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Without Proof: The Unpersuasive Case Against Voter Identification

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Abstract: *Citizens Without Proof, a report on voter identification requirements produced by the Brennan Center at New York University's School of Law, is both dubious in its methodology and results and suspect in its sweeping conclusions. By eschewing many of the traditional scientific methods of data collection and analysis, the authors of the Brennan Center study appear to have pursued results that advance a particular political agenda rather than the truth about voter identification. Given that Citizens Without Proof is the study most frequently cited by opponents of voter identification requirements, its shortcomings cannot simply be dismissed—a tempting solution, given the study's dubious methodology. Rather, the conclusions drawn by the Brennan Center must be contrasted with other, legitimate studies—a process that will reveal the truth about voter identification requirements.*

The primary argument against voter identification requirements—that many Americans lack proper identification and would therefore be prevented from voting—is not supported by credible studies of voter turnout rates. In fact, the study most frequently cited by opponents of voter identification requirements—*Citizens Without Proof*, a report produced by the Brennan Center at New York University's School of Law¹—is both dubious in its methodology and results and suspect in its sweeping conclusions.

By eschewing many of the traditional scientific methods of data collection and analysis, the authors of the Brennan Center study appear to have pursued

Talking Points

- A Brennan Center report on photo identification frequently cited by opponents of voter ID is both dubious in its methodology and results and suspect in its sweeping conclusions.
- The authors ignored the most relevant data by not surveying actual or likely voters, registered voters, or even eligible voters and failed to ask respondents about other types of eligible IDs.
- Other surveys of registered voters have found only a very small percentage of individuals who do not have photo IDs, and they can easily obtain free photo IDs under new state voter ID laws.
- Government data show that, by a very significant margin, more photo IDs have been issued than there are registered voters in the United States, and the experience of states in the polling place shows that photo ID is not an obstacle to voting by Americans of any racial or ethnic background.

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results that advance a particular political agenda rather than the truth about voter identification. Such speculation is further fueled by the fact that legitimate studies of voter turnout rates in states with identification requirements demonstrate that such laws do not disenfranchise voters; indeed, Americans overwhelmingly support such requirements that increase the reliability and trustworthiness of our election system.²

Questionable Data Collection

The Brennan Center study suffers from sloppy—or perhaps purposefully misrepresented—data collection and biased questions. Based entirely on one survey of only 987 “voting age American citizens,” the report contains no information on how the survey determined whether a respondent was actually an American citizen. The survey could have included illegal and legal aliens, two categories of individuals that are not allowed to vote.

The survey then uses the responses of these 987 individuals to estimate the number of Americans without valid documentation based on the 2000 Census calculations of citizen voting-age population. The Census figures, however, contain millions of U.S. residents who are ineligible to vote, thus contributing to the study’s overestimation of voters without a government-issued identification.

By neglecting to ask whether respondents were actual or likely voters, registered voters, or even eligible to vote at all, the study ignores the most relevant data on this issue: the numbers of eligible citizens who would have voted but could not because of voter identification laws. All pollsters know that the only accurate surveys of how candidates are going to perform in an election are

polls of likely voters, not the voting-age population. The Census counts many individuals in the voting-age population who are ineligible to vote, such as felons or permanent residents who are not U.S. citizens.

Election turnout data also reveal that significant numbers of Americans who may be eligible still do not vote for various personal reasons that have nothing to do with registration or voting rules and regulations. In fact, the largest group of nonvoters “are more affluent, better educated, and more involved in their communities or volunteer groups” than voters. They are just not interested in voting.³

Conducting a survey of registered or actual voters is so commonplace that the Brennan Center’s failure to do so raises suspicions regarding the veracity of the study’s conclusions.

Suspect Survey Questions

What have surveys of registered voters shown in contrast to the Brennan Center’s study?

- An American University survey in Maryland, Indiana, and Mississippi found that less than one-half of 1 percent of registered voters lacked a government-issued ID. Therefore, the study correctly concluded that “a photo ID as a requirement of voting does not appear to be a serious problem in any of the states.”⁴
- A 2006 survey of more than 36,000 voters found that only “23 people in the entire sample—less than one-tenth of one percent of reported voters” were unable to vote because of an ID requirement.”⁵

Of course, every state that has passed a voter ID law has also ensured that the very small percentage

1. *Citizens Without Proof: A Survey of Americans’ Possession of Documentary Proof of Citizenship and Photo Identification*, BRENNAN CENTER FOR JUSTICE (Nov. 2006), available at http://www.brennancenter.org/page/-/d/download_file_39242.pdf.
2. Several of these other studies are cited in Hans A. von Spakovsky, *Voter Photo Identification: Protecting the Security of Elections*, LEGAL MEMORANDUM NO. 70, HERITAGE FOUNDATION (July 13, 2011), available at <http://www.heritage.org/Research/Reports/2011/07/Voter-Photo-Identification-Protecting-the-Security-of-Elections>.
3. See Jack C. Doppelt and Ellen Shearer, *Nonvoters: America’s No-Shows*, SAGE PUBLICATIONS 27–30 (1999).
4. *Voter IDs Are Not the Problem: A Survey of Three States*, CENTER FOR DEMOCRACY & ELECTION MANAGEMENT, AMERICAN UNIVERSITY 37 (Jan. 2008), available at <http://www.american.edu/spa/cdem/upload/VoterIDFinalReport1-9-08.pdf>.
5. Stephen Ansolabehere, *Ballot Bonanza*, SLATE, March 16, 2007.
6. GA. CODE ANN. § 21-2-417(a)(2) (2011).

of individuals who do not have a photo ID can easily obtain one for free if they cannot afford one.

The survey questions used in the Brennan Center's report are also suspect and appear to be designed to bolster the report's biased findings. For example, the survey did not ask respondents whether they had government-issued IDs, but instead asked whether respondents had "readily available identification." This is a confusing term that could have different meanings to different individuals. The question on proof of citizenship documentation then adds to this confusion by asking whether the respondent had access to such documentation as a U.S. birth certificate or naturalization papers "in a place where you can quickly find it if you had to show it tomorrow."

By neglecting to ask whether respondents were actual or likely voters, registered voters, or even eligible to vote at all, the Brennan Center study ignores the most relevant data on this issue: the numbers of eligible citizens who would have voted but could not because of voter identification laws.

By asking whether such ID could be found "quickly" or shown "tomorrow," the study seems to be trying to elicit a particular response: that those surveyed do not have ID. Consider, for example, citizens who keep their naturalization papers in a safety deposit box (as the parents of one of this paper's authors did). Such citizens might not be able to access the documents "tomorrow" even though they certainly possess ID.

The Brennan Center's decision to use a citizen's ability to find his or her ID "quickly" or by "tomorrow" is even stranger when considered in light of the fact that elections are generally scheduled far in advance; it would only be under extraordinarily exotic circumstances that a citizen would have to find his or her ID documentation "quickly" or have it "readily available" in order to vote.

Buried Footnotes

The study is further undermined by several footnotes buried in the report. *Citizens Without Proof* is most often cited for its claim that 25 percent of African-Americans of voting age (not registered voters, actual voters, or even eligible voters) supposedly do not have a photo ID. Footnote 1 of the report states, "the results of this survey were weighted to account for underrepresentation of race." However, the report does not provide the methodology used to determine how this factor was weighted, making it impossible to judge the accuracy of the footnote's claim.

Next, according to footnote 3, "135 respondents indicated that they had *both* a U.S. birth certificate and U.S. naturalization papers. This most likely indicates confusion on the part of the respondents." In other words, almost 14 percent of the respondents provided contradictory answers. This discrepancy, as is the case with footnote 1, is never addressed or explained in the paper outside of the footnote, thereby casting doubt on the reliability of the report's statistics.

Finally, footnote 4 states that "[t]he survey did not yield statistically significant results for differential rates of possession of citizenship documents by race, age, or other identified demographic factors." This finding seriously undermines the oft-repeated and false accusation that supporters of these ID laws are seeking either to disenfranchise minorities because they traditionally vote Democrat or to "suppress" the votes of certain groups.

Evidence Ignored

The Brennan Center report also ignores several other important factors. In Georgia, for example, student ID cards issued by the state college system are an acceptable form of identification for the state's voter ID law, thus making it even easier for students to vote.⁶ In Kansas, any student ID card issued by "an accredited post secondary institution of education in the state of Kansas" is acceptable.⁷ Additionally, Rhode Island will accept an ID card issued by any "United States educational institution."⁸

7. H.R. 2067 (Kan. 2011).

8. H. 5680 (R.I. 2011), available at <http://sos.ri.gov/elections/voterid/>.

9. GA. CODE ANN. § 21-2-417(a)(6) (2011); AZ. CODE § 16-152,A (2011).

Yet the authors of the Brennan Center study did not ask any of its participants whether they had a student ID card. They also did not ask whether those who were surveyed held a tribal ID card even though, in some states such as Arizona and Georgia, tribal IDs containing a photograph are acceptable for the purpose of voting.⁹

The survey questions used in the Brennan Center's report are suspect and appear to be designed to bolster the report's biased findings.

Military ID cards can also be used to satisfy voter ID requirements under most state laws. Active duty military personnel and reservists all possess a military ID with a photograph (Common Access Card, or CAC), and veterans have a similar ID card. In states like Georgia and Indiana, there are over 130,000 active members of the military who are eligible to vote using their CAC cards.¹⁰ The Veterans Administration reports that there are about 22.7 million veterans age 17 and over in the U.S, each of whom would have an acceptable ID card under the voter ID laws in Georgia and Indiana, as well as the bills recently passed in Rhode Island and Kansas.¹¹

The findings in *Citizens Without Proof* are inconsistent with the findings of more objective and unbiased research. For example, a recent article in *The Columbus Dispatch* reported that there are “about 28,000 more [photo IDs] than there are voting-age residents in the state.”¹² Nor are these findings unique to Ohio.

Statistics from the U.S. Department of Transportation show that there are currently 205,781,457 valid driver's licenses issued by states across the country for individuals 18 years of age or older,¹³ while the U.S. Election Assistance Commission cites 186,874,157 total registered voters.¹⁴ That means there are almost 19 million *more* driver's licenses than registered voters nationwide. This number does not even include the additional 3 percent or 4 percent of individuals who, according to a Federal Election Commission study, have an identification card issued by state motor vehicle agencies in lieu of a driver's license.¹⁵

These statistics on driver's licenses and non-driver's license ID cards do not include the over 85 million passports issued by the federal government as reported by the U.S. Government Accountability Office.¹⁶ These passports are acceptable forms of identification under state voter ID laws.

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10. See IND. CODE § 3-5-2-40.5(b) (2011); GA. CODE ANN. § 21-2-417(a)(5). Georgia has 105,914 active duty military personnel. See <http://usmilitary.about.com/library/milinfo/statefacts/blga.htm>. Indiana has 28,477 active duty military personnel. See *U.S. Military Major Bases and Installations*, ABOUT.COM, <http://usmilitary.about.com/library/milinfo/statefacts/blin.htm> (last visited Aug. 16, 2011).
 11. U.S. DEPARTMENT OF VETERANS AFFAIRS, VETERAN POPULATION PROJECTIONS: FY2000 TO FY2036, 2 (Dec. 2010), available at <http://www.va.gov/vetdata/docs/quickfacts/Population-slideshow.pdf>. See H. 5680 (R.I. 2011), Sec. 2; H.R. 2067 (Kan. 2011), Sec. 15.
 12. *Ohio IDs Exceed Voter-Age Residents*, COLUMBUS DISPATCH, July 24, 2011.
 13. U.S. DEP'T. OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, HIGHWAY STATISTICS 2009, available at www.fhwa.dot.gov/policyinformation/statistics/2009/dl22.cfm.
 14. U.S. ELECTION ASSISTANCE COMMISSION, THE IMPACT OF THE NATIONAL VOTER REGISTRATION ACT OF 1993 ON THE ADMINISTRATION OF ELECTIONS FOR FEDERAL OFFICE 2009–2010, 5 (June 30, 2011), available at www.eac.gov/assets/1/Documents/2010%20NVRA%20FINAL%20REPORT.pdf.
 15. FEDERAL ELECTION COMMISSION, THE IMPACT OF THE NATIONAL VOTER REGISTRATION ACT OF 1993 ON THE ADMINISTRATION OF ELECTIONS FOR FEDERAL OFFICE 1995–1996, 6 (Aug. 1995), available at <http://www.eac.gov/assets/1/AssetManager/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%201995-1996.pdf>.
 16. U.S. GOVERNMENT ACCOUNTABILITY OFFICE, COMPREHENSIVE STRATEGY NEEDED TO IMPROVE PASSPORT OPERATIONS 11 (July 2008), available at <http://www.gao.gov/new.items/d08891.pdf>.
 17. GA. CODE ANN. § 21-2-417(a)(4) (2011).

The findings in Citizens Without Proof are inconsistent with the findings of more objective and unbiased research.

Furthermore, government employees—whether federal, state, or local and whether full-time or part-time—also have valid IDs. In Georgia, for example, the voter ID requirement can be met by a “valid employee identification card containing a photograph” issued by any entity of federal, state, or local government.¹⁷ The same is true in Indiana.¹⁸ Nationwide, there are another 22,632,381 people who work for public institutions, most of whom may have this type of ID.¹⁹

Conclusion

In the end, the Brennan Center report is clear in its intentions, fuzzy in its methodology, and wrong

in its conclusions. Such doomsday predictions of widespread disfranchisement are increasingly being exposed as untrue as more legitimate research is performed and reported.

Claims that millions of would-be voters will be turned away on Election Day because of voter ID laws have been disproved in research, in the courtroom, and at the polling place. Studies like *Citizens Without Proof* are the last, desperate fits of a misguided resistance to the spread of common-sense voter ID reform.

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18. IND. CODE § 3-5-2-40.5(a)(4) (2011).

19. U.S. CENSUS BUREAU, 2009 ANNUAL SURVEY OF PUBLIC EMPLOYMENT AND PAYROLL, available at <http://www.census.gov/govs/apes/>.