

Preliminary Report on Voter ID in the Indianapolis Elections
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Introduction

CDEM is examining the Nov. 7, 2006 midterm elections in Indiana to assess the Election Day impact of tighter voter ID laws. While four states entered the election cycle with photo ID laws in their statutes (Arizona, Georgia, Missouri and Indiana), federal courts barred the enforcement of the laws in Georgia and Missouri. Arizona's new law allowed two non-photograph forms of ID to substitute for a photo ID, but there were questions as to whether that would be enforced. On October 20, the U.S. Supreme Court overturned a lower court ruling to allow the state to enforce its new law. Indiana was thus the only state in the country to require a single uniform photo ID, and to train poll workers and educate voters without the confusion caused by court intervention.

Indiana Secretary of State Todd Rokita did not reply to a request from CDEM for assistance in obtaining credentials, nor did his office reply to a follow-up query. St. Joseph County, site of a highly competitive Congressional race and a particularly heterogeneous electorate, denied a telephone request for credentials. On Nov. 1, the Clerk of Court's office in Indianapolis (Marion County), granted our request for a watcher's credential, which allowed unimpeded access to the voting process. Indianapolis had the additional benefit of having a large African-American population in its inner city; African-Americans have been suggested by opponents of ID laws to lack photo IDs at a higher rate than whites.

On Election Day, I visited eight polling sites in three different parts of Marion County. In the morning, I visited four polling places in the predominantly African-American Center Township in downtown Indianapolis. In the afternoon, I visited two suburban polling sites on the west side of the city, where I hoped to find a concentration of Hispanic voters, and in the late afternoon I drove north to visit two polling places in a more affluent northern part of the county. In the final polling place, I stayed to watch the precinct close.

My direct observation was supplemented by interviews with precinct inspectors and other poll workers during Election Day, and with party officials and civic organization representatives before, during and after the election. In addition, we plan to analyze the quantitative data from the election, including information about provisional ballots and challenged voters, when that data becomes available from the Marion County Clerk's Office.

Preliminary Findings

My preliminary findings are grouped into two categories: those related to the enforcement of the ID law and those regarding the election process more generally.

A-1. Direct observation and interviews with poll workers indicate that voters were aware of the new law and brought the required ID to the polling place.

A-2. Poll workers appeared to be generally well versed in the required procedures related to the administration of the law.

A-3. This public awareness appeared to be the result of an extensive, bipartisan public-education campaign, in which the recommendations of the Commission on Federal Election Reform played a significant role.

A-4. Some poll workers did not know that the address on the photo ID card was not relevant to the voting process, and some poll workers questioned voters' residency based on often-outdated addresses, contrary to state law.

A-5. The fears of some opponents of the law that there would be widespread confusion because of the ID law or that large numbers of voters would be turned away at the polls because they did not have IDs were not born out. While we do not know and may never know if eligible citizens chose not to go to the polling stations because they did not have photo IDs, observations of polling stations and inquiries of election officials and citizens did not find evidence of citizens being prevented from voting because they did not have photo IDs.

A-6. Further research would be useful in determining levels of voter participation. Additional surveys might also help to determine whether there was a problem.

More generally, Election Day in Marion County went smoothly with the following exceptions:

B-1. The initial use of the iVotronic touch screen voting machines resulted in confusion at the opening and closing of the polls. In particular, a programming error jeopardized the counting of votes cast on them because the machines could not be properly closed out at the end of the day.

B-2. Partisan control of staffing remains a potential source of conflict in the polling places.

B-3. Redundant staffing in polling places strains the ability of political parties and the county to recruit and adequately train Marion County's poll workers. Resources that could be spent on training are now used in recruiting. By lowering the number of poll workers required by law, the county could develop a smaller but better-trained and more reliable cadre of poll workers.

B-4. Having no single person in charge of the polling place (rather than the individual precincts) leads to unnecessary disorder.

Background on Indiana's voter ID law

The Indiana photo ID law was passed as Senate Enrolled Act 483 in 2005, along partisan lines and over Democratic opposition. One of the measure's most vocal proponents was the Republican Secretary of State, Todd Rokita.

Unlike similar measures in Missouri and Georgia, the law has thus far survived court challenges. It was upheld by a federal judge in April 2006, and is currently on appeal to the 7th Circuit Court of Appeals. The Court of Appeals heard arguments in October, but deferred a ruling until after the election. The case is *Indiana Democratic Party v. Rokita*. The law has not been challenged in state court.

Previous to the passage of SEA 483, voters in Indiana were not required to present any identification before voting.

The new Indiana law requires that voters provide a government-issued photo ID before casting a ballot. The ID must:

- a. display the voter's photograph;
- b. contain a name which conforms with the name on the voter registration list.
- c. contain an expiration date and be either current, or have expired since the last general election (in this case, Nov. 2, 2004). Military IDs having an "INDEF" expiration date are accepted.
- d. be issued by the state of Indiana or the federal government.

If a voter does not have or is unwilling to present an ID, the law requires that a member of the precinct election board challenge the voter. If challenged, the voter is instructed to sign an affidavit attesting to their right to vote in the precinct, and then allowed to cast a provisional ballot. The voter has 10 days after the election to provide ID or claim one of the available exemptions from the County Election Board. The exemptions cover those who declare themselves indigent; those with a religious objection to being photographed; and voters living in state-licensed facilities which also house the voter's polling place.

An election board's rejection of a provisional ballot can be appealed by the voter to state court.

Residents who do not have a valid photo ID can obtain an Indiana photo ID card free of charge at Bureau of Motor Vehicles branches. The BMV had extended hours on Election Day, and was open from 6 a.m. to 6 p.m.

To obtain a photo ID card, one must provide at least one of the following "primary documents," which must verify identity, date of birth, and citizenship:

- a. birth certificate or Certification of Report of Birth;
- b. U.S. Certificate of Naturalization/Citizenship
- c. U.S. Passport
- d. U.S. military ID or Veteran's Universal ID with photograph

A secondary form of identification, or another primary form, is also required, as well as proof of Indiana residency, containing address.

Public awareness campaign

The Secretary of State's office started its educational campaign on the new ID law in July 2005, nearly a year before its first statewide application in the May 2006 primary. In October 2005, the Secretary of State's office assembled a bipartisan task force to formulate a plan for educating Indiana voters on the new ID requirement. The plan involved the distribution of printed materials, both during the campaign and on Election Day; television and radio public service announcements; an Internet website; outdoor advertising; and outreach to community organizations and the media.

In particular, the task force recognized that certain groups were more likely to lack an ID. These groups would need particular attention, and include the elderly; the indigent; first-time voters; voters with disabilities; and re-enfranchised ex-felons. Interestingly, while the task force report does not specifically identify racial and ethnic minorities as an at-risk group, it included in a list of "events where such communication was appropriate" such events as Black Expo and Fiesta Indianapolis.

Money for the public awareness campaign came from Help America Vote Act funds.

Several Democrats interviewed through the course of Election Day reported having participated in workshops and other activities designed to raise awareness of the law and increase compliance. It appears that even opponents of the law saw the need to cooperate in the publicity campaign and the benefits to their own self-interests.

The Commission on Federal Election Reform played a role in this process. The Sycamore Institute, whose honorary co-chair Lee Hamilton served on the commission, organized a bipartisan panel in December 2005 called "Making Hoosier Votes Count." The forum at Franklin College was taped for later broadcast on public television, and discussed both the Indiana ID law and the Commission's recommendations. Les Miller, a Democratic activist who participated in the Sycamore Institute efforts, cited the Commission's report as a factor in mobilizing Democratic efforts to educate their voters on the new requirements.

Observation results on voter ID

Polls opened at 6 a.m., in a light rain that persisted much of the day. While the polling place I visited at 6 a.m. was open on time, many polling places were not able to get their voting machines operating by the deadline. The most frequent culprit was a delay caused by setting up the new touch screen machines. In such cases, voters were able to vote on a regular optical scan ballot, which were placed in a special bin in the voting machine. When the scanners became operational, inspectors and judges ran the ballots through. The one disadvantage was that voters lost the ability to have the scanners check for under- and over-votes, although inspectors reported that no ballots cast in such a manner were refused by the scanner.

Over the course of the day I witnessed several hundred voters come into the polling places, present their IDs and cast their ballots, and interviewed at least one precinct inspector in each polling place. Across the county, voters cast 203,737 ballots in 914

precincts, with a turnout rate of 33.2% of registered voters. The county was slightly more Democratic than Republican, with Democrats winning all three contested statewide races in the county and Democratic straight-ticket voters outnumbering Republican ones.

There were some reports leading up to the election that suggested the new ID law could cause problems on Election Day. The *Washington Post*, four days before the election, ran a front page story the headline “Democrats Predict Voter ID Problems; Laws May Create Election Day Turmoil.” The story detailed the attempt by Indianapolis Congresswoman Julia Carson to vote for herself during the May primary with her Congressional ID card, which lacked the required expiration date.

I saw no voters who did not produce an acceptable ID, and although I asked poll workers in each polling site, I received no reports of voters coming to the polling place without acceptable ID. Inspectors did not report confusion regarding what was acceptable ID under state law. Nearly all voters used an Indiana drivers license or photo ID card, although a few used their passports or military ID. Only one inspector reported any discussion with a voter about what constituted an acceptable ID, with a military veteran who on principle wanted to use his Veterans Administration ID, which lacked an expiration date. The man eventually supplied a drivers license.

The ID requirement did not appear to produce delays at the check-in tables. In fact, photo IDs may have facilitated matching the names of voters with the names on the registration list. I witnessed no problems in administering the state law’s requirement that the name on the ID card “conform” (but not match) the name in the registration list.

No provisional ballots were cast because of failure to have an ID in the polling places I visited, although the county’s post-election report should provide definitive information on this when it is released in a few weeks. It should be noted that both poll workers and visiting party poll watchers appeared to be skeptical of offering provisional ballots, citing what they said was the low likelihood of voters without ID making the trip to the county Election Board after the election to provide their ID. Provisional ballots do not appear to have been used widely in Indiana in 2004: a report by electionline.org found that only 4,029 provisional ballots were used in 2004, one of the lowest rates in the country. This may in part be because Indiana is one of those states which require that votes be cast in the correct precinct to count, and not simply in the correct jurisdiction.

One problem that did surface with enforcement of the ID law regarded the use (or misuse) of the address on the ID card. Not all poll workers appeared to be familiar with the proper procedures to follow when a voter’s ID card showed a different address from the one in the registration list. While I saw no voters turned away, some precinct inspectors sought to have voters fill out change-of-address forms or otherwise questioned the discrepancy. This is a potential source of trouble and suggests that better training is needed, although materials distributed by the state make it clear that under the new ID law, the address on the ID card is not relevant to the voting process.

The application of the law at Trinity Episcopal Church (precincts 4-7 and 4-8) was emblematic of the potential problems caused by the address question, as well as the partisan nature of the precinct inspectors. I was referred to this polling place by the local

councilwoman, who described it as a site where precinct inspectors from outside the community were “sticklers about the rules” and sometimes found themselves in conflict with voters. When a voter approached the check-in table with an ID card with a different address from the registration list, the precinct inspector initially thought he needed to fill out a change of address form, although the voter said her address in the registration list was correct and she had simply not obtained a new Indiana drivers license since moving a year and a half before. Eventually, the precinct inspector from the other precinct suggested that in fact her incorrect address did not matter, and the woman was allowed to vote without further delay.

Perhaps because it was controversial, voters and poll workers alike appeared to have a great deal of awareness of the new law. People generally approached the check-in tables with ID in hand, and in general poll workers showed great care in enforcing the law. Interviews with Democratic officials indicate that the party, even while generally opposed to the new requirement, made an effort to educate their voters about the law and encouraged those without ID to obtain it. In addition, the fact that Indiana’s law was not enjoined helped avoid confusion, as did the relatively long lead time from the passage of the bill to the general election.

Interviews with poll watchers and inspection of the state’s education materials showed a concern that voters without ID might be allowed to sign in prematurely. Signing in without an ID would negate a voter’s opportunity to leave the polling place to retrieve his or her ID. In fact, it appeared the poll workers in each of the polling places I visited were careful to ensure that IDs were checked before voters signed in. This highlights the care that must be taken when implementing ID requirements in the polling place.

Aside from the question of incorrect addresses, I did not notice inconsistency between polling places in the application of the law.

Other observations

Each of the polling places I visited contained more than one precinct (precincts in this case referring to territory or neighborhood, and polling place or site referring to the actual building where voting takes place). Precincts are staffed by an inspector, appointed by the political party which holds the secretary of state’s office (currently the Republicans), and a precinct judge from each party. These three people form the precinct election board and are responsible for the operation of the precinct. There are also precinct clerks in many precincts to assist in processing voters. Polling places have a single check-in table, although in practice these were not always operating, and voters were directed to the individual precinct tables.

Each precinct had its own set of poll workers, with the exception of one polling place I visited in which one inspector was covering for two precincts. This duplication was one source of the shortage of poll workers faced by the county, which scrambled to the last minute to find enough people to staff the polls. The clerk of court reported that the addition of new touchscreen machines also made some longtime poll workers reluctant to serve. When the Marion County Republican Party was unable to recruit enough precinct inspectors, they asked the Democrats to appoint some inspectors.

The presence of two or more precincts in a single polling place, with different scanners for each precinct, requires careful planning of the voting space. At the Children's Museum polling place, for example, six precincts shared a large room. While the room was well suited for the function, it would have been easy for a voter to scan their votes into the wrong scanner.

Having two or more precinct inspectors in a single polling place had both positive and negative elements. Inspectors could check each other's understanding and application of procedures, and work together to solve problems. On the other hand, it meant that no one official was charged with running the polling place, with the result that some of the polling places were relaxed to the point of being somewhat disorderly. In particular, in many polling places there was no effective way to control people coming and going from the room.

In practice, polling places in Marion County are accessible. Several inspectors told me that they would have been happy to allow me in even without the credential. No attempts were made to limit my movements in the polling place or my access to poll workers for interviews. The cooperation of the Clerk of Court's office in agreeing to our request for credentials should be commended.

While I visited two polling places where Census data reported the highest concentrations of Hispanics, I did not see many Hispanic voters in these precincts, nor did Spanish surnames appear to be common in the registration lists. Further research is needed, but it appears that Hispanics in these areas were not likely to be citizens.

The fact that the precinct inspectors are appointed by a political party remains troubling and a source of concern in assuring fair and equal application of the ID law. Indiana would be better served by having the Clerk of Court's office hire inspectors on a nonpartisan basis, and by requiring them to perform their duties in a nonpartisan fashion. Particularly in minority precincts, having a precinct inspector appointed by a political party from outside the neighborhood increases the chances of misunderstandings on Election Day. Should one party choose to use their precinct inspectors irresponsibly, for instance to be more aggressive in challenging voters, there would be little remedy on Election Day.

While a logging system for inspectors to report problems was in place, few inspectors were keeping it. The log required inspectors to total votes cast and voters signed-in on an hourly basis, and most of the inspectors I spoke with considered it a waste of their poll workers' time to pull them away from their duties to count votes. A publicly-available log book would be a better way to capture evidence of election problems.

Precinct closing

Marion County appeared to have a creditable system in place for reconciling votes and ballots at the precinct level. However, on this particular Election Day this system was undercut by problems in closing out the new iVotronic touchscreen machines.

I watched the polls close at the Traders Point Christian Church in the Pike Township, which housed two separate polling sites. I was mainly in the gymnasium, where

Pike 2, 59 and 60 voted. The precinct inspector, Fred Roetter, graciously allowed me to follow him and his poll workers through the closing procedure.

When polls closed at 6 p.m., poll workers counted the regular ballots cast, added the numbers of spoiled or provisional ballots and the number of ballots not used, and compared the result to the number of ballots delivered.

However, this reconciliation system was undermined by an apparent programming error on the iVotronic touchscreen machines. This error prevented the machines from going into the proper closing mode at 6 p.m. Poll workers were supposed to take an activator, download votes from the iVotronic, then download the votes from the precinct scanner, which would print the tape with the precinct voting results. The activator, tapes and other polling place materials would be taken by one Democrat and one Republican to a regional reporting center.

In the event, Roetter was not able to get the misprogrammed machine to switch to the closing mode. The “help line” was immediately overwhelmed with calls, leading to long delays in getting information. Roetter was eventually told to manually remove the flash data card from the back of the machine without going through the closing process. It is not known whether this resulted in the loss of the two votes cast on the machine. In addition, news reports indicate that some of the data cards from the machines were missing. This will need follow up to discover whether the bungled programming resulted in any lost votes.

Caveats

The conclusions on the impact of the voter ID law reached here are applicable only to the voting process on Election Day. It should not be used to make inferences about the number of people who lack ID, or about the impact on turnout of the ID law. We have no way of knowing how many people, if any, did not show up to vote because of a lack of ID.

Turnout for the midterm election was moderate at 33.2%. Greater stress on the system will be produced by the 2008 presidential election: in 2004, turnout was 53.7%, with more than 323,000 ballots cast. This higher turnout can also be expected to draw to the polls more marginal voters, including those who are less likely to be aware of election regulations, and those with problematic voter registrations and those who may be more likely to lack ID. It will be important for Marion County to be prepared in 2008 for an electorate that will be more difficult to process at the polling place than the 2006 voters.

A proper empirical analysis of the county’s data on provisional ballots and challenged voters, along with an analysis of complaints from Marion County to voter protection hotlines, will give us a much better understanding of the scope of problems.

Conclusions

With proper voter education, photo ID requirements will probably not result in significant disruption to the voting process on Election Day, if the experience of Marion County is any indication. Voters without the required ID, whatever their numbers, do not appear to have come to the polls, and there is little evidence that voters lacking ID caused delays or voted provisionally, two outcomes that would slow voting. On a cautionary note, however, the 2008 election, with an anticipated higher turnout, will be a better gauge of the

impact of voter ID in the polls, since more first-time voters and voters on the margins of the electoral process may come to vote. The overall stress and scrutiny on the election system will be higher.

Our observation of the polling in Marion County indicates that a photo ID requirement creates potential for auxiliary problems for poll workers, including confusion over how to deal with out-of-date addresses on the ID cards. This should be addressed by highlighting such potential problems in poll worker training. Legislators considering new ID laws in other states would be well served to consider unintended consequences for election administration when drafting their legislation.

Indianapolis on Nov. 7 executed a largely successful election event. However, it remains saddled with a partisan and largely antiquated system for staffing its polling places, and did not adequately prepare for the implementation of new touchscreen voting machines. The current system leaves too much discretion in the hands of partisan precinct inspectors, requires the county to recruit and train more poll workers than necessary, and strains the ability of the county to adequately train them. This final weakness contributed to the inability of poll workers to successfully integrate the new iVotronic machines into the opening and closing of the polling sites.