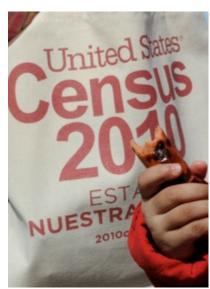# Will the 2010 U.S. Census Data Be Used to Fraudulently Register Voters?

Many Americans objected to the numerous unconstitutional questions that were contained in this past year's U.S. Census forms. Most of the objections were based on unconstitutionality, invasions of personal privacy, or concerns over possibly using the Census data to make a national database of all the people. All of these are valid reasons to raise objections. But there may be another, more insidious danger from that unconstitutional gathering of information. The data collected could be used to commit electoral fraud by bypassing the voter registration process and adding selected individuals directly into voter registration databases via a computer data feed.

We don't know if this vulnerability has been exploited to commit electoral fraud in this year's elections. But, for the first time in our nation's history, this vulnerability to our elections exists. Hopefully, by raising awareness we might reduce it or prevent it from happening.

Pieces to This Puzzle

How could such an attack be accomplished? The first piece of the puzzle is the Help America Vote Act of 2002, more widely known as HAVA, which forced a number of unconstitutional and unwise changes on American elections. Traditional American elections were designed, like our system of government, on decentralized authority and openness. The official voter registration lists were at the county, city, or town level. The official source documents were the voter registration cards. In other words, we had a paper trail in the voter registrations, the computerized lists of voters were traceable to the paper trail, the source documents were available for examination by the public, and it was local.

But in 2002, a supposedly conservative Republican Congress passed the HAVA bill. This law is better known for its provisions that bypassed the state legislatures and mandated the purchase of HAVA-compliant voting equipment by elections departments in counties, towns, and cities throughout the United States. But buried deep in this law is another unconstitutional mandate that affects each state that has formal voter registration, which is every state except North Dakota. HAVA requires these states to maintain a central database of voter registrations. That by itself is unconstitutional, but HAVA took it a step further by mandating that the centralized computerized list should be the official voter registration list.

Section 303 of HAVA mandates: "Each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the

State."

HAVA further states: "The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State."

Note the wording: "shall serve as the single system." According to HAVA, the old, decentralized system with its paper documents is no longer the final authority for voter registrations. From now on it's the centralized computer system, and the HAVA law doesn't specify a paper trail for the voter registrations either.

The second piece to this puzzle comes from the federal government's National Mail Voter Registration Form, a sample of which can be found here.

Those who are familiar with the U.S. Constitution and *Federalist Paper*, no. 59 will immediately recognize this as something that is not authorized for the federal government to do. Even if the federal government had designed a perfect voter registration form, it would still be unconstitutional. Its very existence gives rise to an unconstitutional de facto national standard for defining which data should be collected by states when they register voters.

Of course, the National Mail Voter Registration form has at least one glaring security vulnerability it does not have a place to record the registrar information. Keeping a record of who registered voters has been very helpful in the past when investigating fraudulent voter registrations or even accidentally inaccurate voter registrations.

This form is ostensibly designed to be used for postcard voter registration, but what if someone wants to bypass the postcards? How hard is it for someone with access to a HAVA-mandated centralized database to enter the data directly via a computerized data feed rather than via data entry people? Usually, not very difficult for someone with inside access.

But where will they get the data? In the past, when fraudsters have added names to voter registration lists, they collected the names from telephone books, gravestones, etc. But as of April 1 of this year, there is new source.

Enter stage left, the third piece to the puzzle: the 2010 U.S. Census.

Article I, Section 2 of the U.S. Constitution authorizes and requires a counting of citizens every 10 years in order to ensure each state is properly represented in Congress. This year's census went far beyond anything authorized by the U.S. Constitution. It collected each person's name, address, gender, date of birth, telephone number, and ethnic information. The census form even required people to disclose such personal information as whether they owned, rented, or occupied their homes rent-free. It carried a threat of a $100 fine for failure to disclose this information.

Needless to say, the vast majority of Americans, fearing even a minor prosecution in federal court, were intimidated into giving the U.S. Department of Commerce the information it demanded. Now there exists in Washington, D.C. the most complete database of the American people ever assembled. Whoever has access to this database has the names and phone numbers, in many cases unlisted phone numbers, of virtually every American including whether or not they are of voting age. This database is worth billions of dollars for survey research by political or commercial interests, but it can also be used to extract the data needed to accomplish fraudulent voter registration.

How Could It Be Done?

Let's say someone is in a close election. It could be any election, but let's look at those for Congress or

for the U.S. Senate. Regarding Senate contests, it doesn't need to be a small state like Alaska, Delaware, or Nevada. It could be in a large state like California or Florida or even a medium-sized state like Kentucky. In any state where the polls show the vote is close enough where the scales could be tipped by adding a block of voters who favor one candidate over another, that's where this is feasible.

A serious candidate for the U.S. Senate should already have a database of all registered voters for that state. That's perfectly legal. The next step is not legal. That is to get a list of every person in that state from the U.S. Census database. This could be done in a number of nefarious ways. It might be done by having an inside connection with access to the U.S. Census database or perhaps even by illegally obtaining a copy of the database backup tapes. The next step is to scan the census list simultaneously checking each entry in the voter registration list. The result of that comparison is a list of every person in that state who is not registered to vote. You can then use the telephone numbers, which were unconstitutionally obtained during the U.S. Census, to call those people pretending to be doing legal political survey research.

The goal is to identify those who favor you so they can be registered to vote by adding them to the statewide database via an electronic data feed. For those people who don't answer their phones, the Census gathered enough demographic data, such as ethnic group, gender, home ownership, and ZIP code to make reasonably accurate guesses in many cases. The next step is also illegal. That is to get someone who has access to the statewide voter registration database to add your new voters. You can then add thousands of new voters, all of whom are inclined to vote for you. And, because most political mailings use voter registration lists and you can wait until the last minute to add these voter registrations and that will give you a head start in sending them campaign mail because you have their names and addresses before they're registered to vote.

It may seem far-fetched, but CNN reported that $4 billion has already been spent on this year's campaigns. And that's just the money that's reported. With such huge sums of money being spent on the campaigns, the cost of a data transfer project such as this would be a drop in the bucket. Many incumbents in this year's elections are desperate. They ran as anti-war candidates two years ago and delivered more war. But the biggest reason why voters are mad at them is because they voted, against the will of the people, for the so-called Patient Protection and Affordable Care Act, better known as ObamaCare.

While most politically active Americans have been concentrating on the political campaigns, many knowledgeable political insiders have been focusing their attention on the electoral process. On August 17, 2006, *USA Today* ran a front-page article entitled "Top vote counter becomes prize job Democrats focus on key state post." The article opened: "The political battle for control of the federal government has opened up a new front: the obscure but vital state offices that determine who votes and how those votes are counted."

The article went on to detail numerous partisan political activities in support of candidates for Secretary of State in many states including contributions of PAC money. While most of the activities detailed were by Democrats, there were some Republicans involved also. The article went on to state: "Among Republicans, Arizona Sen. John McCain has helped candidates in Michigan, South Carolina and New Mexico; national party Chairman Ken Mehlman also helped out in New Mexico." The bottom line is that in many states, not just the ones mentioned in the *USA Today* article, the top vote counters in the several states are being elected via a partisan process.

Even if these individuals, once elected, are not succumbing to the temptation of conflict of interest from

the partisan sources that have helped them get their jobs, many of their staff people are holding political patronage jobs, and it will be difficult for them to resist the temptation to "look the other way" when someone with a computer tape quietly shows up at the data center and runs a program that feeds data into the voter registration database. All the more reason to repeal HAVA, Motor Voter, and every other law that concentrates too much power in the hands of a small group of people at the state capitol or in Washington, D.C.

How Can a Candidate Detect This?

Every candidate for major office buys lists of registered voters. Hopefully, the candidate has at least one voter registration list from prior to the census date of April 1. He should also have the voter registration list prepared after the final cut-off date for registering in this election. He should also be planning to purchase the final list that is prepared after the election, frequently known as a poll list. That's the one that shows who voted. Modern database technology makes comparing one database to another possible, usually without too much difficulty. The list of people who are on the latest list, but not on the list from prior to April 1, would be the ones to be randomly checked to see if they don't know how they got registered to vote.

Most candidates in major campaigns already have systems to identify newly registered voters and have plans to contact them. Newly registered voters are very likely to vote and candidates love to send welcoming letters. While doing so, they could also survey a sampling of this list of newly registered voters to see if any of them do not know how they got registered to vote.

Unfortunately, some states have registration cut-off dates less than 30 days before an election. Some states even allow same-day registration. That makes it more difficult to detect this kind of chicanery. Another complicating factor is the possibility that a fraudster might employ the tactic of confidential voter registration to make these new voter registrations invisible to the public. Yet another problem exists where state laws require candidates who contest elections to file notice of contest within certain a time, such as 30 days after the election, but don't make the poll lists available within the time required to do the analysis and file a protest.

Perhaps this will serve as a lesson regarding why we need to return to having a 30-day cut-off date for voter registration, repeal the National Voter Registration Act of 1993 (Motor Voter), repeal the Help America Vote Act of 2002 (HAVA), return to openness in our elections, and end confidential voter registration.

We don't know whether or not someone is using the census data to commit voter registration fraud, but we do know the vulnerability exists and we need to stop it from ever happening. We need to delete all the personal data that was collected by the 2010 Census, whether that be for the sake of protecting our voter registration lists or for preventing the implementation of a national database of citizens.

Many Americans care about who wins a particular election. Winning an election, especially a key election, is an important victory. But we also need to be monitoring the electoral process to keep it from being eroded. Keeping our elections safe from tampering is a strategic victory that affects the outcome of not just a current election, but many elections, now and in the future.

In the words of William Cullen Bryant: "Nor yet, O Freedom! Close thy lids in slumber for thine enemy never sleeps."

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