

**Snapshot of November 2006 Election Day Problems
and Recommendations for Reform**
by the
American Civil Liberties Union and League of Women Voters
June 2007

Overview

The American Civil Liberties Union of New Jersey and the League of Women Voters of New Jersey organized the nonpartisan 2006 Voter Protection Hotline Project (VP06) to provide immediate assistance to voters encountering problems during the 2006 General Election. Coordinating with the Lawyers' Committee for Civil Rights Under Law's New Jersey team, our VP06 responded to 220 voter calls and concerns, provided legal assistance at several county court houses on Election Day, and provided voting rights information outside some polling locations on November 7.

The ACLU-NJ has collaborated on election protection efforts with other voting advocacy organizations in past years in response to frustrations and concerns expressed by New Jersey voters trying to exercise their fundamental rights. Having received numerous complaints of voting rights violations, implementation of an election monitoring system became an urgent necessity, particularly given that the state neither maintains public records of voter-related complaints nor provides post-election analysis identifying ongoing problems with election administration. In addition, substantial issues remain over the state's implementation of the federal Help America Vote Act and over the security and accuracy of new voting machine technology.

It is important to note that this report provides only a snapshot of elections and voting problems, in part because of its focus on the November 7, 2006 election, as well as our having limited access to voters leaving the polls. We have identified two central problems with respect to election administration in New Jersey: inadequate access to voters by nonpartisan monitors and inefficient voter registration procedures by the different counties.

Lack of access to voters by nonpartisan election monitors, created by an overly restrictive interpretation of the electioneering prohibition statute by the state Attorney General, has presented us with large gaps in data-gathering. We must stress that in each case where we did deploy poll monitors we observed problems with respect to election administration at the polls. Our results also indicate potential problems with county voter registration procedures, negatively impacting the voting experience of New Jersey citizens. Over one-third of the problems people encountered on November 7 could be traced back to voter registration.

Our efforts uncovered other ongoing problems with elections and voting, many of which were previously raised in our 2004 and 2005 election protection reports. This report includes a summary and analysis of the complaints we received during the November 2006 election, including curative steps election officials should take to resolve some of the most egregious problems, including narrative descriptions illustrating the type of problems citizens typically experience when facing bureaucratic resistance to voting rights, and a series of recommendations intended to guide the State of New Jersey's efforts to improve our election administration.

Analysis of Voter Protection 2006 Complaints

VP06 collected more than 220 voter problem incidents and queries in the run-up to and on November 7, from calls to the LWVNJ VOTELine, the ACLU-NJ intake line, the national Election Protection (EP) Project, monitors at polling sites in Camden, Essex, Middlesex, Passaic and Union counties, and volunteer lawyers stationed at county court houses on November 7. We also examined anecdotes from the online blogs BlueJersey.net and Baristanet.com as part of our effort to capture Election Day 2006 voting problems. We documented problems ranging from people being barred from voting, voters denied paper ballots, and misinformed and hostile poll workers, to a lack of voter notification by county election officials, voting machine malfunctions and failures, and voter intimidation.

We have summarized the problems that VP06 staff documented or encountered and grouped them under nine main categories of voting concerns and indicated how many complaints of that type we received. Some voters experienced more than one voting problem and some incidents affected more than one voter, particularly with respect to machine malfunctions. Where applicable, we have included the corrective measures the state or local election authority should take to rectify the type of voting problem in the following analysis.

1. Not allowed to vote (+37)

This section looks at those people who showed up at the polls but did not vote. Many were unable to vote at the polls when machine failure was compounded by failure of workers to provide paper ballots. We received calls from eight people whose names were missing from the rolls but who had previously voted at that specific polling site. More troubling, they were not provided provisional ballots, which is contrary to state policy.

Voting Problem: Machines down, no paper ballots

Our intake hotline received reports that at least 60 citizens were unable to vote on downed machines in the early morning hours and were sent away by poll workers without an option to cast paper ballots. The situation was most severe in Essex and Camden counties, where poll workers unable to activate the new machines sent voters away without offering paper ballots in the early morning hours. Our monitor at the Fairfield School polling place in Bloomfield estimates that at least 25 people were turned away before she was able to persuade poll workers to distribute emergency ballots.

We received an unusual report from a Plainfield polling location that a machine had become inoperable due to some action by a voter. Our poll monitor reported that a voter leaving a machine hit something on the outside of the booth that caused it to stop working. The monitor was unable to get an understanding from the poll worker of how such a voter action could cause the machine to malfunction.

Suggested corrective measures:

State and Essex County election officials should interview poll workers at those polling sites that failed to provide emergency ballots to voters to determine reasons for the failure and take

corrective measures to ensure poll workers facing machine failures in the future properly provide emergency ballots.

Voting Problem: Election office voter assistance hotlines nonresponsive

VP06 began receiving calls by 6:15 a.m. However, both our hotline and the national Election Protection volunteers were unable to reach state and local election officials due to busy signals and, more troubling, only recorded messages. The state's hotline phone wasn't staffed until 9 a.m., three hours into the election. We were unable to help at least nine of our callers vote on November 7 because we couldn't get a response in time from local officials.

This was a particular problem in Hudson County because county election officials refused to take calls from anyone other than voters actually at the polling locations. State law requires assistance be provided to voters when requested. Good practices indicate that all incoming voting problems be addressed by election officials, whether the reporter is the affected voter or another witness, particularly in light of the need to reasonably capture as many voting problems as possible.

Voting Problem: Access of institutionalized voters to ballots

VP06 received two calls concerning institutionalized voters' access absentee ballots, one from a nursing home and one from advocates for incarcerated individuals. Although in New Jersey people cannot vote while serving a criminal sentence, many people held in jails are pre-trial detainees who have not been convicted of a crime and, therefore, have the right to vote. Volunteers trying to provide voting forms to Essex County inmates eligible to vote were stalled by a week-long lockdown. At least three federal laws explicitly mandate states to provide adequate outreach and education to its residents concerning their voting rights and elections administration. While there has been some improvement in public outreach efforts in New Jersey, oversight of incarcerated voters' rights has been nonexistent until recently.

Note that one impediment to institutional ballot access procedures that rely on absentee ballots is the statutory requirement that the facility messenger be a registered voter in the same county as their charges. This resulted in the loss of one prisoner's vote in 2005 and the inability of a social worker to assist her clients at a Monmouth facility this year.

Suggested corrective measures:

The chief election officer of the state (the attorney general) should require all facilities with institutionalized voters to implement an absentee-ballot access system, and report annually on the number of incarcerated voters registered by the facility and the number of absentee ballots requested during each election.

State election officials should send necessary forms and procedures for incarcerated voting to all state institutions well before the registration and absentee ballot deadlines of each election.

2. Lack of language assistance: interpreters and translated voting materials (1)

We received one particularly troubling report from an ACLU monitor at the Passaic High School polling site in Passaic City, concerning an Asian American man who was not allowed to escort his wife into the booth, despite her preference. The couple left without voting; the man refused to file a complaint because of fear that he and his wife would be targeted by officials afterwards.

Additionally, we documented hostile poll worker attitudes at this particular poll that gave credence to the man's concern. One poll worker lied about her name to VPO6 when asked. One worker told our poll monitor with respect to another voter, that she "knew where [name of the voter] lived" and would call the police next time.

Suggested corrective measures:

Passaic County election officials should investigate the incident and address the performance of those poll workers at the Passaic High School site. Appropriate action should be taken against the poll worker(s) if warranted by the investigation findings.

3. Poll Worker Attitudes and Training (9)

Once we include the numerous problems voters experienced with dispensation of paper ballots and machine operation in Essex, Camden and Passaic Counties, the true number of problems related to poll worker job performance is much higher than the nine complaints captured in our database. Poll worker performance cost at least three voters at Passaic High School their vote (*see passage above*). The true extent of the problem needs to be documented. While the state mandates that poll workers provide voters with a complaint form given, none of the observed poll workers offered the voters the forms. Poll worker training problems have been captured by direct monitor presence at the polls in 2005 as well. Unfortunately, voters typically are unaware of their voting rights at the polling location and will tend to accept rather than challenge poll worker actions.

Voting Problem: Poll worker job performance and conduct

As reported above, the head poll worker at Passaic High School was hostile and confrontational toward at least three voters, prompting those individuals to leave without voting. In addition to the incident described above in section 2, she lied about her name when VP06 called to assess the situation. Poll workers are required to provide their names and badges; this individual threatened to call the police on one voter, referring to one elderly voter, "I know where she lives." The elderly woman's name was missing from the voter rolls, and although the poll worker knew the woman, she refused to assist her and only provided a provisional ballot after our intervention.

Similar poll worker attitudes were noted in separate incidents in Union and Hudson County, as indicated in the attached database.

Suggested corrective measures:

County election officials in Passaic, Union and Hudson should investigate the complaints we documented and the performance of those poll workers at the Passaic High School site. The poll worker(s) performance should be reviewed and appropriate action taken by election officials.

Voting Problem: Improper use of paper ballots

It became clear by 8 a.m., based on incoming calls, that many precincts in Essex and Camden counties were experiencing numerous machine failures. We received 29 calls concerning machines not functioning at all. Poll workers in at least four precincts in Montclair [Northeast School and Hillside Grammar School polling places] and in Bloomfield [Cedar Avenue and

Fairview polling places] could not turn on the new electronic machines at the beginning of Election Day.

Unfortunately, the situation became exacerbated by the failure of poll workers at several of the Essex sites to provide the required emergency ballots to voters. Instead, poll workers at Fairview and other sites told voters to come back later to vote. The VP06 poll monitor observed this situation at Fairview and went inside the polling site to tell the workers they must distribute emergency ballots. She estimates about 25 voters were turned away before the poll workers followed her instructions.

Monitors also observed poll workers who, when dealing with a would-be voter whose name is not on the roll, did not provide the citizen with a provisional ballot. In addition, more commonly, poll workers didn't provide the required notice to voters using provisional ballots about the provisional ballot process. When able, monitors sent these voters back into the site to obtain the description of the provisional ballot process.

We again observed that many voters mistakenly believe they have actually voted when they cast a provisional ballot. We notified state and local officials about this problem in past election monitoring reports, including the report submitted by Election Protection 2005 to the state Office of Attorney General in March of 2006.

Suggested corrective measures:

State and county election officials should determine why poll workers at the polls we received complaints about did not use the emergency and provisional ballot procedures as required. The poll workers should be re-trained as necessary.

County election officials should mail the appropriate provisional ballot information to those voters required to vote provisionally in the November elections to ensure that these voters understand the implications of voting provisionally.

Voting Problem: Improper, unreasonable demands for voter ID

Most of the complaints reported to or directly witnessed by VP06 onsite monitors involved improper ID and voter challenges by poll workers in Hudson County (four out of six complaints). Poll workers improperly demanded identification from voters at Wallace School in Hoboken, Grace Church in Jersey City, and Mayfair Theatre in West New York.

One voter at the Mayfair Theatre site, despite voting there in 2004, was still required to vote provisionally. The poll worker refused to accept the woman's driver's license, demanding a utility bill instead. The voter hurried home to get a bill and vote before she had to report to work. When we reported this to the Hudson County Board of Elections, a staff member confirmed that the Hudson County voter rolls contained many names marked as "challenge," indicating that official correspondence from county election offices to these citizens had been returned and that these voters could show any of the approved identification.

We documented at least two incidents of inappropriate voter ID requirements associated with the new provisional ballots. The state has correctly implemented a new procedure where the provisional ballot acts as a voter registration form in the event that the name isn't on the county database. Unfortunately, this has created a problem where citizens trying to vote provisionally

have been asked for their Social Security number. The Asian American Legal Defense and Education Fund (AALDEF) documented numerous ID complaints at Lindbergh School in Palisades Park, where voters with Asian American names were illegally asked for identification. AALDEF also reported problems with poll worker attitudes towards this group of voters at Grace Church.

Suggested corrective measures:

County election officials should re-train those poll workers at the polls indicated in our database on the ID requirements for provisional ballots. These instructions should include specific guidelines covering ID requirements, provisional ballots and provisional ballots to be used as voter registration forms.

Voting Problem: Lack of poll worker action on voter concerns over machine candidate selections

Several voters reported electronic machine problems to poll workers when they had difficulty in capturing their candidate of choice; the light would turn off before the final vote was cast. Not only did these voters receive no assistance from their poll workers, but the poll workers failed to report the problem to their supervisors. Poll workers are required to assist voters with voting problems at the polls.

A challenger in a Camden precinct noticed that the voting machine wasn't producing an audible hum for all voters as they cast their ballots, and asked the head poll worker to confirm that ballots were being cast by comparing voter receipts with the machine count. Despite the requirement that this check be done several times during the day, the poll worker refused to check the counts or to assist voters in ensuring they cast the ballot correctly.

Suggested corrective measures:

State and county election officials must re-train all poll workers in the procedures for comparing voter receipts with machine counts. The procedures should also be displayed as information at the polling sites.

Those poll workers responsible for ensuring this procedure at the polls indicated in our database should be questioned as to the reasons why such a count did not happen and the situation rectified, as needed.

4. Problems encountered while voting (45)

This category of voting problems covers those types of situations where either the voter was able to vote but after some extensive delay or where voters expressed concern that their choice had been accurately captured by the apparatus.

Voting Problem: Machine capture of voters' choices

We received 18 separate reports regarding flaws and outright failures in voting machines' success in recording voters' choices. We had reports from Millburn, Hillside, South Orange, Long Branch and Lincroft about problems with the electronic machines properly capturing voters' choices. VP06 alerted the Office of Attorney General immediately upon receiving each

complaint. Poll worker attitudes became problematic at the Hillside location, where the poll worker did not respond to the voters' concerns about the machine selection problems. Problems with the machine capture in Barnegat and Lakewood were reported in the press; the problem resided in part with the use of wireless technology to transmit data. Wireless technology is particularly sensitive to crashes and to hacking and should be approached with caution in any system of great public importance.

Voting Problem: Election courts, election lawyers and right to vote

There was great variability, both across and within counties, in election judges' decisions when faced with similar issues, for example, in whether they supported voters' access to provisional ballots over machine voting.

Inside the courtroom, deputy attorneys general seemed more focused on administrative procedure than in helping voters exercise their rights. In all but three of the court cases we observed, the deputy attorneys general argued against the petitioner's right to vote, more so on procedural grounds rather than any inherent ineligibility of the citizen as a voter.

The role of partisan lawyers within the election court room deserves careful consideration. We documented at least one case at the Bergen County Courthouse where a lawyer for a local political party attempted to dissuade a petitioner. An ACLU-NJ lawyer intervened as the voter was leaving and successfully petitioned the judge. The attempt of the partisan lawyer to dissuade a voter from petitioning may amount to electioneering and should be examined.

Voting Problem: Incomplete voter rolls and provisional ballots

VP06 received many calls from voters who had voted previously but were missing from the rolls this election; nine were not allowed to vote at all. One of the nine had been provided a provisional ballot but was also told she needed to provide her Social Security number. The elderly voter couldn't remember her Social Security number and was not allowed to vote at Passaic High School.

The remaining voters whose names were missing from the rolls were either provided with provisional ballots or told to petition the election judge. In all, we received 37 complaints where people not allowed to vote at the polls were not given a provisional ballot

5. Problems with obtaining general information on voting, voter notification and voter assistance around elections (2)

VP06 observed problems in the ready availability of general information about voting and local elections, as well as with response and specific assistance with voter problems on Election Day.

Voting Problem: Problems with general help from local and state election officials

The ACLU-NJ encountered problems while looking for such information as location of polling sites from local authorities to using official hotlines on Election Day. We noted lack of voting information on several county Web sites, which lacked simple information about voting forms and polling locations. Polling place location is the most common question the League of Women Voters receives around Election Day. We also note the 2006 systematic study of county Web

sites by the Eagleton Institute, which indicated that about 50 percent of the county Web sites lacked basic voting and elections information. Specifically:

- VP06 had to file a cumbersome Open Public Records request with the County Clerk's office in order to obtain the names of candidates running in the Newark May elections. This information was not available on the county or city Web site.
- A Newark resident whose residence was moved to another polling district without notification has received no response to any of her letters to local and state election officials requesting an explanation of the redistricting process.
- Published Essex County election phone numbers led to an endless cycle of voice-mail options that ultimately led nowhere, leaving callers with no ability to get help or information.
- The Office of the Superintendent of Elections in Bergen County refused to provide a VP06 lawyer with the location of the election courtroom; other counties provided this information freely.
- The Essex County Superintendent of Elections staff refused to provide the state-mandated Open Public Records request form, informing us that we had to personally request the information directly from the superintendent (upon his return five days later).
- The advertised toll free state voting hotline is automated, unwieldy to navigate and makes it difficult for citizens to lodge voting complaints.

Voting Problem: Voter notification of registration status

Thirty-four percent of the voting problems VP06 catalogued were due to failures in the voter registration process. While missed deadlines and misunderstandings by the voter about the process were a factor in about half of these incidents, lack of voter notification by local offices was a key problem.

Current election law mandates that county registration offices notify voters about incomplete voter registration forms. We had at least three separate complaints where this was identified as the problem. Hudson and Middlesex Counties emerged as the least communicative about voter status. The advocacy organization ACORN contacted the ACLU-NJ in late September when it encountered problems with acceptance of completed voter registration forms by the Hudson County elections office. We reached out to the Office of Attorney General and the dispute was settled after a face-to-face meeting, including participation by the county prosecutor. We also had separate complaints from Rutgers students whose voter registration forms, completed during on-campus registration drives, never made it to either Middlesex or Hudson counties. This reflects a similar loss in transit of student registrations documented during the 2004 general elections.

A case in Middlesex County illustrates the problem. A student who registered during a voter registration drive at Rutgers University in New Brunswick was not permitted to vote on Election Day. He petitioned the Middlesex County election judge, saying he had registered to vote before the deadline. The court proceedings revealed that his registration had been received but set aside as "incomplete" because of confusion regarding his address. However, the county never notified him, as required by state law. The student also reported that a worker at the voter registration office told him that "boxes of incomplete forms" were sitting unopened in the office.

Another Rutgers student had registered before the deadline but when he contacted Hudson County officials about his registration status, he was told they had no record of his registration. The staffer not only neglected to tell the student about the many “incomplete forms” and unprocessed forms still pending in the office but didn’t look into those files until VP06 intervened.

6. Problems with voting technology (44)

This category of voting problem encompasses machine malfunctions other than nonfunctioning machines, as well as problems with paper ballot procedures.

Voting Problem: Machines fail to record voter choices

We captured 16 instances in which machines failed to properly record voters’ choices. Some of the machine problems appeared to be the result of voters’ and poll workers’ unfamiliarity with the new devices. Unlike the old lever machines, in which the lever operation opened the curtain, the new machines don’t provide an obvious indication that one’s ballot has been cast. We received reports from District 19 in Lincroft, 265 Hollywood Avenue in Hillside, the Municipal Building in Bilesgrove and from Millburn that the electronic machines were not capturing voters’ choices.

Concerns that voters had missed the red button (now relocated at the lower right-hand side of the new machines), and thus not cast their vote, came from a challenger at District 10 in Cherry Hill, and a monitor at Passaic High School. More troubling in the Cherry Hill case, the district judge denied the challenger’s request that a poll worker investigate potential vote loss and compare the vote tally on the machine with the number of voters signed in.

Voting Problem: Provisional Ballots

VP06 received complaints about the processing of provisional ballots at many polling places. Particularly troubling was the call reporting lack of proper security for provisional ballots at the Moose Hall polling site in Jersey City, where these ballots were placed in bags without any protective envelopes.

Poll workers denied some voters a provisional ballot, even when the voter affirms that he or she had voted at the site in past elections. The scope of this problem was evident from a study of the petitions filed at county courthouses, including Somerset County and Hudson County.

7. Voter intimidation (10)

Our reporting shows that voter intimidation occurs before as well as on Election Day, through a variety of tactics, such as unsolicited phone calls and unofficial mailings describing completely untrue rules or requirements for voters. For example, an elderly couple in Avenel in Middlesex County reported receiving a phone call from a man warning them to bring proof of residency and identification to the polls. Signs for an independent mayoral candidate were removed in private homes New Brunswick and stickers for incumbent democratic candidates placed on private doors.

Voting Problem: Police and polling sites

VP06 continues to monitor the ongoing use of police at polls, particularly in New Brunswick. The police presence at the Lord Stirling polling site in New Brunswick continues. On November 7, one police car was parked on George Street directly in front of the polling entrance and another in the back parking lot.

Both police officers and local Democratic campaigners directly confronted an electioneer for an independent candidate even though she did not go within 100 feet of the polling place. A chalk line was drawn in response to her request, demarcating the zone restricted from electioneering. Democratic electioneers continued to harass her in full view of the police; at one point, three cars, clearly not driven by police officials, pulled up to confront the woman.

ACLU-NJ monitors were on site by 4:30 p.m. and documented the police presence. A sergeant, parked in the rear parking lot of the school, identified himself as the “only Sergeant Triggs” in the department and refused to provide his badge number. Our monitor witnessed the anxiety of several residents with respect to the police on site and counted about 20 poll workers within the polling room inside the school. She reports very few voters during the three hours she observed.

Five police officers were also present at the Lord Stirling site on November 8, 2005, although the Board of Elections has no records of a request for their presence. Police were again present after school hours during the June 2006 primary. The ACLU-NJ has met with Middlesex election officials to discuss the Board of Election’s authority over police at polls; Board Administrator Jim Vokral stated that police staffing is the decision and domain of the City of New Brunswick, rather than of the county.

Similar police presence at the South Wall Fire Company in Wall Township, Monmouth County, apparently dissuaded at least one voter from approaching the site and voting, according to a report from the Election Protection New Jersey team. The ACLU-NJ lawyer overseeing Monmouth voting problems couldn’t get through to Monmouth election officials to report the problem.

Suggested corrective measures:

The Office of Attorney General should intervene, review the historical records concerning police presence at the New Brunswick and Wall Township polling sites, and order the offending police departments to review their polling site patrol procedures so as to minimize potential voter intimidation at these two particular polling locations.

8. Problems with voter registration (43)

In general, VP06 notes that the majority of the voters with registration defects come from problems with compliance with the Motor Voter Act and interagency transfers. We also viewed with concern the problems a grassroots organization, ACORN, encountered with Hudson County officials during its 2006 voter registration drive. Officials refused hundreds of registration forms for a number of reasons, despite a request from the Office of Attorney General asking election officials to accept all voter registration forms and follow up with due diligence. Other county offices tended to process those registrations they received, following up with letters to those citizens with incomplete forms. This “home rule” aspect of election administration in New Jersey is a disservice to voters, particularly in such a mobile state.

Voting Problem: Lack of compliance with National Voting Rights Act

Faulty voter registration procedures at those state offices covered under the Motor Voter Act appear to be responsible for 30 percent of voter registration problems we documented. In fact, those judges observed by VP06 monitors on November 7 tended to give petitioners the right to go back to vote in cases where they had not been offered a voter registration form at the Motor Vehicle Commission office, or if their completed forms somehow were lost in transit. One woman in Newark reported registering to vote several times at different agencies and subsequently learning that her registration never made it to the Essex County Board of Elections. Her fifth and final attempt at the local Salvation Army offices finally succeeded.

Voting Problem: Voter registration process

Our investigations into several voter registration complaints indicate that county systems are slow to respond to voters' concerns. One student only received his registration file from Middlesex County as part of a court action on Election Day, although he had contacted their office before the election to correct the error.

The ACLU-NJ and the League of Women Voters remain concerned about the architecture of the new statewide database, given reports from counties that rollover of some county rolls into the statewide system resulted in the purge of many registered voters from the rolls. Bergen County reported that 19,000 of their registered voters were not accepted during the rollover. The Office of Attorney General is to be commended for its successful negotiations with the U.S. Department of Justice, which permitted the use of current county voter registration systems during the 2006 general elections rather than a hasty roll-over to an incomplete statewide database system.

9. Polling place accessibility (32)

Accessibility refers to both physical access and to the ease of finding polling locations, getting required information, polls opening and closing on time, and the efficiency of the voting process. Polling sites often display the required "Know Your Voting Rights" information in inconspicuous places well away from the actual booths. Voters complained of lack of signage indicating actual entrance and location of polling sites within larger buildings. Posters used to indicate polling locations were small (8½ x 11 inches) and posted either on the building wall or staple to a tree, places not readily visible to passersby. One polling place in a heavily Hispanic district of Paterson only displayed the flag, without any posters indicating its identity as a polling place.

For examples of case histories from Voter Protection 2006 that describe typical bureaucratic and/or institutional impediments citizens encountered while attempting to vote, see the Appendix.

Recommendations to Improve Voting Systems in New Jersey

We urge state and county officials to act quickly to increase transparency of election administration and to expand public access to information regarding voter registration, voting processes and elections administration. We believe that it is imperative that New Jersey adopt a comprehensive monitoring and reporting system that captures voter problems as part of election oversight responsibility. Such a system is crucial to addressing existing and potential problems before they threaten the integrity of the elections themselves.

1. Greater oversight and enforcement role for the chief election officer

- The chief election officer of the state, currently the state Attorney General, should prepare and disseminate post-election reports that summarize the types and numbers of voting problems documented and take curative steps to resolve problems. These performance-measuring reports will help provide continuity and uniformity of election administration practices to voters across the state.
- Post-election reports should track and analyze the use of provisional ballots as well as reasons for their denial by county offices. These analyses should be used to inform improvement of state and local practices.
- The Office of Attorney General (OAG) should prepare and promulgate a standard training manual for local election offices to use in their poll worker training efforts. The manual should pay special attention to the operation of new technology and should include alternate procedures in the event of machine failure. The manual should outline standard procedures for documenting voter complaints.
- The OAG should put mechanisms in place to capture voter complaints and oversee the implementation of remedies in those problematic “hot spots,” districts or polling locations with a history of roadblocks to voting.
- The OAG should investigate continuous Election Day police presence and complaints of intimidation at polling sites observed at the Lord Stirling site in New Brunswick and South Wall Fire Company in Wall Township.
- The OAG should revise its opinion on electioneering which has restrictively categorized permitted poll monitoring and activities of the press as illegal electioneering on Election Day, preventing such people from coming within 100 feet of a polling place and thus interfering with the public’s right to open and transparent elections.

2. Voter access to information

State, county and local election officials should ensure that voting information and forms, such as registration forms and absentee ballot applications, are prominently displayed in public offices, including libraries, WorkForce offices, county clerks’ offices, schools and jails. This outreach should include voting rights training for professionals, such as social workers, who work with populations of eligible citizens that tend not to vote.

3. Voter registration practices

- We urge that the state administration provide ample opportunity for public review, input and assessment of new voting technologies and procedures. The present architecture of the statewide voter registration database system could result in the removal of thousands of eligible voters from the rolls.
- The OAG should ensure compliance of the Motor Vehicle Commission and other state agencies that have been designated as voter registration agencies under the Motor Voter Act and respective state statutes.
- The OAG should develop, implement and oversee a uniform, secure system for the interagency and inter-county delivery of completed voter registration forms.
- Local election officials should investigate those instances involving voters whose names did not appear on the voter rolls to determine whether they were registered and, if so, to ascertain and correct system deficiencies that removed their names improperly from the rolls.

4. Poll worker training and performance

- The OAG should promulgate guidelines for hiring and for retention systems as a means to enhance poll worker performance. Such guidelines should also include mechanisms for the removal of poll workers for proven unacceptable job performance.
- Poll workers must provide provisional voters with the necessary contact information so that these voters can ascertain whether their provisional ballots were counted later. A check-off box on the provisional ballot indicating the voter received the required information about the provisional ballot can help improve poll worker job performance.
- Poll workers should be required to provide voting problem forms to anyone experiencing any voting difficulty on Election Day.

5. Election Day procedures

- Poll locations should be provided with model voting machines so that voters can familiarize themselves with the workings of election machinery before casting their votes.
- A voter complaint concerning machine performance should elicit the examination of the machine in question by authorized technicians.
- Local election officials should track all those incidents in which individuals who enter a polling site, county election office or court house are denied the right to vote. This information should be provided to the chief election officer.

- Signs at poll sites should be: prominently displayed, large, legible and multilingual where appropriate. Poll supervisors should be required to inspect each poll site at least once on Election Day to confirm compliance.
- State, county and municipal election offices should be sufficiently staffed during poll hours to handle calls from voters, poll workers and others participating in voter protection activities.

We have also observed a troubling trend in those Election Day court cases witnessed by our court lawyers and monitors: the majority of the deputy attorneys general argued for the denial of the vote to the specific plaintiff. The arguments offered seemed to elevate administrative procedures as paramount over the basic right to vote of the citizen. We believe that this approach is contrary to the role the deputies should have on behalf of citizens trying to exercise their right to vote. It underscores the basic conflict of interest inherent in the present dual role the Office of the Attorney General as chief counsel for election officials, chief enforcer of election law, and chief election official.

Conclusion

We wish to highlight the following recommendation from the recent assessment of the 2006 general elections by the international Office for Democratic Institutions and Human Rights: “Better data collection and election administration will improve the public discussion of voter fraud and lead to more appropriate policies. We need better data, better election administration, transparency and more responsible journalism to improve public understanding of the legitimate ways in which electoral outcomes can be distorted and manipulated. This will help ensure that new laws and rules to prevent fraud are narrowly targeted to solve legitimate problems rather than used as a strategy to shape the electorate for partisan advantage.”

The ACLU-NJ and the LWV NJ urge the State of New Jersey to work with county elections officers and community advocates to increase the transparency, performance and uniformity of our state’s elections administration. A vote is a voice that every citizen of New Jersey should exercise. In the interest of democracy, state and county levels of government must commit to developing better systems and oversight that facilitate voting rights.

APPENDIX
Examples of Case Histories of Voter Protection 2006

In Paterson

A long-time voter in Paterson dutifully submitted a change of address to the Passaic County Superintendent of Elections after moving to a new residence several blocks away. Her new address was within her current precinct. She went to vote in the 2006 primary only to find her name missing from the rolls. She had to vote provisionally.

She then attempted to fill out a new voter registration form to again attempt to change her address, challenged by lack of a computer or a car. She described the 90-minute tour of public agencies in Paterson she embarked on in search of the form. The library had no forms. The county clerk had no forms. They sent her to the old address of the Superintendent of Elections, far away. Unable to travel that far, she visited Congressman Pascrell's office only to be told, "no forms here" and told to go back to the county clerk's office. The county clerk then sent her to the new office of the Superintendent of Elections, recently moved to the fourth floor of a building in downtown Paterson, where she finally found the form.

In Passaic

A long-time elderly voter in Passaic went to vote at her usual precinct, Passaic High School, a poll where she had voted many times in the past. The head poll worker couldn't find her name on the voter rolls. The poll worker told the woman she couldn't vote. The woman protested, telling the poll worker that she has voted at Passaic High School many times. The poll worker refused to let her vote or provide a provisional ballot. The poll worker, according to our monitor, admitted to knowing the elderly woman.

Our on-site poll monitors heard the argument and approached the would-be voter as she was leaving the site. The monitor told the would-be voter that she could go back in to demand a provisional ballot and gave her written information about her voting rights.

The would-be voter returned to the poll with our monitors and asked for a provisional ballot. She was given one but, provided with no assistance from the poll worker, turned to the monitors for help.

The poll worker told the voter she wouldn't accept the ballot since "unofficial" people (the VP06 monitors) were assisting her. The would-be voter protested and the poll worker gave in. She then asked the would-be voter for her Social Security number, telling her that the number was required for the provisional ballot. The woman, already upset by her treatment, couldn't remember her number. She also didn't think she should have to give a confidential number out. The poll worker insisted. Another argument ensued and the voter left without voting.

Election Protection monitors were also at the site in response to the call to the hotline. They offered to drive the elderly woman home, as she was very upset and in tears over her treatment. The head poll worker told one of the ACLU-NJ monitors that she knew the would-be voter and where she lived, and that the would-be voter was a troublemaker and if she returned, the poll worker would call the police.