, what you consider the advantages of voter ID. And I'm wondering whether that in any way relates to what percent of people you think lack ID compared to what percent of people you think are committing in-person voter fraud?

MR. ADAMS: Well, the first thing you do is pass a law like Georgia or South Carolina did. South Carolina passed a law that made IDs free. South Carolina passed a law, as we saw in the court opinion yesterday, that allowed a person who had a hardship to execute an affidavit on Election Day saying, I have a hardship. I couldn't get a voter ID. And that person got to cast a ballot. As a matter of fact, the state bore the burden of proving that that affidavit was false, not just inadequate, false. The state couldn't say, we don't like your hardship. The state had to say, your hardship is a lie – very different standard. And they only had 48 hours to do it. Effectively, that affidavit was a key to let everybody vote.

I can't emphasize enough what Hans talked about earlier. This Justice Department's career attorneys recommended that that law be pre-cleared. Your *Huffington Post* probably hasn't asked a single question of this Justice Department whether that story is accurate, because if that story is accurate – I know it is because I've

talked to the sources inside – then they just spent about \$500,000 on a fool’s errand, to fight a law that allows anybody to vote that had a hardship. The way you balance it is you make it free, you make it easy to get, like Georgia did – they’ll drive to your house and give you the voter ID. So you do it that way. And that way everybody gets to vote. And, presumably, the Huffington Post has nothing more to say about it.

MR. SPAKOVSKY: And the other thing about this is, look, there’s a number of statistics instead of guesses, not guesses, which is what you get from the Brennan Center, but statistics on the issue you just brought up of how many people don’t actually already have an ID and need to get a free one.

Georgia – I said, their law has been in place for six years. They keep statistics on the number of people who applied for an ID because they didn’t already have one. The number of people applying to get an ID out of six million registered voters has averaged less than five-100s of 1 percent a year, just a tiny number. That’s in accord with other surveys at, for example, American University did, which showed a tiny percentage of people don’t already have an ID.

And you made a fundamental mistake in your question. You said: how many cases of impersonation fraud are there? Photo ID doesn’t just protect against impersonation fraud. It also protects against people registering under false addresses. For example, when they use an address where they don’t actually live and then it doesn’t match their driver’s license.

Pennsylvania, where they’ve passed a photo ID law, in fact, the Justice Department prosecuted a very large case like that I think in the 1990s involving individuals who were voting in Philadelphia, even though they didn’t live there. It also can prevent double voting by people registered in more than one state, if you have both states with photo ID laws. And it also can prevent illegal aliens from voting who have a pretty difficult time getting government issued photo ID.

And yet, all of those other instances that this kind of law would deter are constantly not mentioned in any of the stories that are going on like that. And there’s been plenty of cases, for example, on the last one also of prosecutions of people who are in the United States illegally but who have voted, including the Mexican drug dealer I mentioned, who was indicted two weeks ago in California.

MR. FITTON: I’d make this recommendation as a non-lawyer – I’ve got to read the *Huffington Post* more because I guess there’s some good reporting going on there, exciting report.

But I would just look at the court decisions on the voter ID cases in South Carolina and Pennsylvania, and they talk about that balancing task. And they recognize in South Carolina and Pennsylvania that sufficient accommodations have been made to accommodate people who don’t have access to easily get voter ID and such. And that’s one of the reasons that’s being delayed.

So the courts have analyzed it specifically in light of your question and it concluded that the laws that have been passed that allegedly are so strict really aren't that strict at all, and that you can get voter ID quite easily under these laws, and it's not impediment – no unreasonable impediment to voting.

MR. ADAMS: Did you report on what happened to Viviette Applewhite the day after the court decision at the *Huffington Post*? Contrary to her lawyer's wishes, she ran out and got photo ID. The thing that he had been litigating was suppressant. She ran out and got –

Q: (Off mike.)

MR. ADAMS: No, no. The lawyers didn't want her to do it. The lawyers were against her doing this because it mooted their case.

Q: (Off mike.)

REP. METCALFE: She was the lead plaintiff in the case against my law in Pennsylvania and she dropped off as a lead plaintiff because she did get her ID, which proved that her accusations that she couldn't were false, just like it was with many of the others.

And to think that you don't have an associated responsibility with a right is false. Every right has an associated responsibility. In Pennsylvania, when I exercised my right to bear arms – and I don't have a carry permit, I have to show photo ID in order to get my carry permit to carry a firearm.

Now, in Pennsylvania, you have an associated responsibility with your right to vote. You have to show up with photo ID. And a state can't make sure somebody does that. That's a responsibility on the individual.

We've made it as easy as possible. We're going to give a free ID to anybody who needs it. We have an affidavit situation set up in our law also for somebody that's unable to secure the documents they need, even to get that photo ID, they can still sign off on an affidavit and still be able to vote.

So we're not going to keep anybody from voting. I don't think – one person wouldn't have disenfranchised by a law if this was in place this November.

MR. FITTON: One more question over here.

Q: Thanks. This James Sarsonski (ph) from Colorlines.com. Just to go back to a quote from Mr. Adams, you said there's going to be armies of citizens and volunteers at the polls simply standing sentinel over the process. There's going to be a field fighting.

And so a question for Mr. Adams and Ms. Engelbrecht, but also as a Pennsylvanian for Mr. Metcalfe as well, I guess I wonder like do the activities of True to Vote and associated organizations risk intimidation and if not, I guess I wonder what would qualify –

MR. ADAMS: What is intimidating about standing –

Q: If I could just finish my question.

MR. ADAMS: I thought it was. I'm sorry.

Q: I guess what would qualify as illegal intimidation in your statement?

MR. ADAMS: Let me think about that. Let's think – let me. Please. Please. It's a high fastball. Maybe if somebody dressed up in a paramilitary uniform with boots and had a billy club and shouted racial slurs at the polls and blocked the entrance to the polls, that might qualify for intimidation. We can start with that one.

Now, we've learned in the law that that doesn't necessarily qualify as intimidation. Let's look at the example that you're focused on: a 71-year-old grandmother with a clipboard standing in the corner of a polling place writing things down, not saying a word. If your publication wants to try to spin that that's intimidation, good luck.

MR. FITTON: Catherine, do you want to respond?

MS. ENGELBRECHT: Here again Christian got it right on the money. There's provision in the law for citizens to be engaged in the process. In no way should that be seen as a negative.

What is a negative is that we have so many in the media who seem to be obsessed with making this an issue, obsessed with perpetuating a fight that need not be fought over. I go back to my earlier comments. We should be able to agree – 80 percent of our nation or more agree that photo voter identification makes sense. If we would have spent a fraction of the time that we have spent arguing the issue, just getting people identification, we'd be done. Move on down the road.

I guess it's the thrill of the fight. I don't know what motivates this, but it's a disservice to our country. It's a disservice to in any way shape or form make voters believe that if they go to the polls they would have less than a free and fair experience. And that visual is being painted in the media.

MR. FITTON: Thank you, Catherine. We have to wrap it up. I'm sorry, we're at the time.

REP. METCALFE: Related to Pennsylvania –

MR. FITTON: We're done. So just some wrap-up comments and we're done.

REP. METCALFE: As was mentioned with Pennsylvania, we had a situation occurring in Philadelphia with the New Black Panthers and the intimidation that was occurring down in that area. That's certainly intimidation as was mentioned, dressing up in the paramilitary uniforms with clubs and blocking entrances. We've heard a lot about that.

We would have pushed for prosecution in Pennsylvania; it fell outside the statute of limitation, which is another area that we need to change that I'm going to be working out with my colleagues so we could prosecute something like that when the Feds don't pick up on it.

But as far as somebody being a poll watcher, that's been provided for in law. It's something that occurs election cycle after election cycle. And if it intimidates those who are going to commit fraud, then great. I hope that it does intimidate those who are going to perpetrate fraud and the forces of corruption from showing up on Election Day, because the majority of my constituents would want to make sure that the 71-year-old grandmother with her clipboard who's overseeing the process that her being there to hold people accountable, if that would be intimidating, my constituents, the majority would applaud that.

MR. FITTON: Any last comment, Hans, before we wrap up?

MR. SPAKOVSKY: Well, the one thing I want to just say on the voter ID issue is I hear lots of opponents say this is a fundamental constitutional right. You shouldn't have to show an ID to do that.

Well, that's an interesting claim given that if you want to exercise, for example, your Second Amendment right to purchase a gun, you're going to need a government-issued photo ID. And I found it particularly ironic – I talk about Pennsylvania.

At the very same time that the mayor of Philadelphia was talking about how terrible this new photo ID law was and how it interfered with this fundamental right, if you go to the website of the city of Philadelphia, you'll find something very interesting there.

Most of you may know that the United States Supreme Court has said that the right to marry is a fundamental civil right. They said that in the *Loving vs. Virginia* opinion back in the 1960s when they threw out Virginia's ban on inter-racial marriages. However, if you want to apply for a marriage license in the city of Philadelphia, you have to show a government-issued photo ID plus a second document that is evidence of your age.

Now, I don't quite see how you reconcile those two attitudes by the mayor of Philadelphia. I haven't heard a lot of cases about marriage fraud in Philadelphia, although there's been case after case of voter fraud in Philadelphia.

And there are so many other issues like this, where if you want to exercise a constitutional right, you have to have a government-issued photo ID. And I don't hear anyone saying that that's a re-imposition of Jim Crow, because that is historically preposterous.

MR. FITTON: Thank you. I appreciate the contribution of our all our panelists here. Excellent presentations and vigorous discussions after the fact, obviously.

This issue isn't going away. Our litigation was filed prior to the election and will continue after the election. Things can be done up until the day of election, by the way, to remove dead people from the rolls and other ineligible voters. So the obligation is, and I would encourage people listening over the Internet to ask their local election officials what they're doing now to clean up election rolls. And it can be done until the day of the election.

And certainly this discussion will continue after the election as these voter ID laws continue to be passed in state after state. And maybe the federal government will preempt it all, as we're hearing from Susan, and get a federal requirement for a federal photo ID of some type to vote in the federal election. So we'll see what happens. But these are the folks you want to be paying attention to to see where we are in the cutting edge.

So we appreciate your time. And we're all available on the Internet, virtually all the groups: Hans is at Heritage, Daryl Metcalfe at the Pennsylvania State Legislature's website, True to Vote for Catherine, and Election Law Center for Christian. So thank you very much for joining us. I appreciate it. (Applause.)

(END)