



October 28, 2008

Hon. Michael B. Mukasey
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Attorney General Mukasey,

The American Civil Liberties Union is writing to express its concern over the White House's request that the Department of Justice investigate whether 200,000 newly registered Ohio voters must reconfirm their registration before November 4. The White House would like to verify that the names of new voters match other official state databases, but there is considerable evidence showing these databases to be fraught with errors that could lead to the disfranchisement of thousands of lawful voters.

The evidence has shown an unacceptably high percentage of non-matches. The end result is that database matching generates a high rate of putative "no matches." In the first six months of 2006, before its "no match, no vote" law was enjoined, the State of Washington's matching system had a failure rate of 16 percent statewide, with up to 30 percent in King County where Seattle is located.¹ Through April of 2006, 18 percent of applications in Los Angeles County did not yield a successful computer match.² Nearly 20 percent of an audit sample of 15,000 applications submitted in New York City in September 2004 could not be matched due to typos and other data entry errors.³ And in the first three weeks after Florida renewed enforcement of its matching program (on September 8, 2008), approximately 15 percent of attempted matches failed, keeping at least 5,000 voters off the registration rolls.⁴

¹ See *Fla. NAACP v. Browning*, No. 07-402, Decl. of Andrew Borthwick, ¶ 47 (N.D. Fla. Sept. 17, 2007) ("Borthwick Decl."), available at <http://tinyurl.com/4k69sm>.

² See *Fla. NAACP v. Browning*, No. 07-402, Decl. of Conny McCormack, ¶ 13 (N.D. Fla. Sept. 17, 2007), available at <http://tinyurl.com/4z66bc>.

³ See Borthwick Decl. ¶ 12 & Ex. F.

⁴ Aaron Deslatte and Mary Shanklin, *ID-match law stalls 5,000 voter applications*, Orlando Sentinel, Oct. 1, 2008, available at <http://www.orlandosentinel.com/news/local/state/orl-novote0108oct01,0,6794080.story>.

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Despite the lack of any credible evidence of voter fraud, the White House continues to pursue this probe. If this purge goes forward, lawfully registered voters could be removed from the rolls as a result of typos or other innocent discrepancies. The suggestion that voters should be denied the right to vote based on the inability of election and driver license officials to establish a match between differing data bases is without support under federal civil rights law and the U.S. Constitution. The removal of voters based upon mismatched information at this late date would violate other federal statutes and constitutional provisions governing federal elections, including the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg et seq., the Civil Rights Act of 1964, 42 U.S.C. § 1971, and the First and Fourteenth Amendments of the United States Constitution.

With the election one week away, this kind of intrusion represents partisan politics at its worst. In addition, challenging – or purging – lawfully registered voters in the days before an election invites chaos and undermines the integrity of the democratic process.

The Department of Justice has a responsibility to uphold the law and protect civil rights. We strongly urge you to reject this request from the White House.

Respectfully submitted,



Anthony D. Romero
Executive Director



Caroline Fredrickson
Director, Washington Legislative Office

cc: Hon. Harry Reid, Senate Majority Leader
Hon. Mitch McConnell, Senate Minority Leader
Hon. Nancy Pelosi, Speaker of the House
Hon. Steny Hoyer, House Majority Leader
Hon. John Boehner, House Minority Leader
Grace Chung Becker, Acting Assistant Attorney General for Civil Rights Division
Christopher Coates, Voting Section Chief