



TO: The Honorable Dick Durbin, Chairman
The Honorable Lindsey Graham, Ranking Member
Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights

FROM: Christine Link, Executive Director
Mike Brickner, Director of Communications & Public Policy
American Civil Liberties Union of Ohio

DATE: May 2, 2012

RE: ACLU Statement on Ohio Voting Legislation Senate Field
Hearing: "New State Voting Laws III: Protecting the Right to
Vote in America's Heartland"

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I. Introduction

The American Civil Liberties Union (ACLU), an organization of over half a million members, countless additional supporters and activists, and fifty-three affiliates nationwide, commends the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights for focusing public attention on Ohio — one of the states that have recently enacted severely restricting the fundamental right to vote.

protecting basic civil rights and civil liberties for all Americans. The ACLU of Ohio has been involved in various efforts to protect voters' rights, from educating the public about their right to sue in court. Over the last decade, the ACLU of Ohio has been successful in:

• the elimination of punch card ballots after documenting that voters in predominantly African American and urban areas were likely to be disfranchised through those who used optical scanning systems;

- Successfully challenged a provision of state law that would allow poll workers to demand the citizenship papers of naturalized citizens when they cast their vote² and,

¹ Stewart v. Blackwell, No. 05-3044 (6th Circuit filed April 21, 2006)
² Boustani v. Blackwell

- Filed a lawsuit against the use of central county capscan ballots in Cuyahoga County because voters who used this technology were unable to check for accuracy and correct potential mistakes on their ballots leading to more ballots in low-income and African American precincts discarded because of these errors

- Communities with people of color — in Ohio in 2004, white Ohio suburbanites waited an average of 22 minutes to vote, while African Americans waited on average 3 hours and 15 minutes.

Long lines will mean more minority, financially disadvantaged, young, and elderly voters who

2. Statewide Voter Registration Database

HB 194 made several changes to the Statewide Voter Registration Database (SWVRD). While maintaining accurate voter rolls is important, it is essential that protections are in place to ensure that eligible voters are not accidentally purged and that voters' private information is secured.

a. Data Sharing Jeopardizes Voter Privacy

However, the language of HB 194 leaves the door open for many Ohio voters to be erroneously purged from the voter rolls or challenged at the polling location at the next election.

3. Additional Changes to Provisional Balloting Rules Will Increase the Number of Provisional Ballots that are Invalid

Streamlining Ohio's provisional voting rules to eliminate confusion and provide greater clarity is a laudable goal. However, increased clarity should not come at the expense of eligible voters being disfranchised — either by not being allowed to cast a ballot or not having that ballot counted.

a. Elimination of 10-Day Validation Period

Prior to HB 194's passage, Ohioans who cast a provisional ballot had 10 days to provide missing information or cure address problems that could be resolved on Election Day. Although rarely used, it provides a useful safety net for voters and BOEs.

b. New Restrictions on Voter Affirmation

HB 194 specified that provisional voters who refuse

By November 2011, Fair Elections Ohio delivered ove

