



**Testimony of Ralph G. Neas
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House Judiciary Committee
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Chairman Conyers, Representative Smith and distinguished members, thank you for the opportunity to testify today. My name is Ralph G. Neas, and I am President of People For the American Way and People For the American Way Foundation. I want to commend you, Mr. Chairman, for holding this hearing, and for focusing attention on critically important issues facing the nation.

The right to vote is the bedrock of our democracy. People For the American Way and our sister Foundation are committed to ensuring that this right is guaranteed to all eligible voters and is secure. People For the American Way is a national, nonprofit social justice organization with more than one million members and supporters, and more than two a quarter century 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 its Foundation have urged Americans to engage in civic participation, and we have sought to empower those who have been traditionally underrepresented at the polls, including young voters and people of color.

Allow me to say a word about our comprehensive election reform and protection efforts. PFAW has established the Democracy Campaign, which comprises all of our voting rights efforts both on the state and national level, through voter registration, legislative, grassroots, litigation and GOTV efforts. This campaign also incorporates our leadership efforts in the Election Protection Coalition, a non-partisan voter protection effort that our partner organization, People For the American Way Foundation, co-founded with its allies in response to the debacle of the 2000 Presidential Election. Our efforts encompass advocacy on both state and federal legislation, the protection of voting rights through the judicial system, and year-around work with election officials to protect the rights of voters before, on and after Election Day.

Mr. Chairman, the need to enact election reform is urgent. In 2008, this nation will choose a new president, and once again voters will determine control of both chambers of Congress. Turnout is expected to be strong, and the stakes could not be higher. All Americans deserve open, fair elections in which their votes will be cast and counted as they intended.

Time is short. In order to give election officials time to implement election reform, Congress must pass the needed legislation in a matter of months – and provide adequate funding to put those reforms in place. Political realities would make it all but impossible to pass reform legislation in a presidential election year, and such reform would come too late for timely implementation.

The need is clear. Evidence of persistent problems in our election systems is abundant.

In the aftermath of the election fiasco in Florida in 2000, Caltech and MIT issued a joint study estimating that some four million Americans were disenfranchised. Citizens were denied the right to cast a vote – or to have their vote counted – by a range of problems, including faulty equipment, poorly designed ballots, and untrained poll workers, as well as voter intimidation and suppression efforts and other illegal action.

These problems have persisted through the past several elections, as evidenced in the report that you, Chairman Conyers, prepared regarding the 2004 presidential election in Ohio.

The vast majority of problems during the past six years resulted from faulty election administration. Voter participation, normally lower in midterm elections than in presidential years, was spurred in 2006 by close races that revolved around issues such as the war in Iraq; the exposure of unethical behavior in Congress, and the declining national economy. The unexpectedly strong turnout in some states exposed the lack of preparation by many election officials. The massive voting problems that resulted included failed absentee ballot distribution, failed processing of voter registration applications resulting in inadequate voter registration lists, improper interpretation of registration requirements, a lack of adequate resources and trained staff at polling places, and more.

The complexity and sophistication of voter intimidation and suppression tactics has grown, and problems with faulty voting technology have proliferated. Make no mistake. 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 are behind us, but new forms of intimidation and suppression have taken their place. With the enactment and recent reauthorization of the Voting Rights Act of 1965, and with subsequent legal decisions that have clarified and strengthened a citizen's constitutional right to be free from intimidation and unnecessary barriers at the voting booth, it's hard to believe we are here today discussing coordinated suppression campaigns. But there you have it.

Mr. Chairman, I salute you and Representative Emanuel in the introduction of the Deceptive Practices and Voter Intimidation Prevention Act of 2007, along with Representatives Xavier Becerra, Mike Honda, Keith Ellison and Rush Holt. PFAWF is firmly committed to helping you pass this bill in the House, along with and Senator Barack Obama's bill in the Senate. I'd like to discuss some of the problems that PFAWF addressed during our Election Protection campaign in the 2006 elections, and demonstrate how your legislation will help us remove such barriers to the ballot box and protect the voting rights of every citizen.

While current federal law provides criminal penalties for some voter suppression and intimidation practices, the newest wave of such tactics may not be covered. Federal law may not currently criminalize all the deceptive practices we saw in the 2006 elections, including disinformation campaigns and harassing robocalls. Such practices try to deceive voters into changing their votes, or voting on the wrong day, or by sending them to the wrong polling place. Some schemes attempt to convince citizens that voting will be difficult or even dangerous, or simply annoy them so much that they stay home from the polls in disgust at the whole process.

The 2006 elections provided prime examples of these new forms of suppression techniques, and dirty tricks were as pervasive and brazen as ever. In Orange County, California, a Congressional candidate sent out letters in Spanish to approximately 14,000 Hispanic registered voters, warning it was a crime for immigrants to vote in federal elections, and threatening voters that their citizenship status would be checked against a federal database. Of course, immigrants who are naturalized citizens have as much right to vote as any other citizen, and no such database is used in elections. The letters were outright lies.

In Maryland, fliers were handed out in Prince Georges County and predominantly African American neighborhoods with the heading "Democratic Sample Ballot." The fliers used unauthorized photos of Democrat Kweise Mfume, along with the names of the Republican candidates for Senator and Governor, falsely implying an endorsement.

In Virginia, voters received recorded "robocalls," sometimes late at night, which falsely stated that the recipient of the call was registered in another state and would face criminal charges if he came to the polls.

People For the American Way responded to additional complaints around the country through our Election Protection coalition. In Pima County, Arizona, we received several reports that a group of people, claiming to be with the "United States Constitution Enforcement (USCE)," appeared at various polling locations under the pretext of preventing illegal immigrants from voting fraudulently. In reality, these actions were intended to intimidate Latino voters.

In Dona Ana County, New Mexico a voter received several campaign phone calls telling her to vote at a polling place that didn't exist. Further, in Accomack and Northampton Counties in Virginia, Democratic voters received phone calls from purported election officials advising that they shouldn't need to vote on Election Day and that they'd be prosecuted if they showed up at the polls. Unfortunately, these are typical complaints that PFAWF and the Election Protection Coalition have received for the past three federal elections.

We are extremely appreciative of the Chairman's efforts to put an end to such widespread abuse. At the same time, we must be diligent about protecting voters' rights once they get to the voting booth. If voters don't have the confidence in the electoral process, how can we encourage voters to show up at the polls? Lack of voter confidence in the voting process has effectively become another suppression tactic, leading people to stay away from the polls because they don't believe their votes will count.

People For the American Way Foundation's Election Protection work exposed many problems related to voter registration, provisional ballots and faulty voting technology. Inadequate statewide voter registration databases and the implementation of burdensome third-party registration requirements led to countless voters being challenged and forced to vote on provisional ballots -- or at times, being denied the right to vote to outright. Overly restrictive voter identification and registration laws implemented in states across the country are obstructing Americans' ability to register and to vote. Under the guise of limiting fraud -- of which there is little evidence -- state legislatures have passed new laws saddling voter registration organizations with regulations that are frivolous, onerous, or both.

Voters are continually denied the right to vote, even by provisional ballot, by inadequately trained poll workers. Election Protection volunteers were usually able to remedy these situations, but it is a continuing problem that must be addressed.

The use of non-secure and unauditable voting technology is also particularly troubling. As a result of the 2006 HAVA deadlines, the widespread replacement of older voter technology meant more voters and poll workers throughout the nation used new voting systems in 2006 than in any previous election. With so many counties using new voting systems for the first time, the number of voting machine problems increased dramatically over 2004. In fact, complaints about voting machines outnumbered all other complaints reported to Election Protection, and voters in more than 35 states reported various problems related to voting machines.

Perhaps the most egregious example was the fiasco that took place in Sarasota County, Florida. In the November election, Sarasota County used paperless, unauditable electronic voting machines in the race to succeed Katherine Harris in Florida's 13th Congressional district. The county's voting machines failed to register a vote for approximately 18,000 voters in that race -- more than one out of every seven voters who attempted to vote on the machines. Even though almost 15 percent of the voters in Sarasota County

saw their votes disappear in this election, the state certified the winner by a margin of only 369 votes – less than 0.2 percent of the total vote.

These 18,000 Sarasota County citizens whose votes are missing put a human face on the substantial flaws that remain in our election system, and should encourage Members on both sides of the aisle to pass legislation with adequate funding in time for the upcoming 2008 Presidential Election. PFAW strongly believes that it is paramount for Congress move to pass legislation that will require the use of secure systems that provide verifiable, auditable, and accessible voting. The status quo is not acceptable.

In addition to the legislation already introduced by the chairman, PFAW has supported other election reform legislation in the past, and we look forward to pending re-introductions of these important bills.

PFAW supported the Chairman's Voting Opportunity and Technology Enhancement Rights Act of 2005, which takes a comprehensive approach to addressing election reform problems, and we will continue to support the Chair should he move forward with similar legislation in this Congress.

PFAW also looks forward to supporting an updated version of Congresswoman Stephanie Tubbs Jones's election reform bill, the Count Every Vote Act of 2005 (CEVA), which takes a similar comprehensive approach. While these comprehensive bills address a range of necessary voting reforms, PFAW is equally supportive of more focused proposals such as Congressman Rush Holt's bill, the Voter Confidence and Increased Accessibility Act of 2007, H.R. 811.

Mr. Chairman, thank you again for the opportunity to testify, and for your steadfast commitment to addressing the urgent issue of election reform. I feel that with the support of congressional leaders such as yourself, the necessary momentum is growing to put reforms in place in time for the 2008 elections.

As you know, the Reverend Martin Luther King, Jr. often used the phrase, "The urgency of now." At People For the American Way, we feel the urgency of now with regard to election reform. The clock is ticking, and we promise we will do all we can to advance the cause of timely election reform. We are firmly committed to working with Members of Congress and its coalition allies to ensuring that electoral reform is a priority.

Thank you.