

**In-Person Voter Fraud:
Myth and Trigger for Disenfranchisement?**

Before I begin my statement, I want to thank Senator Schumer, my colleague on this committee, for requesting that we hold this hearing, and I look forward to his active participation – not only in this debate, but in future issues facing the committee.

I also want to commend Chairman Leahy, who will be testifying today, on his leadership on this issue. The Judiciary Committee and the Rules Committee both have jurisdiction over different aspects of these issues, and Chairman Leahy has been a leader in trying to ensure that the right to vote is protected for all Americans. I am pleased he is here today, and I look forward to hearing his testimony.

A citizen's right to vote is fundamental to our democracy. So when there are allegations that the right to vote is threatened, we need to take those allegations very seriously.

Sadly, at a number of critical junctures in our nation's history, legal roadblocks have kept certain vulnerable members of our society from voting.

We know the heritage – poll taxes, literacy tests, and requirements to own property were three of the most egregious.

Today, this Committee will examine the realities of voter fraud and the proposed solution of requiring photo-IDs. The Committee will also examine whether there is a rampant problem with fraud, and what the real-world impacts of voter photo-ID requirements are.

The Committee will look at how photo-ID requirements could impact minorities, seniors, and the disabled who don't have a current government issued photo-ID.

At today's hearing, I hope we will get into a full and robust discussion regarding to what extent that there is in-person voter fraud. Or to put it another way – are individuals going to vote pretending to be registered voters at the polls?

I think getting to the bottom of this is important because, in essence, this is the only type of fraud that would be prevented by a photo-ID requirement.

That is why we felt it is very important that there be a witness from the Justice Department.

We invited Mr. William Welch, Chief of the Public Integrity Section, with responsibility for civil and criminal enforcement of such voter fraud to discuss what the Department has found and to help quantify the problem of voter fraud at the polls.

Unfortunately, DOJ refused to allow him to testify. And only after extensive back and forth between my staff and the Department did they finally send a letter stating that at some future date they would provide an unspecified witness.

Another reason it would be important to hear from DOJ, is that during the Bush Administration the Department put in place a major program called, the "*Ballot Access and Voting Integrity Initiative*," which focused on investigation and prosecution of voter fraud.

However, it is my understanding that DOJ failed to complete any Federal prosecutions for impersonation voter fraud – I would like to know more about this.

In the void left by the Justice Department, we will rely on testimony by a former U.S. Attorney for the District of New Mexico, Mr. David Iglesias.

He will discuss his experience with voter fraud cases and whether he found fraud to be a major problem in his district.

I also think it is important to note that this very issue is now before the Supreme Court in *Crawford v. Marion County Election Board* and *Indiana Democratic Party v. Rokita*.

And while, we all await the Supreme Court ruling, there are movements throughout the U.S. to enact laws that are as tough as or tougher than the Indiana voter photo-ID requirement.

So, I believe that we need to start now to look carefully at the rationale for these laws and the impact on certain voters – especially since this is an election year and new laws could impact how people vote in just a few months.

I want to stress that I, too, am concerned about voter fraud. Yes, it exists – and just as U.S. history has included sorry chapters of voter disenfranchisement, so, too, does our country's history include notorious cases of vote fraud.

But I think it's important that we be clear about the issue before us today – is voter fraud happening in person at the polls? If it is, is photo-ID the right solution? If it is not, what do such laws accomplish?

We are not talking about absentee ballot fraud – because requiring voter photo-IDs at the polls will not stop this.

We are not talking about double voting – because *even with a photo-ID*, if one were registered to vote in separate counties, for instance, one could still vote twice.

And we're not talking about vote buying, fraudulent registration or ballot tampering. There are laws that deal with all of these, and photo-IDs laws do not address those problems.

In 2002, after vigorous debate, Congress passed the *Help America Vote Act*, which among other things became the first, the only, federal law to require a limited voter identification requirement for registration – and even that is for first-time voters who register by mail.

HAVA sought a balance between the need to ensure against fraudulent registrations by mail and the possible disenfranchising impact of voter photo identification.

But in recent years, voter photo-ID bills have been introduced in over *thirty* state legislatures, including my own state of California, and the Ranking Member's state of Utah.

So far only three states, *Georgia, Indiana, and Missouri* have passed laws requiring a government-issued photo-ID to register, vote, and count the vote.

And one state, *Arizona*, passed a law requiring voters to prove citizenship in order to register to vote.

I believe it's important to step back from this rush for legislation, and examine both the problem of fraud and the proposed solution of requiring photo-IDs.

A nation-wide survey conducted by the *National Opinion Research Corporation* showed 11% of voting age Americans do not have a current government-issued photo-ID.

This means that *approximately 21 million citizens* could be adversely impacted under a restrictive photo-ID requirement.

In recent years, we have seen how important every vote is – not just for local elections – but all the way up to the Presidency. I believe we should be doing everything possible to ensure that everyone who is entitled to vote should be able to vote – and not place insurmountable roadblocks in their way.