



**Congressman John Conyers, Jr.  
Forum on Election Irregularities in Ohio  
December 8, 2004  
Testimony  
Ralph G. Neas**

Congressman Conyers, and distinguished members, thank you for the opportunity to testify today. I want to commend you Congressman for holding this hearing, and for focusing attention on critically important issues facing the nation during this election year. Also, I want to salute you for taking leadership on highlighting the Ohio issues here in Congress so that we can all work together correct our electoral system across the country.

PFAW/F is a national nonprofit social justice organization with over 675,000 members and supporters, and with more than two decades of commitment to nonpartisan civic participation efforts. Since our founding by Norman Lear, Barbara Jordan, and other civic, religious, business and civil rights leaders, People For the American Way and it's Foundation have urged Americans to take seriously their responsibilities as citizens. And we have sought to engage those Americans who have been traditionally underrepresented at the polls, including young voters and people of color.

Along with our coalition partners including the Lawyers' Committee, the NAACP and others, PFAWF is working to immediately address the voting irregularities encountered in Ohio and in other states. One of the reasons that we are able to aggressively do this is because Election Protection was such a phenomenal success!

Election Protection 2004 was a massive 18-month effort, involving hundreds of organizations and tens of thousands of citizens, to protect voting rights in traditionally disenfranchised communities across the nation. We mounted extensive field efforts in 17 states in 3500 precincts and trained and deployed 25,000 volunteers, including 8000 lawyers to operate out of 56 field offices across the country. In the targeted precincts, volunteers distributed more than five million GOTV pieces of literature that included state-specific Voters' Bills of Rights.

As Julian Bond, Chairman of the NAACP has said, Election Protection was the largest ever voting rights mobilization, ten times larger than the legendary "Freedom Summer" of 1965.

Because of this massive deployment, we were able to reveal the systemic problems still present within the nation's electoral system. While the electoral systems of all states need to be overhauled in one form or another, I realize that we are here to focus upon the

state of Ohio, which unfortunately, is emblematic of many of the problems that occurred across the country.

As we all know, Ohio has become the Florida of the 2004 Election and now will forever hold a special place on the annals of voter disenfranchisement and debacles. As my colleague Barbara Arnwine from the Lawyers' Committee and I agree, Ohio Secretary of State Kenneth Blackwell is the Kathryn Harris of the 2004 Election. The ultimate effect of Secretary Blackwell's numerous actions, whether it be his state directive to limit the ability of voters who did not receive their absentee ballots in a timely manner to vote provisionally on Election Day, or his attempt to allow 3500 challengers to potentially disenfranchise thousands of voters, will not be known for months or possibly years to come. Yet, it is incredibly disturbing that a top state election official, like Secretary Blackwell, would pursue actions that serve to disenfranchise voters rather than encourage participation in our electoral system. But make no mistake, PFAWF will continue to be a leader in the effort to uncover the truth about voter disenfranchisement in Ohio so that Election 2008 will not be a rehash of Election 2004.

The right to vote is fundamental to the health of our democracy. There is no greater guarantee of freedom than the conduct of open, fair elections that express the will of the people, and maintain the public's trust and confidence. Unfortunately Mr. Chairman -- the threats to democracy are just as real today as they were half a century ago. The bad old days of poll taxes and literacy tests may be behind us, but new forms of intimidation and suppression have taken their place.

When considered in totality, a number of actions by Secretary Blackwell in Ohio had the potential to disenfranchise thousands of voters. Fortunately, Election Protection partners were able to counter many of them including:

- Reversal of a state directive to county boards of elections to accept voter registration applications if the eligible voter did not check a simple box on the application
  - PFAWF and other members of the Ohio Voter Protection Coalition sent a letter to the Ohio Secretary of State Kenneth Blackwell threatening a lawsuit over the processing of voter registration applications. Ultimately, the state directive was issued.
- The issuance of state instructions to county boards of elections to provide regular ballots to first-time voters who did not provide identification before voting in-person on Election Day if they could provide it then or give the last four digits of their social security number.
  - PFAWF was one of the plaintiffs in this lawsuit.
- Reversal of a state policy to refuse to allow voters who requested absentee ballots, including many who never received those ballots, to cast a provisional ballot at their polling place. In addition to violating the Help America Vote Act, this policy was

particularly nefarious considering that many counties across the state were unable to send absentee ballots to voters in time for those ballots to be cast and counted.

- Members of the Election Protection coalition filed suit against Secretary Blackwell and the Ohio County Board of Elections challenging the directive prior to the November election.
- Reversal of a state directive by Ohio Secretary of State Kenneth Blackwell's that registration applications be printed on 80-pound paper.
  - PFAWF called on Secretary Blackwell to reverse the directive.
- Election Protection was instrumental in successfully combating approximately 35,000 challenges to validly registered voters before Election Day. In addition to challenging pre-Election Day challengers, Election Protection objected to a directive of the Ohio Secretary of State requiring election officials to allow multiple partisan challengers in the polling place with mixed results.
  - PFAWF assisted in providing plaintiffs for this lawsuit.

One would hope that with the enactment of the Voting Rights Act of 1965 and subsequent cases clarifying a citizen's equal protection rights to be free from intimidation and unnecessary barriers when trying to exercise their right to vote, we wouldn't be here today discussing yet again how governmental agencies are engaged in activities that effectively suppress the vote.

Sadly, the 2004 Elections, while better in some aspects, still failed to provide voters with the confidence in their electoral system that they deserve. The massive organized Election Protection effort has provided documentation of the variety of voting irregularities encountered in Ohio and every other state across the country. While a more comprehensive analysis remains to be done, People For the American Way Foundation, the Lawyers' Committee for Civil Rights Under Law, and the NAACP released a preliminary summary to highlight the extensive problems voters continue to face in exercising the franchise and shatter the myth that the 2004 Presidential election went smoothly. This preliminary summary is one of three reports issued by PFAWF within the past 6 months, documenting the voting irregularities and voter intimidation/suppression efforts during elections.

The study, "Shattering the Myth: An Initial Snapshot of Voter Disenfranchisement in the 2004 Elections" documents voting incidents that were reported prior to and on Election Day through the Electronic Incident Reporting System (EIRS). The report highlights the more outrageous problems voters and volunteers encountered with voter intimidation and suppression, machine errors, absentee ballots, provisional ballots, long lines and identification requirements to name a few. In 2005 we will work with our close allies including the Lawyers' Committee to produce a comprehensive report with a thorough analysis of the barriers Americans face throughout the voting process.

What we discovered when preparing this preliminary summary was nothing short of astounding. As seasoned veterans of the civil rights movement, having lived through and experienced many of the voter intimidation and suppression tactics prior to the passage of the Voting Rights Act of 1965, one would think that we could not be shocked by voting abuses. But, the level and aggressiveness of voter intimidation and suppression tactics rampant during the November 2004 Election is incredible.

In Ohio, a variety of questionable actions by private individuals and governmental officials alike created a suppressive environment for Ohio voters including: partisan challengers at the polls confronting citizens in low-income and minority precincts about the eligibility to vote, threats of arrest at the polls by the local and county officials, and misinformation campaigns telling Ohio voters that since they had moved, they would have to vote by provisional ballot, despite the fact that they had not moved in numerous years.

It was not just blatant voter intimidation tactics that worked to discourage Ohio citizens from casting their vote. We also must consider the effect of long lines in predominately low-income and minority districts that challenged the resolve of Ohio citizens to cast their vote and have it counted. Waiting in lines of three, six and even 10 hours is unacceptable in this day and age. Providing 2-3 voting machines and faulty equipment in urban districts versus 4-6 fully functioning machines in suburban districts is equally unacceptable. Along with poorly trained poll workers not capable of effectively assisting voters and sometimes outright denying voters access to the voting booth, these long lines actively discouraged untold hundreds and possibly thousands of voters. This is not just anecdotal evidence, this is fact. When election officials in low-income and minority precincts come to us to testify in a public hearing that they had less voting machines in the general election than in the primary – despite an expectation of increased voter turnout – we can not turn a blind eye to possible equal protection violations by governmental officials.

Mr. Chairman, we cannot simply talk about the problems in Ohio and other states, we must also discuss both short term and long term strategies to address the voting irregularities highlighted through programs like Election Protection and others. PFAWF will continue to act in a leadership capacity with its coalition allies to move forward with this agenda. As mentioned earlier, we and our allies will be releasing in the coming months a more comprehensive analysis of the Election Information Reporting System (EIRS). PFAWF will also continue to document the voting irregularities and voter suppression efforts that occurred across the country and investigate the apparent systemic inequities regarding voting machines and related resources in communities of color. We will continue to submit public record requests as necessary to develop an accurate picture of the voting process in the states and conduct public hearings in targeted states to further collect testimony from potential plaintiffs and develop a state specific election reform agenda.

Toward that end, PFAWF is already engaged in numerous activities on the ground to help move this discussion along. PFAWF is currently pursuing legal action against the Secretary of State challenging the counting of provisional ballots in Cuyahoga County. As of today, we are filing a motion for expedited action in order to lead quickly to a decision allowing for

the recount of currently disqualified provisional ballots. It is our belief that these provisional ballots should be counted in the current recount, and may possibly be the determining factors in at least 3 elections where the margin of victory is less than the number of disqualified provisional ballots.

Additionally, PFAWF is exploring litigation to address other problems, including absentee ballot issues, failure to provide access or assistance to voters with disabilities, problems in casting and counting of provisional ballots, and the apparent inequities in the number of voting machines and other resources leading to long lines in minority communities.

We have committed to holding public hearings with our national, state and local allies in at least eight states, including Ohio, Florida, New Mexico, Colorado, Michigan, Texas and Pennsylvania. Already we have participated in and organized three hearings in Columbus and Cleveland, Ohio. At these hearings we are working with community activists and organizations to develop a more comprehensive and state specific reform agenda. Some of PFAWF's preliminary recommendations for the state of Ohio are as follows:

- Support for uniform and non-discriminatory standards for counting provisional ballots
- Improved poll worker training, particularly on provisional ballots and identification requirements
- Enforcement of anti-voter-intimidation laws
- More accurate and efficient processing of voter registration applications
- Support for accurate and centralized statewide voter registration lists
- Support for non-discriminatory and uniform standards for the distribution of voting machines in counties
- More efficient distribution of absentee ballots
- Support for voter-verified audit trails

Nationally, we support a number of proposals that will have an effect on Ohio:

- Full funding for the Help America Vote Act (HAVA)
- Increased support for voter education campaigns
- Immediate development of the technical guidelines for voting systems by the Election Assistance Commission
- Support for voter-verified audit trails for all voting systems
- Public hearings by Congress, the EAC and possibly the Federal Election Commission.
- Support for a report by the General Accounting Office on voting irregularities throughout the country
- Continued monitoring of federal legislation that will dilute the effectiveness and overall intent of HAVA.

## **Conclusion**

Both the 2000 and 2004 Elections have left deep scars, and done great damage to public confidence, but by highlighting the voting irregularities we can begin the process of developing a proactive agenda to remedy our nation's electoral system.

Programs like Election Protection and other voter participation efforts are critical to maintaining a true democratic system in which all voters are active participants. Not only do they serve to protect voters for potential disenfranchisement schemes, but they also play a vital role in educating voters about their responsibility to be an informed citizen and to participate in the electoral process.

It is clear that as a nation, we must act to repair the damage that has been done to public trust, and restore voter confidence in the integrity of our elections. The challenges are unquestionably enormous, but so must be our resolve.

As the struggles of the civil rights era begin to fade from living memory, our dedication to protecting the fundamental right to vote and the conduct of free and fair elections must be renewed and must be strengthened.

Members, I began by saying that the faith of the American people in our election process has been shaken. As I have discussed, the continuing problems highlighted in our most recent report, through the media, and by public testimony have done little to dispel those doubts. My testimony here today is an effort to present ways to restore confidence and encourage states to act in the best interests of voters.